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# Cumulative Table of VAC Sections Adopted, Amended, or Repealed

The table printed below lists regulation sections, by Virginia Administrative Code (VAC) title, that have been amended, added or repealed in the *Virginia Register* since the regulations were originally published or last supplemented in VAC (the Spring 2005 VAC Supplement includes final regulations published through *Virginia Register* Volume 21, Issue 11, dated February 7, 2005). Emergency regulations, if any, are listed, followed by the designation "emer," and errata pertaining to final regulations are listed. Proposed regulations are not listed here. The table lists the sections in numerical order and shows action taken, the volume, issue and page number where the section appeared, and the effective date of the section.

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
<b>Title 1. Administration</b>			
1 VAC 55-30-10 through 1 VAC 55-30-90 emer	Added	21:19 VA.R. 2599-2602	5/16/05-5/15/06
<b>Title 3. Alcoholic Beverages</b>			
3 VAC 5-30-10	Amended	21:19 VA.R. 2530	6/29/05
3 VAC 5-30-30	Amended	21:19 VA.R. 2531	6/29/05
3 VAC 5-30-60	Amended	21:19 VA.R. 2532	6/29/05
3 VAC 5-30-70	Amended	21:19 VA.R. 2533	6/29/05
3 VAC 5-40-20	Amended	21:19 VA.R. 2533	6/29/05
3 VAC 5-40-20	Amended	21:19 VA.R. 2533	6/29/05
3 VAC 5-40-40	Amended	21:19 VA.R. 2533	6/29/05
3 VAC 5-40-50	Amended	21:19 VA.R. 2533	6/29/05
3 VAC 5-40-50	Amended	21:19 VA.R. 2533	6/29/05
3 VAC 5-70-220	Added	21:19 VA.R. 2533	6/29/05
<b>Title 4. Conservation and Natural Resources</b>			
4 VAC 15-40-20	Amended	21:23 VA.R. 3235	8/24/05
4 VAC 15-40-21	Added	21:23 VA.R. 3235	8/24/05
4 VAC 15-380-120	Readopting	21:23 VA.R. 3236	8/24/05
4 VAC 20-80-30	Amended	21:25 VA.R. 3469	7/29/05
4 VAC 20-110-20	Amended	21:21 VA.R. 2900	6/1/05
4 VAC 20-170-10 emer	Amended	21:16 VA.R. 2219	4/1/05-4/30/05
4 VAC 20-170-30 emer	Amended	21:16 VA.R. 2219	4/1/05-4/30/05
4 VAC 20-170-30	Amended	21:18 VA.R. 2372	5/1/05
4 VAC 20-252-50	Amended	21:13 VA.R. 1824	2/2/05
4 VAC 20-252-55	Amended	21:13 VA.R. 1824	2/2/05
4 VAC 20-252-90	Amended	22:1 VA.R. 81	9/1/05
4 VAC 20-252-100	Amended	22:1 VA.R. 81	9/1/05
4 VAC 20-252-130	Amended	21:13 VA.R. 1825	2/2/05
4 VAC 20-252-135 emer	Added	21:16 VA.R. 2219	4/1/05-4/30/05
4 VAC 20-252-135	Added	21:18 VA.R. 2372	5/1/05
4 VAC 20-252-150	Amended	21:13 VA.R. 1825	2/2/05
4 VAC 20-252-160	Amended	21:13 VA.R. 1826	2/2/05
4 VAC 20-270-30 emer	Amended	21:23 VA.R. 3290	6/29/05-7/28/05
4 VAC 20-270-30	Amended	21:25 VA.R. 3469	7/29/05
4 VAC 20-320-20 emer	Amended	21:16 VA.R. 2220	4/1/05-4/30/05
4 VAC 20-320-20	Amended	21:18 VA.R. 2373	5/1/05
4 VAC 20-320-65 emer	Added	21:16 VA.R. 2220	4/1/05-4/30/05
4 VAC 20-320-65	Added	21:18 VA.R. 2373	5/1/05
4 VAC 20-390-20 through 4 VAC 20-390-50	Amended	21:22 VA.R. 3089-3092	7/1/05
4 VAC 20-430-10 emer	Amended	21:16 VA.R. 2220	4/1/05-4/30/05
4 VAC 20-430-10	Amended	21:18 VA.R. 2373	5/1/05
4 VAC 20-430-15 emer	Amended	21:16 VA.R. 2220	4/1/05-4/30/05
4 VAC 20-430-15	Amended	21:18 VA.R. 2373	5/1/05
4 VAC 20-430-65 emer	Added	21:16 VA.R. 2220	4/1/05-4/30/05
4 VAC 20-430-65	Added	21:18 VA.R. 2373	5/1/05
4 VAC 20-450-30	Amended	21:13 VA.R. 1827	2/2/05
4 VAC 20-566-10 through 4 VAC 20-566-50 emer	Added	21:25 VA.R. 3552	8/16/05-9/14/05
4 VAC 20-566-10 through 4 VAC 20-566-50	Added	22:1 VA.R. 81-82	9/15/05
4 VAC 20-620-20	Amended	21:21 VA.R. 2900	6/1/05
4 VAC 20-620-40	Amended	21:14 VA.R. 1992	3/1/05

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
4 VAC 20-620-50	Amended	21:14 VA.R. 1993	3/1/05
4 VAC 20-620-60	Amended	21:14 VA.R. 1993	3/1/05
4 VAC 20-620-70	Amended	21:14 VA.R. 1994	3/1/05
4 VAC 20-670-30	Amended	21:25 VA.R. 3470	7/29/05
4 VAC 20-670-50	Amended	21:25 VA.R. 3470	7/29/05
4 VAC 20-720-10 emer	Amended	21:12 VA.R. 1563	2/1/05-2/28/05
4 VAC 20-720-20 emer	Amended	21:12 VA.R. 1563	2/1/05-2/28/05
4 VAC 20-720-20	Amended	21:14 VA.R. 1994	3/1/05
4 VAC 20-720-40 emer	Amended	21:12 VA.R. 1564	2/1/05-2/28/05
4 VAC 20-720-40	Amended	21:14 VA.R. 1995	3/1/05
4 VAC 20-720-49 emer	Added	21:14 VA.R. 2016	3/1/05-3/9/05
4 VAC 20-720-50 emer	Amended	21:12 VA.R. 1564	2/1/05-2/28/05
4 VAC 20-720-50	Amended	21:14 VA.R. 1995	3/1/05
4 VAC 20-720-60 emer	Amended	21:12 VA.R. 1565	2/1/05-2/28/05
4 VAC 20-720-110 emer	Amended	21:12 VA.R. 1565	2/1/05-2/28/05
4 VAC 20-910	Erratum	21:20 VA.R. 2736	--
4 VAC 20-910-45	Amended	21:13 VA.R. 1827	2/2/05
4 VAC 20-910-45	Amended	21:21 VA.R. 2901	6/1/05
4 VAC 20-920-45	Added	21:8 VA.R. 914	12/1/04
4 VAC 20-950-45	Amended	21:16 VA.R. 2191	4/1/05
4 VAC 20-950-48	Amended	21:13 VA.R. 1828	2/2/05
4 VAC 20-1065-10 through 4 VAC 20-1065-40	Added	21:12 VA.R. 1523	2/1/05
4 VAC 20-1080-10 through 4 VAC 20-1080-50 emer	Added	21:16 VA.R. 2221	4/1/05-4/30/05
4 VAC 20-1080-10 through 4 VAC 20-1080-50	Added	21:18 VA.R. 2374	5/1/05
4 VAC 25-130 (Forms)	Amended	21:22 VA.R. 3106	--
4 VAC 25-130-816.11	Amended	21:26 VA.R. 3706	8/10/05-8/9/06
4 VAC 25-130-816.64	Amended	21:26 VA.R. 3707	8/10/05-8/9/06
<b>Title 6. Criminal Justice and Corrections</b>			
6 VAC 20-130-60	Amended	21:16 VA.R. 2192	5/18/05
6 VAC 20-180-10 through 6 VAC 20-180-50	Amended	21:14 VA.R. 1996-1998	4/20/05
6 VAC 20-180-60	Added	21:14 VA.R. 1998	4/20/05
6 VAC 20-230-160	Erratum	22:2 VA.R. 296	--
6 VAC 20-230-210	Erratum	22:2 VA.R. 296	--
6 VAC 20-230-10 through 6 VAC 20-230-350	Added	21:26 VA.R. 3680-3691	10/5/05
6 VAC 20-250-10 through 6 VAC 20-250-360 emer	Added	21:21 VA.R. 2914-2925	7/1/05-6/30/06
6 VAC 35-140-10	Amended	21:19 VA.R. 2534	7/1/05
6 VAC 35-140-20	Amended	21:19 VA.R. 2536	7/1/05
6 VAC 35-140-22	Added	21:19 VA.R. 2536	7/1/05
6 VAC 35-140-23	Added	21:19 VA.R. 2536	7/1/05
6 VAC 35-140-24	Added	21:19 VA.R. 2536	7/1/05
6 VAC 35-140-30	Amended	21:19 VA.R. 2536	7/1/05
6 VAC 35-140-40	Amended	21:19 VA.R. 2536	7/1/05
6 VAC 35-140-45	Added	21:19 VA.R. 2536	7/1/05
6 VAC 35-140-50 through 6 VAC 35-140-90	Amended	21:19 VA.R. 2536	7/1/05
6 VAC 35-140-110 through 6 VAC 35-140-140	Amended	21:19 VA.R. 2537	7/1/05
6 VAC 35-140-170 through 6 VAC 35-140-190	Amended	21:19 VA.R. 2537	7/1/05
6 VAC 35-140-192	Added	21:19 VA.R. 2537	7/1/05
6 VAC 35-140-200 through 6 VAC 35-140-230	Amended	21:19 VA.R. 2537	7/1/05
6 VAC 35-140-250 through 6 VAC 35-140-270	Amended	21:19 VA.R. 2537	7/1/05
6 VAC 35-140-275	Added	21:19 VA.R. 2537	7/1/05
6 VAC 35-140-280	Amended	21:19 VA.R. 2537	7/1/05
6 VAC 35-140-290	Amended	21:19 VA.R. 2538	7/1/05
6 VAC 35-140-295	Added	21:19 VA.R. 2538	7/1/05
6 VAC 35-140-300 through 6 VAC 35-140-350	Amended	21:19 VA.R. 2538	7/1/05
6 VAC 35-140-385 through 6 VAC 35-140-389	Added	21:19 VA.R. 2538	7/1/05
6 VAC 35-140-400	Amended	21:19 VA.R. 2538	7/1/05

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
6 VAC 35-140-430 through 6 VAC 35-140-500	Amended	21:19 VA.R. 2538	7/1/05
6 VAC 35-140-510	Repealed	21:19 VA.R. 2538	7/1/05
6 VAC 35-140-530	Amended	21:19 VA.R. 2538	7/1/05
6 VAC 35-140-540	Amended	21:19 VA.R. 2538	7/1/05
6 VAC 35-140-545	Added	21:19 VA.R. 2538	7/1/05
6 VAC 35-140-550 through 610	Amended	21:19 VA.R. 2538-2540	7/1/05
6 VAC 35-140-615	Added	21:19 VA.R. 2540	7/1/05
6 VAC 35-140-620	Amended	21:19 VA.R. 2540	7/1/05
6 VAC 35-140-630	Amended	21:19 VA.R. 2540	7/1/05
6 VAC 35-140-660	Amended	21:19 VA.R. 2540	7/1/05
6 VAC 35-140-670	Amended	21:19 VA.R. 2540	7/1/05
6 VAC 35-140-680	Amended	21:19 VA.R. 2540	7/1/05
6 VAC 35-140-685	Added	21:19 VA.R. 2540	7/1/05
6 VAC 35-140-690	Amended	21:19 VA.R. 2540	7/1/05
6 VAC 35-140-700	Amended	21:19 VA.R. 2540	7/1/05
6 VAC 35-140-701 through 6 VAC 35-140-709	Added	21:19 VA.R. 2540	7/1/05
6 VAC 35-140-711 through 6 VAC 35-140-715	Added	21:19 VA.R. 2540	7/1/05
6 VAC 35-140-730 through 6 VAC 35-140-770	Amended	21:19 VA.R. 2540	7/1/05
<b>Title 8. Education</b>			
8 VAC 20-21-80	Amended	21:25 VA.R. 3471	9/22/05
8 VAC 20-21-90	Amended	21:25 VA.R. 3473	9/22/05
8 VAC 20-21-580	Amended	21:15 VA.R. 2111	5/5/05
8 VAC 20-21-660	Amended	21:25 VA.R. 3473	9/22/05
8 VAC 20-21-680	Amended	21:25 VA.R. 3474	9/22/05
8 VAC 20-30-10 through 8 VAC 20-30-40	Amended	21:22 VA.R. 3092-3093	8/15/05
8 VAC 20-30-50	Repealed	21:22 VA.R. 3093	8/15/05
8 VAC 20-30-60	Amended	21:22 VA.R. 3093	8/15/05
8 VAC 20-30-70	Amended	21:22 VA.R. 3093	8/15/05
8 VAC 20-90-10	Amended	21:14 VA.R. 1999	5/2/05
8 VAC 20-90-30	Amended	21:14 VA.R. 2000	5/2/05
8 VAC 20-90-40	Amended	21:14 VA.R. 2003	5/2/05
8 VAC 20-90-70	Amended	21:14 VA.R. 2003	5/2/05
8 VAC 20-210-10	Erratum	21:13 VA.R. 1941	--
8 VAC 20-520-5 emer	Added	21:14 VA.R. 2016	3/1/05-2/28/06
8 VAC 20-520-10 emer	Repealed	21:14 VA.R. 2017	3/1/05-2/28/06
8 VAC 20-520-20 through 8 VAC 20-520-60 emer	Added	21:14 VA.R. 2017-2018	3/1/05-2/28/06
8 VAC 20-680-10	Added	21:12 VA.R. 1559	5/9/05
8 VAC 20-680-20	Added	21:12 VA.R. 1559	5/9/05
8 VAC 20-690-10 through 8 VAC 20-690-50	Added	21:12 VA.R. 1525	3/29/05
8 VAC 20-700-10 through 8 VAC 20-700-50 emer	Added	21:13 VA.R. 1928-1929	2/16/05-2/15/06
8 VAC 40-20-20	Amended	21:22 VA.R. 3102	9/28/05
8 VAC 40-20-30	Amended	21:22 VA.R. 3103	9/28/05
<b>Title 9. Environment</b>			
9 VAC 5-10-20	Amended	21:15 VA.R. 2112	5/4/05
9 VAC 5-20-204	Amended	21:15 VA.R. 2119	5/4/05
9 VAC 5-40-6620	Amended	21:15 VA.R. 2120	5/4/05
9 VAC 5-40-7260	Erratum	21:13 VA.R. 1941	--
9 VAC 5-40-7270	Erratum	21:13 VA.R. 1941	--
9 VAC 5-50-260	Amended	21:19 VA.R. 2577	*
9 VAC 5-60-92	Added	21:19 VA.R. 2577	*
9 VAC 5-80-1100	Amended	21:19 VA.R. 2577	*
9 VAC 5-80-1110	Amended	21:19 VA.R. 2578	*
9 VAC 5-80-1120	Amended	21:19 VA.R. 2583	*

\* Suspension of Regulatory Process 21:26

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

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
9 VAC 5-80-1140	Amended	21:19 VA.R. 2584	*
9 VAC 5-80-1160	Amended	21:19 VA.R. 2584	*
9 VAC 5-80-1170	Amended	21:19 VA.R. 2584	*
9 VAC 5-80-1280	Amended	21:19 VA.R. 2585	*
9 VAC 5-80-1290	Amended	21:19 VA.R. 2586	*
9 VAC 5-80-1300	Amended	21:19 VA.R. 2586	*
9 VAC 5-80-1320	Amended	21:19 VA.R. 2587	*
9 VAC 5-91-20	Amended	21:19 VA.R. 2541	6/29/05
9 VAC 5-91-160	Amended	21:19 VA.R. 2547	6/29/05
9 VAC 5-91-180	Amended	21:19 VA.R. 2547	6/29/05
9 VAC 5-91-740	Amended	21:19 VA.R. 2548	6/29/05
9 VAC 5-91-741	Added	21:19 VA.R. 2548	6/29/05
9 VAC 5-91-742	Added	21:19 VA.R. 2548	6/29/05
9 VAC 5-91-743	Added	21:19 VA.R. 2548	6/29/05
9 VAC 5-91-750	Amended	21:19 VA.R. 2548	6/29/05
9 VAC 5-91-760	Amended	21:19 VA.R. 2548	6/29/05
9 VAC 5-230-10 through 9 VAC 5-230-120	Added	21:24 VA.R. 3385-3390	9/7/05
9 VAC 20-20-20	Amended	21:20 VA.R. 2668	7/13/05
9 VAC 20-20-40	Amended	21:20 VA.R. 2668	7/13/05
9 VAC 20-20-60	Amended	21:20 VA.R. 2668	7/13/05
9 VAC 20-20-80	Amended	21:20 VA.R. 2669	7/13/05
9 VAC 20-20-100	Amended	21:20 VA.R. 2669	7/13/05
9 VAC 20-20-110 through 9 VAC 20-20-150	Amended	21:20 VA.R. 2669	7/13/05
9 VAC 20-20-160	Added	21:20 VA.R. 2669	7/13/05
9 VAC 20-30-30	Amended	21:20 VA.R. 2670	7/13/05
9 VAC 20-30-50	Amended	21:20 VA.R. 2670	7/13/05
9 VAC 20-30-70 through 9 VAC 20-30-120	Amended	21:20 VA.R. 2670	7/13/05
9 VAC 20-30-130	Added	21:20 VA.R. 2671	7/13/05
9 VAC 20-40-20	Amended	21:20 VA.R. 2671	7/13/05
9 VAC 20-40-40 through 9 VAC 20-40-150	Amended	21:20 VA.R. 2671-2680	7/13/05
9 VAC 20-40-160	Added	21:20 VA.R. 2680	7/13/05
9 VAC 20-50-20	Amended	21:20 VA.R. 2680	7/13/05
9 VAC 20-50-40 through 9 VAC 20-50-100	Amended	21:20 VA.R. 2680-2693	7/13/05
9 VAC 20-50-110	Added	21:20 VA.R. 2693	7/13/05
9 VAC 20-70-290	Amended	21:20 VA.R. 2693	7/13/05
9 VAC 20-80-60	Amended	21:26 VA.R. 3691	10/5/05
9 VAC 20-80-400	Amended	21:26 VA.R. 3694	10/5/05
9 VAC 20-80-480	Amended	21:26 VA.R. 3697	10/5/05
9 VAC 20-80-485	Amended	21:26 VA.R. 3698	10/5/05
9 VAC 20-80-485	Erratum	22:2 VA.R. 296	--
9 VAC 20-80-790	Amended	22:1 VA.R. 104	12/19/05
9 VAC 20-80 (Forms)	Amended	21:13 VA.R. 1930	--
9 VAC 20-130 (Forms)	Amended	21:13 VA.R. 1930	--
9 VAC 25-31-10	Erratum	21:13 VA.R. 1941	--
9 VAC 25-31-100	Erratum	21:14 VA.R. 2022	--
9 VAC 25-31-120	Erratum	21:13 VA.R. 1941	--
9 VAC 25-40-10	Amended	22:3 VA.R. 370	11/16/05
9 VAC 25-40-20	Repealed	22:3 VA.R. 370	11/16/05
9 VAC 25-40-25	Added	22:3 VA.R. 370	11/16/05
9 VAC 25-40-30	Amended	22:3 VA.R. 371	11/16/05
9 VAC 25-40-40	Amended	22:3 VA.R. 371	11/16/05
9 VAC 25-40-50	Amended	22:3 VA.R. 371	11/16/05
9 VAC 25-40-70	Added	22:3 VA.R. 371	11/16/05

\* Suspension of Regulatory Process 21:26

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

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
9 VAC 25-260-5	Amended	21:18 VA.R. 2375	6/24/05
9 VAC 25-260-10	Amended	21:18 VA.R. 2375	6/24/05
9 VAC 25-260-30	Amended	21:22 VA.R. 3094	8/10/05
9 VAC 25-260-30	Amended	21:22 VA.R. 3094	8/10/05
9 VAC 25-260-30	Amended	21:22 VA.R. 3094	8/10/05
9 VAC 25-260-30	Amended	21:22 VA.R. 3094	8/10/05
9 VAC 25-260-30	Amended	22:3 VA.R. 381	*
9 VAC 25-260-50	Amended	21:18 VA.R. 2377	6/24/05
9 VAC 25-260-185	Added	21:18 VA.R. 2377	6/24/05
9 VAC 25-260-186	Added	21:18 VA.R. 2379	6/24/05
9 VAC 25-260-310	Amended	21:23 VA.R. 3250	Suspended
9 VAC 25-260-350	Amended	21:18 VA.R. 2379	6/24/05
9 VAC 25-260-410	Amended	21:23 VA.R. 3252	Suspended
9 VAC 25-260-530	Amended	21:23 VA.R. 3252	Suspended
9 VAC 25-630-50	Amended	22:2 VA.R. 229	11/2/05
9 VAC 25-720-10	Amended	22:3 VA.R. 372	11/16/05
9 VAC 25-720-30	Amended	22:3 VA.R. 374	11/16/05
9 VAC 25-720-40	Amended	22:3 VA.R. 374	11/16/05
9 VAC 25-720-50	Amended	21:12 VA.R. 1526	3/23/05
9 VAC 25-720-50	Amended	22:2 VA.R. 236	11/2/05
9 VAC 25-720-50	Amended	22:3 VA.R. 376	11/16/05
9 VAC 25-720-60	Amended	21:17 VA.R. 2302	6/1/05
9 VAC 25-720-60	Amended	21:23 VA.R. 3244	Suspended
9 VAC 25-720-70	Amended	22:3 VA.R. 378	11/16/05
9 VAC 25-720-80	Amended	21:12 VA.R. 1527	3/23/05
9 VAC 25-720-80	Amended	21:17 VA.R. 2302	6/1/05
9 VAC 25-720-90	Amended	21:12 VA.R. 1527	3/23/05
9 VAC 25-720-90	Amended	22:2 VA.R. 237	11/2/05
9 VAC 25-720-100	Amended	21:17 VA.R. 2303	6/1/05
9 VAC 25-720-110	Amended	22:3 VA.R. 380	11/16/05
9 VAC 25-720-120	Amended	21:23 VA.R. 3247	Suspended
9 VAC 25-720-130	Amended	21:12 VA.R. 1528	3/23/05
9 VAC 25-720-130	Amended	21:17 VA.R. 2303	6/1/05
9 VAC 25-720-130	Amended	22:2 VA.R. 238	11/2/05
9 VAC 25-780-10 through 9 VAC 25-780-190	Added	22:2 VA.R. 238-246	11/2/05
<b>Title 10. Finance and Financial Institutions</b>			
10 VAC 5-20-50	Added	22:3 VA.R. 383	9/30/05
<b>Title 11. Gaming</b>			
11 VAC 10-70-20	Amended	21:22 VA.R. 3094	6/17/05
11 VAC 10-70-20	Amended	22:3 VA.R. 385	9/16/05**
11 VAC 10-70-30	Amended	21:22 VA.R. 3095	6/17/05
11 VAC 10-70-30	Amended	22:3 VA.R. 385	9/16/05**
11 VAC 10-70-40	Amended	21:22 VA.R. 3095	6/17/05
11 VAC 10-70-40	Amended	22:3 VA.R. 385	9/16/05**
11 VAC 10-70-50	Repealed	21:22 VA.R. 3095	6/17/05
11 VAC 10-70-50	Repealed	22:3 VA.R. 385	9/16/05**
11 VAC 10-70-60	Amended	21:22 VA.R. 3095	6/17/05
11 VAC 10-70-60	Amended	22:3 VA.R. 385	9/16/05**
11 VAC 10-70-70	Amended	21:22 VA.R. 3096	6/17/05
11 VAC 10-70-70	Amended	22:3 VA.R. 386	9/16/05**
11 VAC 10-70-80	Amended	21:22 VA.R. 3096	6/17/05
11 VAC 10-70-80	Amended	22:3 VA.R. 386	9/16/05**
11 VAC 10-70-90	Amended	21:22 VA.R. 3096	6/17/05

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

\*\* Expires November 14, 2005

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

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
11 VAC 10-70-90	Amended	22:3 VA.R. 387	9/16/05**
11 VAC 10-70-170	Amended	21:22 VA.R. 3096	6/17/05
11 VAC 10-70-170	Amended	22:3 VA.R. 387	9/16/05**
11 VAC 10-90-10	Amended	21:22 VA.R. 3097	6/17/05
11 VAC 10-90-10	Amended	22:3 VA.R. 387	9/16/05**
11 VAC 10-90-30	Amended	21:22 VA.R. 3097	6/17/05
11 VAC 10-90-30	Amended	22:3 VA.R. 387	9/16/05**
11 VAC 10-90-50	Amended	21:22 VA.R. 3097	6/17/05
11 VAC 10-90-50	Amended	22:3 VA.R. 387	9/16/05**
11 VAC 10-180-10	Amended	21:16 VA.R. 2197	5/18/05
11 VAC 10-180-20	Amended	21:16 VA.R. 2193	3/31/03
11 VAC 10-180-20	Amended	21:16 VA.R. 2198	5/18/05
11 VAC 10-180-30	Repealed	21:16 VA.R. 2199	5/18/05
11 VAC 10-180-40	Repealed	21:16 VA.R. 2200	5/18/05
11 VAC 10-180-50	Repealed	21:16 VA.R. 2200	5/18/05
11 VAC 10-180-60	Amended	21:16 VA.R. 2194	3/31/03
11 VAC 10-180-60 through 11 VAC 10-180-90	Amended	21:16 VA.R. 2202-2207	5/18/05
11 VAC 10-180-80	Amended	21:16 VA.R. 2196	3/31/03
11 VAC 10-180-85	Added	21:16 VA.R. 2206	5/18/05
11 VAC 10-180-90	Amended	21:16 VA.R. 2197	3/31/03
11 VAC 10-180-100	Added	21:16 VA.R. 2207	5/18/05
11 VAC 10-180-110	Added	21:16 VA.R. 2207	5/18/05
<b>Title 12. Health</b>			
12 VAC 5-380	Repealed	22:3 VA.R. 388	1/1/06
12 VAC 5-381-10 through 12 VAC 5-381-360	Added	22:3 VA.R. 388-406	1/1/06
12 VAC 5-390-10 through 12 VAC 5-390-660	Repealed	21:23 VA.R. 3254	11/1/05
12 VAC 5-391-10 through 12 VAC 5-391-500	Added	21:23 VA.R. 3254-3272	11/1/05
12 VAC 5-410-10	Amended	21:12 VA.R. 1561	5/9/05
12 VAC 5-410-420	Amended	21:25 VA.R. 3550	11/7/05
12 VAC 5-410-1190	Amended	21:25 VA.R. 3550	11/7/05
12 VAC 5-500-10 through 12 VAC 5-500-350	Repealed	22:3 VA.R. 407	1/1/06
12 VAC 5-501-10 through 12 VAC 5-501-350	Added	22:3 VA.R. 407-413	1/1/06
12 VAC 5-590-10	Amended	21:13 VA.R. 1829	4/6/05
12 VAC 5-590-140	Amended	21:16 VA.R. 2209	5/18/05
12 VAC 5-590-150	Amended	21:16 VA.R. 2212	5/18/05
12 VAC 5-590-370	Amended	21:13 VA.R. 1835	4/6/05
12 VAC 5-590-410	Amended	21:13 VA.R. 1860	4/6/05
12 VAC 5-590-420	Amended	21:13 VA.R. 1863	4/6/05
12 VAC 5-590-500	Amended	21:13 VA.R. 1879	4/6/05
12 VAC 5-590-530	Amended	21:13 VA.R. 1880	4/6/05
12 VAC 5-590-540	Amended	21:13 VA.R. 1886	4/6/05
12 VAC 5-590-550	Amended	21:13 VA.R. 1890	4/6/05
12 VAC 5-590, Appendix L	Amended	21:13 VA.R. 1891	4/6/05
12 VAC 5-590, Appendix M	Amended	21:13 VA.R. 1897	4/6/05
12 VAC 5-590, Appendix O	Amended	21:13 VA.R. 1901	4/6/05
12 VAC 30-50-190 emer	Amended	21:23 VA.R. 3291	7/1/05-6/30/06
12 VAC 30-50-300	Amended	21:22 VA.R. 3098	8/10/05
12 VAC 30-50-490 emer	Amended	21:12 VA.R. 1566	2/1/05-1/31/06
12 VAC 30-50-520 emer	Amended	21:20 VA.R. 2715	5/27/05-5/26/06
12 VAC 30-50-530	Amended	21:22 VA.R. 3098	8/10/05
12 VAC 30-60-40 emer	Amended	21:20 VA.R. 2716	7/1/05-6/30/06
12 VAC 30-60-70	Amended	21:19 VA.R. 2592	8/15/05
12 VAC 30-60-350 emer	Amended	21:20 VA.R. 2717	7/1/05-6/30/06
12 VAC 30-70-291 emer	Amended	21:20 VA.R. 2720	5/12/05-5/11/06

\*\* Expires November 14, 2005

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

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
12 VAC 30-70-291	Amended	21:23 VA.R. 3274	9/1/05
12 VAC 30-70-291 emer	Amended	21:23 VA.R. 3299	7/1/05-6/30/06
12 VAC 30-70-301	Amended	21:14 VA.R. 2014	6/6/05
12 VAC 30-70-301	Amended	21:23 VA.R. 3274	9/1/05
12 VAC 30-70-331	Amended	21:20 VA.R. 2696	7/14/05
12 VAC 30-70-391	Amended	21:23 VA.R. 3275	9/1/05
12 VAC 30-70-425 emer	Amended	21:23 VA.R. 3292	7/1/05-6/30/06
12 VAC 30-70-426 emer	Repealed	21:23 VA.R. 3293	7/1/05-6/30/06
12 VAC 30-80-20 emer	Amended	21:23 VA.R. 3293	7/1/05-6/30/06
12 VAC 30-80-30 emer	Amended	21:23 VA.R. 3296	7/1/05-6/30/06
12 VAC 30-80-40	Amended	21:15 VA.R. 2121	7/1/05
12 VAC 30-80-40	Amended	22:3 VA.R. 414	11/16/05
12 VAC 30-80-190	Amended	21:23 VA.R. 3275	9/1/05
12 VAC 30-90-19 emer	Amended	21:23 VA.R. 3298	7/1/05-6/30/06
12 VAC 30-90-41	Amended	21:15 VA.R. 2136	7/1/05
12 VAC 30-90-41 emer	Amended	21:20 VA.R. 2717	7/1/05-6/30/06
12 VAC 30-120-10 through 12 VAC 30-120-60 emer	Repealed	21:12 VA.R. 1601	2/1/05-1/31/06
12 VAC 30-120-380 emer	Amended	21:20 VA.R. 2721	7/1/05-6/30/06
12 VAC 30-120-490 through 12 VAC 30-120-550 emer	Repealed	21:12 VA.R. 1601	2/1/05-1/31/06
12 VAC 30-120-700 emer	Amended	21:12 VA.R. 1568	2/1/05-1/31/06
12 VAC 30-120-710 emer	Amended	21:12 VA.R. 1572	2/1/05-1/31/06
12 VAC 30-120-720 emer	Amended	21:12 VA.R. 1572	2/1/05-1/31/06
12 VAC 30-120-730 emer	Amended	21:12 VA.R. 1576	2/1/05-1/31/06
12 VAC 30-120-740 emer	Amended	21:12 VA.R. 1578	2/1/05-1/31/06
12 VAC 30-120-750 emer	Amended	21:12 VA.R. 1579	2/1/05-1/31/06
12 VAC 30-120-752 emer	Amended	21:12 VA.R. 1580	2/1/05-1/31/06
12 VAC 30-120-753 emer	Amended	21:12 VA.R. 1582	2/1/05-1/31/06
12 VAC 30-120-754 emer	Amended	21:12 VA.R. 1583	2/1/05-1/31/06
12 VAC 30-120-756 emer	Amended	21:12 VA.R. 1584	2/1/05-1/31/06
12 VAC 30-120-758 emer	Amended	21:12 VA.R. 1585	2/1/05-1/31/06
12 VAC 30-120-760 emer	Amended	21:12 VA.R. 1586	2/1/05-1/31/06
12 VAC 30-120-762 emer	Amended	21:12 VA.R. 1586	2/1/05-1/31/06
12 VAC 30-120-764 emer	Amended	21:12 VA.R. 1587	2/1/05-1/31/06
12 VAC 30-120-766 emer	Amended	21:12 VA.R. 1588	2/1/05-1/31/06
12 VAC 30-120-768 emer	Amended	21:12 VA.R. 1590	2/1/05-1/31/06
12 VAC 30-120-770 emer	Amended	21:12 VA.R. 1592	2/1/05-1/31/06
12 VAC 30-120-772 emer	Amended	21:12 VA.R. 1596	2/1/05-1/31/06
12 VAC 30-120-774 emer	Amended	21:12 VA.R. 1597	2/1/05-1/31/06
12 VAC 30-120-776 emer	Amended	21:12 VA.R. 1598	2/1/05-1/31/06
12 VAC 30-120-780 emer	Repealed	21:12 VA.R. 1600	2/1/05-1/31/06
12 VAC 30-120-790 emer	Repealed	21:12 VA.R. 1601	2/1/05-1/31/06
12 VAC 30-120-900 through 12 VAC 30-120-990 emer	Added	21:12 VA.R. 1601-1619	2/1/05-1/31/06
12 VAC 30-120-1500 through 12 VAC 120-1590 emer	Added	21:23 VA.R. 3300-3308	7/1/05-6/30/06
12 VAC 30-120-1600 through 12 VAC 30-120-1660 emer	Added	22:2 VA.R. 255-261	9/14/05-9/13/06
12 VAC 30-141-10 emer	Amended	21:25 VA.R. 3553	8/1/05-7/31/06
12 VAC 30-141-10 emer	Amended	21:25 VA.R. 3561	8/1/05-7/31/06
12 VAC 30-141-40 emer	Amended	21:25 VA.R. 3555	8/1/05-7/31/06
12 VAC 30-141-100 emer	Amended	21:25 VA.R. 3555	8/1/05-7/31/06
12 VAC 30-141-100 emer	Amended	21:25 VA.R. 3563	8/1/05-7/31/06
12 VAC 30-141-120 emer	Amended	21:25 VA.R. 3564	8/1/05-7/31/06
12 VAC 30-141-150 emer	Amended	21:25 VA.R. 3564	8/1/05-7/31/06
12 VAC 30-141-160 emer	Amended	21:25 VA.R. 3557	8/1/05-7/31/06
12 VAC 30-141-170 emer	Repealed	21:25 VA.R. 3557	8/1/05-7/31/06
12 VAC 30-141-175 emer	Added	21:25 VA.R. 3559	8/1/05-7/31/06
12 VAC 30-141-200 emer	Amended	21:20 VA.R. 2721	7/1/05-6/30/06
12 VAC 30-141-200 emer	Amended	21:25 VA.R. 3560	8/1/05-7/31/06

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

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
12 VAC 30-141-500	Amended	21:19 VA.R. 2549	6/29/05
12 VAC 30-141-500 emer	Amended	21:23 VA.R. 3291	7/1/05-6/30/06
12 VAC 30-141-810 through 12 VAC 30-141-1660 emer	Added	21:25 VA.R. 3566-3573	8/1/05-7/31/06
<b>Title 13. Housing</b>			
13 VAC 5-21-10 through 13 VAC 5-21-70	Amended	22:3 VA.R. 416-419	11/16/05
13 VAC 5-21-45	Added	22:3 VA.R. 418	11/16/05
13 VAC 5-31-20	Amended	22:3 VA.R. 420	11/16/05
13 VAC 5-31-40	Amended	22:3 VA.R. 420	11/16/05
13 VAC 5-31-50	Amended	22:3 VA.R. 421	11/16/05
13 VAC 5-31-80	Amended	22:3 VA.R. 421	11/16/05
13 VAC 5-31-100	Amended	22:3 VA.R. 422	11/16/05
13 VAC 5-31-190	Amended	22:3 VA.R. 422	11/16/05
13 VAC 5-31-200	Added	22:3 VA.R. 422	11/16/05
13 VAC 5-31-210	Added	22:3 VA.R. 422	11/16/05
13 VAC 5-51-21	Amended	22:3 VA.R. 422	11/16/05
13 VAC 5-51-31	Amended	22:3 VA.R. 423	11/16/05
13 VAC 5-51-41	Amended	22:3 VA.R. 423	11/16/05
13 VAC 5-51-51	Amended	22:3 VA.R. 424	11/16/05
13 VAC 5-51-61	Amended	22:3 VA.R. 425	11/16/05
13 VAC 5-51-81	Amended	22:3 VA.R. 425	11/16/05
13 VAC 5-51-91	Amended	22:3 VA.R. 432	11/16/05
13 VAC 5-51-121	Amended	22:3 VA.R. 433	11/16/05
13 VAC 5-51-130	Amended	22:3 VA.R. 434	11/16/05
13 VAC 5-51-131	Amended	22:3 VA.R. 434	11/16/05
13 VAC 5-51-132	Amended	22:3 VA.R. 435	11/16/05
13 VAC 5-51-133	Amended	22:3 VA.R. 435	11/16/05
13 VAC 5-51-133.5	Added	22:3 VA.R. 436	11/16/05
13 VAC 5-51-134	Added	22:3 VA.R. 436	11/16/05
13 VAC 5-51-135	Amended	22:3 VA.R. 436	11/16/05
13 VAC 5-51-135.5	Added	22:3 VA.R. 437	11/16/05
13 VAC 5-51-136	Repealed	22:3 VA.R. 437	11/16/05
13 VAC 5-51-145	Added	22:3 VA.R. 437	11/16/05
13 VAC 5-51-150	Amended	22:3 VA.R. 438	11/16/05
13 VAC 5-51-152	Added	22:3 VA.R. 442	11/16/05
13 VAC 5-51-154	Added	22:3 VA.R. 442	11/16/05
13 VAC 5-51-155	Amended	22:3 VA.R. 443	11/16/05
13 VAC 5-62-10 through 13 VAC 5-62-480	Repealed	22:3 VA.R. 444	11/16/05
13 VAC 5-63-10 through 13 VAC 5-63-550	Added	22:3 VA.R. 444-497	11/16/05
13 VAC 5-63-110	Erratum	21:14 VA.R. 2021	--
13 VAC 5-91-10	Amended	22:3 VA.R. 498	11/16/05
13 VAC 5-91-20	Amended	22:3 VA.R. 499	11/16/05
13 VAC 5-91-40	Amended	22:3 VA.R. 499	11/16/05
13 VAC 5-91-50	Amended	22:3 VA.R. 499	11/16/05
13 VAC 5-91-70	Amended	22:3 VA.R. 499	11/16/05
13 VAC 5-91-80	Amended	22:3 VA.R. 499	11/16/05
13 VAC 5-91-90	Amended	22:3 VA.R. 499	11/16/05
13 VAC 5-91-110 through 13 VAC 5-91-220	Amended	22:3 VA.R. 499-501	11/16/05
13 VAC 5-91-245 through 13 VAC 5-91-270	Amended	22:3 VA.R. 502	11/16/05
<b>Title 14. Insurance</b>			
14 VAC 5-170-20 through 14 VAC 5-170-105	Amended	21:25 VA.R. 3477-3490	8/15/05
14 VAC 5-170-120	Amended	21:25 VA.R. 3490	8/15/05
14 VAC 5-170-130	Amended	21:25 VA.R. 3492	8/15/05
14 VAC 5-170-150	Amended	21:25 VA.R. 3493	8/15/05
14 VAC 5-170-150	Erratum	22:1 VA.R. 114	--
14 VAC 5-170-160	Amended	21:25 VA.R. 3525	8/15/05
14 VAC 5-170-190 Appendices A through D	Amended	21:25 VA.R. 3527-3548	8/15/05

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
14 VAC 5-210-10 through 14 VAC 5-210-150	Repealed	21:23 VA.R. 3276	7/1/05
14 VAC 5-211-10 through 14 VAC 5-211-280	Added	21:23 VA.R. 3279-3287	7/1/05
<b>Title 15. Judicial</b>			
15 VAC 5-50-10 through 15 VAC 5-50-210	Repealed	21:17 VA.R. 2304	4/13/05
15 VAC 5-60-10 through 15 VAC 5-60-240	Repealed	21:17 VA.R. 2304	4/13/05
<b>Title 16. Labor and Employment</b>			
16 VAC 25-90-1910.142	Amended	21:21 VA.R. 2901	8/15/05
16 VAC 25-90-1910.151	Amended	21:21 VA.R. 2901	8/15/05
16 VAC 25-90-1910.268	Amended	21:21 VA.R. 2901	8/15/05
16 VAC 25-90-1910.1001	Amended	21:21 VA.R. 2901	8/15/05
16 VAC 25-90-1910.1003	Amended	21:21 VA.R. 2901	8/15/05
16 VAC 25-90-1910.1017	Amended	21:21 VA.R. 2901	8/15/05
16 VAC 25-90-1910.1018	Amended	21:21 VA.R. 2901	8/15/05
16 VAC 25-90-1910.1025	Amended	21:21 VA.R. 2901	8/15/05
16 VAC 25-90-1910.1027	Amended	21:21 VA.R. 2901	8/15/05
16 VAC 25-90-1910.1028	Amended	21:21 VA.R. 2901	8/15/05
16 VAC 25-90-1910.1029	Amended	21:21 VA.R. 2901	8/15/05
16 VAC 25-90-1910.1043	Amended	21:21 VA.R. 2901	8/15/05
16 VAC 25-90-1910.1044	Amended	21:21 VA.R. 2901	8/15/05
16 VAC 25-90-1910.1045	Amended	21:21 VA.R. 2901	8/15/05
16 VAC 25-90-1910.1047	Amended	21:21 VA.R. 2901	8/15/05
16 VAC 25-90-1910.1048	Amended	21:21 VA.R. 2901	8/15/05
16 VAC 25-90-1910.1051	Amended	21:21 VA.R. 2901	8/15/05
16 VAC 25-100-1915.1001	Amended	21:21 VA.R. 2901	8/15/05
16 VAC 25-175-1926.60	Amended	21:21 VA.R. 2901	8/15/05
16 VAC 25-175-1926.62	Amended	21:21 VA.R. 2901	8/15/05
16 VAC 25-175-1926.1101	Amended	21:21 VA.R. 2901	8/15/05
16 VAC 25-175-1926.1127	Amended	21:21 VA.R. 2901	8/15/05
16 VAC 25-175-1926.60	Amended	21:21 VA.R. 2903	8/15/05
<b>Title 18. Professional and Occupational Licensing</b>			
18 VAC 30-20-290	Added	21:21 VA.R. 2904	7/27/05
18 VAC 47-20-10 emer	Amended	21:25 VA.R. 3574	8/1/05-7/31/06
18 VAC 47-20-35 emer	Added	21:25 VA.R. 3575	8/1/05-7/31/06
18 VAC 47-20-70 emer	Amended	21:25 VA.R. 3575	8/1/05-7/31/06
18 VAC 47-20-140 emer	Amended	21:25 VA.R. 3575	8/1/05-7/31/06
18 VAC 47-20-240 emer	Repealed	21:25 VA.R. 3575	8/1/05-7/31/06
18 VAC 47-20-250 emer	Added	21:25 VA.R. 3576	8/1/05-7/31/06
18 VAC 47-20-260 emer	Added	21:25 VA.R. 3576	8/1/05-7/31/06
18 VAC 47-20-270 emer	Added	21:25 VA.R. 3576	8/1/05-7/31/06
18 VAC 50-22-100	Amended	21:20 VA.R. 2696	8/1/05
18 VAC 50-22-140	Amended	21:20 VA.R. 2697	8/1/05
18 VAC 50-22-170	Amended	21:20 VA.R. 2697	8/1/05
18 VAC 50-22-250	Amended	21:20 VA.R. 2697	8/1/05
18 VAC 50-30-90	Amended	21:20 VA.R. 2698	8/1/05
18 VAC 50-30-120	Amended	21:20 VA.R. 2698	8/1/05
18 VAC 50-30-130	Amended	21:20 VA.R. 2699	8/1/05
18 VAC 60-20	Erratum	21:22 VA.R. 3119	--
18 VAC 60-20-10	Amended	21:19 VA.R. 2551	6/29/05
18 VAC 60-20-10 emer	Amended	22:1 VA.R. 106	9/1/05-8/31/06
18 VAC 60-20-16	Amended	21:19 VA.R. 2551	6/29/05
18 VAC 60-20-17	Added	21:19 VA.R. 2550	6/29/05
18 VAC 60-20-20	Amended	21:19 VA.R. 2551	6/29/05
18 VAC 60-20-20	Amended	21:19 VA.R. 2555	6/29/05
18 VAC 60-20-20 emer	Amended	22:1 VA.R. 107	9/1/05-8/31/06
18 VAC 60-20-50 through 18 VAC 60-20-90	Amended	21:19 VA.R. 2551-2552	6/29/05

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18 VAC 60-20-71 emer	Amended	22:1 VA.R. 107	9/1/05-8/31/06
18 VAC 60-20-91	Added	21:19 VA.R. 2555	6/29/05
18 VAC 60-20-105	Amended	21:19 VA.R. 2552	6/29/05
18 VAC 60-20-105 emer	Amended	22:1 VA.R. 107	9/1/05-8/31/06
18 VAC 60-20-106	Added	21:19 VA.R. 2552	6/29/05
18 VAC 60-20-106	Erratum	21:22 VA.R. 3119	--
18 VAC 60-20-106 emer	Amended	22:1 VA.R. 108	9/1/05-8/31/06
18 VAC 60-20-107	Added	21:19 VA.R. 2552	6/29/05
18 VAC 60-20-107	Erratum	21:22 VA.R. 3119	--
18 VAC 60-20-110	Amended	21:19 VA.R. 2552	6/29/05
18 VAC 60-20-120	Amended	21:19 VA.R. 2553	6/29/05
18 VAC 60-20-130	Repealed	21:19 VA.R. 2554	6/29/05
18 VAC 60-20-135	Added	21:19 VA.R. 2554	6/29/05
18 VAC 60-20-190	Amended	21:19 VA.R. 2554	6/29/05
18 VAC 60-20-195	Amended	21:19 VA.R. 2554	6/29/05
18 VAC 60-20-210 emer	Amended	22:1 VA.R. 108	9/1/05-8/31/06
18 VAC 60-20-230 emer	Amended	22:1 VA.R. 109	9/1/05-8/31/06
18 VAC 62-20-10 through 18 VAC 62-20-180	Added	21:20 VA.R. 2700-2706	7/15/05
18 VAC 65-20-15	Added	21:18 VA.R. 2380	6/15/05
18 VAC 75-40-10	Added	21:16 VA.R. 2215	5/18/05
18 VAC 75-40-20	Added	21:16 VA.R. 2215	5/18/05
18 VAC 75-40-30	Added	21:16 VA.R. 2215	5/18/05
18 VAC 76-20-20 emer	Amended	21:25 VA.R. 3577	7/25/05-7/24/06
18 VAC 76-20-30 emer	Amended	21:25 VA.R. 3577	7/25/05-7/24/06
18 VAC 76-20-50 emer	Amended	21:25 VA.R. 3577	7/25/05-7/24/06
18 VAC 76-20-60	Amended	21:19 VA.R. 2556	6/29/05
18 VAC 76-20-60 emer	Amended	21:25 VA.R. 3577	7/25/05-7/24/06
18 VAC 76-20-70 emer	Added	21:25 VA.R. 3578	7/25/05-7/24/06
18 VAC 76-40-10	Amended	21:19 VA.R. 2596	8/15/05
18 VAC 85-15-10	Added	21:21 VA.R. 2905	7/27/05
18 VAC 85-15-20	Added	21:21 VA.R. 2905	7/27/05
18 VAC 85-15-30	Added	21:21 VA.R. 2905	7/27/05
18 VAC 85-20	Erratum	22:1 VA.R. 114	--
18 VAC 85-20-25	Added	22:1 VA.R. 82	10/19/05
18 VAC 85-20-26	Added	22:1 VA.R. 83	10/19/05
18 VAC 85-20-27	Added	22:1 VA.R. 83	10/19/05
18 VAC 85-20-28	Added	22:1 VA.R. 83	10/19/05
18 VAC 85-20-29	Added	22:1 VA.R. 84	10/19/05
18 VAC 85-20-30	Amended	21:20 VA.R. 2707	7/13/05
18 VAC 85-20-30	Amended	22:1 VA.R. 84	10/19/05
18 VAC 85-20-40	Amended	22:1 VA.R. 84	10/19/05
18 VAC 85-20-50	Amended	22:1 VA.R. 84	10/19/05
18 VAC 85-20-80	Amended	22:1 VA.R. 84	10/19/05
18 VAC 85-20-90	Amended	22:1 VA.R. 84	10/19/05
18 VAC 85-20-100	Amended	21:20 VA.R. 2707	7/13/05
18 VAC 85-20-100	Amended	22:1 VA.R. 85	10/19/05
18 VAC 85-20-105	Amended	22:1 VA.R. 85	10/19/05
18 VAC 85-20-280	Amended	21:22 VA.R. 3105	9/26/05
18 VAC 85-40-85 through 18 VAC 85-40-91	Added	22:1 VA.R. 87-89	10/19/05
18 VAC 85-50-175 through 18 VAC 85-50-184	Added	22:1 VA.R. 89-91	10/19/05
18 VAC 85-80-61	Added	21:23 VA.R. 3287	8/24/05
18 VAC 85-80-120 through 18 VAC 85-80-125	Added	22:1 VA.R. 92-93	10/19/05
18 VAC 85-101-161 through 18 VAC 85-101-166	Added	22:1 VA.R. 94-95	10/19/05
18 VAC 85-110-175 through 18 VAC 85-110-183	Added	22:1 VA.R. 95-98	10/19/05
18 VAC 85-120-50	Amended	22:2 VA.R. 254	12/17/05
18 VAC 85-120-155 through 18 VAC 85-120-162	Added	22:1 VA.R. 98-100	10/19/05

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
18 VAC 90-15-10	Added	21:21 VA.R. 2905	7/27/05
18 VAC 90-15-20	Added	21:21 VA.R. 2905	7/27/05
18 VAC 90-15-30	Added	21:21 VA.R. 2905	7/27/05
18 VAC 90-20-10	Amended	21:21 VA.R. 2906	7/27/05
18 VAC 90-20-181	Added	21:21 VA.R. 2907	7/27/05
18 VAC 90-20-182	Added	21:21 VA.R. 2907	7/27/05
18 VAC 90-20-183	Added	21:21 VA.R. 2907	7/27/05
18 VAC 90-20-230	Amended	21:20 VA.R. 2708	7/13/05
18 VAC 90-20-280	Amended	21:21 VA.R. 2907	7/27/05
18 VAC 90-20-300	Amended	21:21 VA.R. 2907	7/27/05
18 VAC 90-30-80	Amended	21:21 VA.R. 2910	7/27/05
18 VAC 90-30-100	Amended	21:21 VA.R. 2910	7/27/05
18 VAC 90-30-110	Amended	21:21 VA.R. 2910	7/27/05
18 VAC 90-30-120	Amended	21:21 VA.R. 2909	7/27/05
18 VAC 95-10-10	Amended	21:18 VA.R. 2380	7/1/05
18 VAC 95-10-20	Amended	21:18 VA.R. 2380	7/1/05
18 VAC 95-20-10	Amended	21:18 VA.R. 2381	7/1/05
18 VAC 95-20-471	Added	21:19 VA.R. 2557	6/29/05
18 VAC 100-20-53	Added	21:20 VA.R. 2709	8/1/05
18 VAC 100-20-54	Amended	21:20 VA.R. 2708	8/1/05
18 VAC 100-20-54	Erratum	21:23 VA.R. 3311	--
18 VAC 100-20-81	Amended	21:20 VA.R. 2709	8/1/05
18 VAC 105-20-41	Added	21:18 VA.R. 2382	6/15/05
18 VAC 110-20-15	Added	21:15 VA.R. 2122	5/4/05
18 VAC 110-20-20	Amended	22:2 VA.R. 246	11/2/05
18 VAC 110-20-276	Added	21:24 VA.R. 3390	9/7/05
18 VAC 110-20-515	Added	21:24 VA.R. 3391	9/7/05
18 VAC 112-20-26	Added	21:19 VA.R. 2557	6/29/05
18 VAC 112-20-135	Amended	22:1 VA.R. 100	10/19/05
18 VAC 112-20-150	Amended	22:1 VA.R. 101	10/19/05
18 VAC 112-20-151	Repealed	22:1 VA.R. 101	10/19/05
18 VAC 115-15-10 through 18 VAC 115-15-30	Added	21:22 VA.R. 3099	8/10/05
18 VAC 115-20-20	Amended	22:2 VA.R. 249	1/14/06
18 VAC 115-30-30	Amended	22:2 VA.R. 250	1/21/06
18 VAC 120-40-50	Amended	21:20 VA.R. 2712	8/1/05
18 VAC 125-15-10	Added	21:20 VA.R. 2712	7/13/05
18 VAC 125-15-20	Added	21:20 VA.R. 2712	7/13/05
18 VAC 125-15-30	Added	21:20 VA.R. 2712	7/13/05
18 VAC 140-20-171	Added	21:21 VA.R. 2913	7/27/05
18 VAC 150-20-15	Added	21:21 VA.R. 2913	7/27/05
18 VAC 150-20-100	Amended	21:26 VA.R. 3701	10/5/05
18 VAC 150-20-195	Amended	21:23 VA.R. 3289	10/8/05
<b>Title 19. Public Safety</b>			
19 VAC 30-70-210	Amended	21:18 VA.R. 2382	4/15/05
<b>Title 20. Public Utilities and Telecommunications</b>			
20 VAC 5-315 (Forms)	Amended	21:19 VA.R. 2603	--
20 VAC 5-315-20	Amended	21:18 VA.R. 2387	4/26/05
20 VAC 5-315-30	Amended	21:18 VA.R. 2388	4/26/05
20 VAC 5-315-40	Amended	21:18 VA.R. 2388	4/26/05
20 VAC 5-315-90	Repealed	21:18 VA.R. 2389	4/26/05
20 VAC 5-427-10	Erratum	22:1 VA.R. 114	--
20 VAC 5-427-100	Erratum	22:1 VA.R. 114	--
20 VAC 5-427-110	Erratum	22:1 VA.R. 114	--
20 VAC 5-427-130	Erratum	22:1 VA.R. 114	--

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
<b>Title 22. Social Services</b>			
22 VAC 15-30-10	Amended	21:12 VA.R. 1528	6/1/05
22 VAC 15-30-30	Amended	21:12 VA.R. 1532	6/1/05
22 VAC 15-30-50	Amended	21:12 VA.R. 1532	6/1/05
22 VAC 15-30-70	Amended	21:12 VA.R. 1533	6/1/05
22 VAC 15-30-80	Amended	21:12 VA.R. 1533	6/1/05
22 VAC 15-30-90	Amended	21:12 VA.R. 1533	6/1/05
22 VAC 15-30-110	Amended	21:12 VA.R. 1534	6/1/05
22 VAC 15-30-140	Amended	21:12 VA.R. 1534	6/1/05
22 VAC 15-30-150	Amended	21:12 VA.R. 1534	6/1/05
22 VAC 15-30-160	Amended	21:12 VA.R. 1534	6/1/05
22 VAC 15-30-180	Amended	21:12 VA.R. 1535	6/1/05
22 VAC 15-30-190	Amended	21:12 VA.R. 1535	6/1/05
22 VAC 15-30-200	Amended	21:12 VA.R. 1536	6/1/05
22 VAC 15-30-200	Erratum	21:13 VA.R. 1941	--
22 VAC 15-30-230	Amended	21:12 VA.R. 1536	6/1/05
22 VAC 15-30-250	Amended	21:12 VA.R. 1537	6/1/05
22 VAC 15-30-260	Amended	21:12 VA.R. 1537	6/1/05
22 VAC 15-30-290	Amended	21:12 VA.R. 1538	6/1/05
22 VAC 15-30-310 through 22 VAC 15-30-390	Amended	21:12 VA.R. 1538-1542	6/1/05
22 VAC 15-30-410	Amended	21:12 VA.R. 1542	6/1/05
22 VAC 15-30-430	Amended	21:12 VA.R. 1543	6/1/05
22 VAC 15-30-440	Amended	21:12 VA.R. 1543	6/1/05
22 VAC 15-30-451	Amended	21:12 VA.R. 1545	6/1/05
22 VAC 15-30-461	Amended	21:12 VA.R. 1545	6/1/05
22 VAC 15-30-471	Amended	21:12 VA.R. 1545	6/1/05
22 VAC 15-30-490	Amended	21:12 VA.R. 1546	6/1/05
22 VAC 15-30-500	Amended	21:12 VA.R. 1547	6/1/05
22 VAC 15-30-510	Amended	21:12 VA.R. 1547	6/1/05
22 VAC 15-30-520	Amended	21:12 VA.R. 1548	6/1/05
22 VAC 15-30-540 through 22 VAC 15-30-670	Amended	21:12 VA.R. 1548-1556	6/1/05
22 VAC 15-30-575	Erratum	21:13 VA.R. 1941	--
22 VAC 15-30-585	Added	21:12 VA.R. 1550	6/1/05
22 VAC 15-51-50	Amended	21:20 VA.R. 2713	7/13/05
22 VAC 30-40-10	Amended	21:16 VA.R. 2215	5/18/05
22 VAC 30-40-70	Amended	21:16 VA.R. 2217	5/18/05
22 VAC 30-40-130	Amended	21:16 VA.R. 2218	5/18/05
22 VAC 30-40-140	Amended	21:16 VA.R. 2218	5/18/05
22 VAC 30-40-150	Amended	21:16 VA.R. 2218	5/18/05
22 VAC 40-71-10 emer	Amended	22:2 VA.R. 261	12/28/05-12/27/06
22 VAC 40-71-50 emer	Amended	22:2 VA.R. 266	12/28/05-12/27/06
22 VAC 40-71-55 emer	Added	22:2 VA.R. 266	12/28/05-12/27/06
22 VAC 40-71-60 emer	Amended	22:2 VA.R. 267	12/28/05-12/27/06
22 VAC 40-71-65 emer	Added	22:2 VA.R. 269	12/28/05-12/27/06
22 VAC 40-71-80 emer	Amended	22:2 VA.R. 269	12/28/05-12/27/06
22 VAC 40-71-120 emer	Amended	22:2 VA.R. 270	12/28/05-12/27/06
22 VAC 40-71-130 emer	Amended	22:2 VA.R. 270	12/28/05-12/27/06
22 VAC 40-71-150 emer	Amended	22:2 VA.R. 270	12/28/05-12/27/06
22 VAC 40-71-400 emer	Amended	22:2 VA.R. 274	12/28/05-12/27/06
22 VAC 40-71-485 emer	Added	22:2 VA.R. 277	12/28/05-12/27/06
22 VAC 40-71-630 emer	Amended	22:2 VA.R. 278	12/28/05-12/27/06
22 VAC 40-71-650 emer	Amended	22:2 VA.R. 279	12/28/05-12/27/06
22 VAC 40-71-660 emer	Repealed	22:2 VA.R. 280	12/28/05-12/27/06
22 VAC 40-71-670 emer	Amended	22:2 VA.R. 280	12/28/05-12/27/06
22 VAC 40-71-700 emer	Amended	22:2 VA.R. 281	12/28/05-12/27/06
22 VAC 40-80-120 emer	Amended	22:2 VA.R. 285	12/28/05-12/27/06

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
22 VAC 40-80-340 emer	Amended	22:2 VA.R. 286	12/28/05-12/27/06
22 VAC 40-80-345 emer	Added	22:2 VA.R. 287	12/28/05-12/27/06
22 VAC 40-90-10 through 22 VAC 40-90-60	Amended	21:18 VA.R. 2393	7/1/05
22 VAC 40-90-70	Added	21:18 VA.R. 2395	7/1/05
22 VAC 40-170-10	Amended	21:19 VA.R. 2558	8/1/05
22 VAC 40-170-20	Repealed	21:19 VA.R. 2559	8/1/05
22 VAC 40-170-30 through 22 VAC 40-170-210	Amended	21:19 VA.R. 2560-2567	8/1/05
22 VAC 40-170-230	Amended	21:19 VA.R. 2567	8/1/05
22 VAC 40-191-40	Amended	21:18 VA.R. 2395	7/1/05
22 VAC 40-191-50	Amended	21:18 VA.R. 2399	7/1/05
22 VAC 40-191-90	Amended	21:18 VA.R. 2400	7/1/05
22 VAC 40-660-10 through 22 VAC 40-660-100	Repealed	21:19 VA.R. 2568	8/1/05
22 VAC 40-661-10 through 22 VAC 40-661-90	Added	21:19 VA.R. 2568-2572	8/1/05
22 VAC 40-730-10	Amended	22:2 VA.R. 251	11/2/05
22 VAC 40-730-115	Amended	22:2 VA.R. 252	11/2/05
<b>Title 24. Transportation and Motor Vehicles</b>			
24 VAC 30-41-30	Amended	21:13 VA.R. 1911	4/6/05
24 VAC 30-41-50	Amended	21:13 VA.R. 1913	4/6/05
24 VAC 30-41-110	Amended	21:13 VA.R. 1913	4/6/05
24 VAC 30-41-190	Amended	21:13 VA.R. 1914	4/6/05
24 VAC 30-41-210	Amended	21:13 VA.R. 1915	4/6/05
24 VAC 30-41-220	Amended	21:13 VA.R. 1916	4/6/05
24 VAC 30-41-230	Amended	21:13 VA.R. 1916	4/6/05
24 VAC 30-41-250	Amended	21:13 VA.R. 1917	4/6/05
24 VAC 30-41-280	Amended	21:13 VA.R. 1917	4/6/05
24 VAC 30-41-290	Amended	21:13 VA.R. 1918	4/6/05
24 VAC 30-41-300	Amended	21:13 VA.R. 1918	4/6/05
24 VAC 30-41-310	Amended	21:13 VA.R. 1918	4/6/05
24 VAC 30-41-320	Amended	21:13 VA.R. 1919	4/6/05
24 VAC 30-41-350	Amended	21:13 VA.R. 1920	4/6/05
24 VAC 30-41-430	Amended	21:13 VA.R. 1920	4/6/05
24 VAC 30-41-500	Amended	21:13 VA.R. 1921	4/6/05
24 VAC 30-41-510	Amended	21:13 VA.R. 1921	4/6/05
24 VAC 30-41-520	Amended	21:13 VA.R. 1921	4/6/05
24 VAC 30-41-530	Amended	21:13 VA.R. 1922	4/6/05
24 VAC 30-41-580	Amended	21:13 VA.R. 1922	4/6/05
24 VAC 30-41-650	Amended	21:13 VA.R. 1923	4/6/05
24 VAC 30-41-660	Amended	21:13 VA.R. 1923	4/6/05
24 VAC 30-41-680	Amended	21:13 VA.R. 1923	4/6/05
24 VAC 30-91-10	Erratum	21:12 VA.R. 1776	--
24 VAC 30-91-110	Erratum	21:12 VA.R. 1776	--
24 VAC 30-91-130	Erratum	21:12 VA.R. 1776	--
24 VAC 30-620-10	Amended	21:15 VA.R. 2123	5/22/05
24 VAC 30-620-30	Amended	21:15 VA.R. 2123	5/22/05
24 VAC 30-620-30	Amended	21:22 VA.R. 3099	8/20/05

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# PETITIONS FOR RULEMAKING

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## TITLE 12. HEALTH

### STATE MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES BOARD

#### Initial Agency Notice

Title of Regulation: **12 VAC 35-115. Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers of Mental Health, Mental Retardation and Substance Abuse Services.**

Statutory Authority: §§ 37.2-203 and 37.2-400 of the Code of Virginia.

Name of Petitioner: Steven Shoon.

Nature of Petitioner's Request: The petitioner requests that the agency adopt regulations allowing individuals to be present in closed meetings when they are the subject of the meeting. These closed meetings are invoked under certain conditions under § 2.2-3711 of the Code of Virginia and include meetings to discuss or consider medical and mental records, and personal matters unrelated to public business for privacy protection. The proposed regulatory provisions should be codified at 12 VAC 35-115-70.

The petitioner requests that the agency amend 12 VAC 35-115-40 to require state facilities to physically post, in a conspicuous place, basic information about the Virginia Freedom of Information Act (VFOIA). This basic information is prescribed in § 2.2-3704.1 of the Code of Virginia. The statute requires state public bodies to post certain information on the Internet. This information includes (i) the rights granted to individuals under VFOIA; (ii) the process for requesting records; (iii) the obligations imposed on state employees by VFOIA; (iv) contact information for receiving assistance and making requests for public records; and (v) commonly used exemptions for VFOIA requests.

Agency's Plan for Disposition of the Request: The board will consider the petition and any comments received at its regularly scheduled meeting on January 18, 2006.

Comments may be submitted until November 21, 2005.

Agency Contact: Wendy V. Brown, Agency Regulatory Coordinator, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23219, telephone (804) 225-2252, FAX (804) 371-0092, or e-mail wendy.brown@co.dmhmrzas.virginia.gov.

VA.R. Doc. No. R06-59; Filed September 30, 2005, 1:57 p.m.

#### Initial Agency Notice

Title of Regulation: **None specified.**

Statutory Authority: §§ 37.2-203 and 37.2-400 of the Code of Virginia.

Name of Petitioner: Steven Shoon.

Nature of Petitioner's Request: The petitioner requests that the agency adopt new regulations that require facilities operated by the Department of Mental Health, Mental Retardation and Substance Abuse Services and public bodies that hold meetings to provide confined individuals access to meetings of public bodies consistent with § 2.2-3708 of the Code of Virginia.

Agency's Plan for Disposition of the Request: The board will consider the petition and any comments received at its regularly scheduled meeting on January 18, 2006.

Comments may be submitted until November 21, 2005.

Agency Contact: Wendy V. Brown, Agency Regulatory Coordinator, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23219, telephone (804) 225-2252, FAX (804) 371-0092, or e-mail wendy.brown@co.dmhmrzas.virginia.gov.

VA.R. Doc. No. R06-70; Filed September 30, 2005, 1:58 p.m.

#### Initial Agency Notice

Title of Regulation: **None specified.**

Statutory Authority: §§ 37.2-203, 37.2-400 and 37.2-840 of the Code of Virginia.

Name of Petitioner: Steven Shoon.

Nature of Petitioner's Request: The petitioner requests that the agency adopt regulations allowing the commissioner's power to transfer patients from one hospital to another to be delegated. The petitioner requests that patients who are unstable, regardless of their legal status, be transferred to the Forensic Unit of Central State Hospital and that transfers of nonforensic patients should be possible based on their safety, security requirements and treatment needs.

Agency's Plan for Disposition of the Request: The board will consider the petition and any comments received at its regularly scheduled meeting on January 18, 2006.

Comments may be submitted until November 21, 2005.

Agency Contact: Wendy V. Brown, Agency Regulatory Coordinator, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23219, telephone (804) 225-2252, FAX (804) 371-0092, or e-mail wendy.brown@co.dmhmrzas.virginia.gov.

VA.R. Doc. No. R06-69; Filed September 30, 2005, 1:58 p.m.



**TITLE 18. PROFESSIONAL AND  
OCCUPATIONAL LICENSING**

**BOARD OF DENTISTRY**

**Agency Decision**

Title of Regulation: **18 VAC 60-20. Regulations Governing the Practice of Dentistry and Dental Hygiene.**

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

Name of Petitioner: Joseph A. Leming, M.D.

Nature of Petitioner's Request: To require use of a registered nurse as the circulating nurse for office-based surgical procedures in dental offices.

Agency Decision: Request denied.

Statement of Reasons for Decision: The board received comment indicating that such a requirement would be very burdensome and costly without sufficient evidence to indicate that it is necessary for patient safety in office-based settings. In addition, the board has adopted regulations for office-based anesthesia that addressed concerns about safety.

Agency Contact: Elaine J. Yeatts, Agency Regulatory Coordinator, Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9114, or e-mail [elaine.yeatts@dhp.virginia.gov](mailto:elaine.yeatts@dhp.virginia.gov)

VA.R. Doc. No. R05-225; Filed October 3, 2005, 4:12 p.m.

**BOARD OF PSYCHOLOGY**

**Initial Agency Notice**

Title of Regulation: **18 VAC 125-20. Regulations Governing the Practice of Psychology.**

Statutory Authority: § 54.1-3605 of the Code of Virginia.

Name of Petitioner: James P. Osterhaus.

Nature of Petitioner's Request: To consider acceptance of writing or teaching in the field of psychology for fulfillment of hours of required continuing education.

Agency's Plan for Disposition of the Request: The board will consider the petition at its meeting on January 10, 2006, at 6603 West Broad Street, Richmond, Virginia, to consider whether to recommend amendments to the continuing education requirements.

Comments may be submitted until November 21, 2005.

Agency Contact: Evelyn B. Brown, Executive Director, Board of Psychology, 6606 West Broad Street, Richmond, VA 23230-1717, telephone (804) 662-9913, FAX (804) 662-7250, or e-mail [evelyn.brown@dhp.virginia.gov](mailto:evelyn.brown@dhp.virginia.gov).

VA.R. Doc. No. R06-84; Filed October 12, 2005, 1:50 p.m.

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# NOTICES OF INTENDED REGULATORY ACTION

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## Symbol Key

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

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## TITLE 4. CONSERVATION AND NATURAL RESOURCES

### DEPARTMENT OF MINES, MINERALS AND ENERGY

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Mines, Minerals and Energy intends to consider amending regulations entitled **4 VAC 25-130, Coal Surface Mining Reclamation Regulations**. The purpose of the proposed action is to revise references to sections in the Virginia Administrative Process Act to reflect the renumbering that became effective October 1, 2001; provide direction as to where requests for formal administrative review and notices of judicial appeal shall be filed; maintain consistency with corresponding federal amendments regarding survey requirements and the rebuttable presumption of subsidence determinations; allow the approval of natural stream restoration channel design as approved by the U.S. Army Corps of Engineers; maintain consistency with federal regulations regarding thick overburden; and increase the civil penalties for violations of the Virginia Coal Surface Mining Control and Reclamation Act that result in personal injury or fatality.

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

Statutory Authority: §§ 45.1-161.3 and 45.1-230 of the Code of Virginia.

Public comments may be submitted until November 3, 2005.

**Contact:** Stephen A. Walz, Regulatory Coordinator, Department of Mines, Minerals and Energy, 202 N. 9th St., 8th Floor, Richmond, VA 23219, telephone (804) 692-3211, FAX (804) 692-3237 or e-mail [stephen.walz@dmme.virginia.gov](mailto:stephen.walz@dmme.virginia.gov).

VA.R. Doc. No. R06-38; Filed August 31, 2005, 3:43 p.m.

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## TITLE 9. ENVIRONMENT

### VIRGINIA WASTE MANAGEMENT BOARD

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Virginia Waste Management Board intends to consider amending regulations entitled **9 VAC 20-80, Solid Waste Management Regulations**. The purpose of the proposed action is to amend the requirements for control programs for unauthorized wastes.

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

Statutory Authority: § 10.1-1402 of the Code of Virginia; 42 USC § 6941 et seq; 40 CFR Part 258.

Public comments may be submitted until November 4, 2005.

**Contact:** Robert G. Wickline, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4213, FAX (804) 698-4327 or e-mail [rgwickline@deq.virginia.gov](mailto:rgwickline@deq.virginia.gov).

VA.R. Doc. No. R06-31; Filed August 31, 2005, 10:48 a.m.

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Virginia Waste Management Board intends to consider amending regulations entitled **9 VAC 20-80, Solid Waste Management Regulations**. The purpose of the proposed action is to amend the numerous requirements for solid waste management including exemptions and exclusions, open burning, waste intake rates, bird hazards, etc.

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

Statutory Authority: § 10.1-1402 of the Code of Virginia; 42 USC § 6941 et seq; 40 CFR Part 258.

Public comments may be submitted until November 4, 2005.

**Contact:** Michael J. Dieter, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4146, FAX (804) 698-4327 or e-mail [mjdieter@deq.virginia.gov](mailto:mjdieter@deq.virginia.gov).

VA.R. Doc. No. R06-32; Filed August 31, 2005, 10:48 a.m.

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Virginia Waste Management Board intends to consider amending regulations entitled **9 VAC 20-101, Vegetative Waste Management and Yard Waste Composting Regulations**. The purpose of the proposed action is to address the composting of manure and crop waste with vegetative waste and yard waste. The goal is to make the regulations clear and enforceable and to protect human health and the environment.

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

Statutory Authority: § 10.1-1402 of the Code of Virginia; 42 USC § 6941 et seq. 40 CFR; Part 258.

Public comments may be submitted until November 4, 2005.

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# Notices of Intended Regulatory Action

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**Contact:** Michael J. Dieter, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4146, FAX (804) 698-4327 or e-mail [mjdieter@deq.virginia.gov](mailto:mjdieter@deq.virginia.gov).

VA.R. Doc. No. R06-30; Filed August 31, 2005, 10:49 a.m.

## Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Virginia Waste Management Board intends to consider amending regulations entitled **9 VAC 20-130, Regulations for the Development of Solid Waste Management Plans**. The purpose of the proposed action is to amend the regulation on the calculation of the mandatory recycling rate for localities and regions, procedures for formation and dissolution of planning regions, clear specification of qualifications for variances, requirements for plan approval and duplicative language on the Waste Information and Assessment Program.

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

Statutory Authority: § 10.1-1411 of the Code of Virginia; 42 USC § 6942 (b) of the Resource Conservation and Recovery Act of 1976; 40 CFR Parts 255 and 256.

Public comments may be submitted until November 4, 2005.

**Contact:** Allen Brockman, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4468, FAX (804) 698-4327 or e-mail [arbrockman@deq.virginia.gov](mailto:arbrockman@deq.virginia.gov).

VA.R. Doc. No. R06-29; Filed August 31, 2005, 10:49 a.m.

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## TITLE 12. HEALTH

### DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Medical Assistance Services intends to consider amending regulations entitled **12 VAC 30-120, Waivered Services**. The purpose of the proposed action is to establish a new waiver program to provide additional services to residents of assisted living facilities who receive an auxiliary grant, who meet nursing facility criteria, who are age 55 and older, and who have a diagnosis of Alzheimer's disease or a related dementia.

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

Statutory Authority: §§ 32.1-324 and 32.1-325 of the Code of Virginia.

Public comments may be submitted until November 2, 2005.

**Contact:** Teja Stokes, Project Manager, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-0527, FAX (804) 786-1680 or e-mail [teja.stokes@dmas.virginia.gov](mailto:teja.stokes@dmas.virginia.gov).

VA.R. Doc. No. R06-50; Filed September 14, 2005, 11:06 a.m.

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## TITLE 13. HOUSING

### BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

#### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Housing and Community Development intends to consider repealing regulations entitled **13 VAC 5-111, Enterprise Zone Program Regulations**, and promulgating regulations entitled **13 VAC 5-112, Enterprise Zone Grant Program Regulations**. The purpose of the proposed action is to implement the process and procedures for the new Enterprise Zone Grant Program and repeal existing Enterprise Zone Program Regulations.

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

Statutory Authority: § 59.1-541 of the Code of Virginia.

Public comments may be submitted until November 30, 2005.

**Contact:** Steve Calhoun, Regulatory Coordinator, Department of Housing and Community Development, 501 N. 2nd St., Richmond, VA 23219, telephone (804) 371-7015, FAX (804) 371-7090 or e-mail [steve.calhoun@dhcd.virginia.gov](mailto:steve.calhoun@dhcd.virginia.gov).

VA.R. Doc. No. R06-81; Filed October 7, 2005, 9:48 a.m.

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## TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

### BOARD FOR BARBERS AND COSMETOLOGY

#### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board for Barbers and Cosmetology intends to consider promulgating regulations entitled **18 VAC 41-70, Esthetics Regulations**. The purpose of the proposed action is to promulgate regulations governing the licensure and practice of esthetics as directed by Chapter 829 of the 2005 Acts of Assembly.

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.

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# Notices of Intended Regulatory Action

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Public comments may be submitted until November 30, 2005.

**Contact:** William H. Ferguson, II, Executive Director, Board for Barbers and Cosmetology, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8590, FAX (804) 367-6295 or e-mail [barbercosmo@dpor@virginia.gov](mailto:barbercosmo@dpor@virginia.gov).

VA.R. Doc. No. R06-83; Filed October 11, 2005, 2:07 p.m.

## BOARD FOR CONTRACTORS

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board for Contractors intends to consider amending regulations entitled **18 VAC 50-30, Tradesman Rules and Regulations**. The purpose of the proposed action is to adopt regulations consistent with Chapter 792 of the 2005 Acts of Assembly regarding the certification of water well system providers by the Board for Contractors.

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

Statutory Authority: §§ 54.1-201 and 54.1-1102 of the Code of Virginia.

Public comments may be submitted until November 16, 2005.

**Contact:** Kevin Hoeft, Regulatory Boards Administrators, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2785, FAX (804) 367-2474 or e-mail [contractor@dpor.virginia.gov](mailto:contractor@dpor.virginia.gov).

VA.R. Doc. No. R06-54; Filed September 23, 2005, 2:47 p.m.

## BOARD OF LONG-TERM CARE ADMINISTRATORS

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Long-Term Care Administrators intends to consider promulgating regulations entitled **18 VAC 95-30, Regulations Governing the Practice of Assisted Living Facility Administrators**. The purpose of the proposed action is to establish initial requirements for licensure of assisted living administrators.

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

Statutory Authority: §§ 54.1-2400 and 54.1-3102 of the Code of Virginia.

Public comments may be submitted until November 2, 2005.

**Contact:** Sandra Reen, Executive Director, Board of Long-Term Care Administrators, 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-7457, FAX (804) 662-9943 or e-mail [sandra.reen@dhp.virginia.gov](mailto:sandra.reen@dhp.virginia.gov).

VA.R. Doc. No. R06-42; Filed September 13, 2005, 10:10 a.m.

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## TITLE 22. SOCIAL SERVICES

### DEPARTMENT OF REHABILITATIVE SERVICES

#### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Rehabilitative Services intends to consider amending regulations entitled **22 VAC 30-10, Public Participation Guidelines**. The purpose of the proposed action is to provide methods to improve public participation and include procedures for the usage of the Town Hall website.

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

Statutory Authority: §§ 2.2-4007 and 51.5-14 of the Code of Virginia.

Public comments may be submitted until November 30, 2005.

**Contact:** Mary Lutkenhaus, Policy Analyst, Department of Rehabilitative Services, 8004 Franklin Farms Dr., Richmond, VA 23229, telephone (804) 662-7610, FAX (804) 662-7696 or e-mail [mary.lutkenhaus@drs.virginia.gov](mailto:mary.lutkenhaus@drs.virginia.gov).

VA.R. Doc. No. R06-85; Filed October 13, 2005, 3:23 p.m.

# PROPOSED REGULATIONS

For information concerning Proposed Regulations, see Information Page.

## Symbol Key

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

## TITLE 9. ENVIRONMENT

### STATE WATER CONTROL BOARD

**REGISTRAR'S NOTICE:** The following regulation filed by the State Water Control Board is exempt from the Administrative Process Act in accordance with § 2.2-4006 A 9 of the Code of Virginia, which exempts general permits issued by the State Water Control Board pursuant to the State Water Control Law (§ 62.1-44.2 et seq.), Chapters 24 (§ 62.1-242 et seq.) and 25 (§ 62.1-254 et seq.) of Title 62.1 if the board: (i) provides a Notice of Intended Regulatory Action in conformance with the provisions of § 2.2-4007 B; (ii) following the passage of 30 days from the publication of the Notice of Intended Regulatory Action, forms a technical advisory committee composed of relevant stakeholders, including potentially affected citizens groups, to assist in the development of the general permit; (iii) provides notice and receives oral and written comment as provided in § 2.2-4007; and (iv) conducts at least one public hearing on the proposed general permit.

**Title of Regulation:** **9 VAC 25-194. General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Car Wash Facilities (amending 9 VAC 25-194-40 and 9 VAC 25-194-70).**

**Statutory Authority:** § 62.1-44.15 of the Code of Virginia; § 402 of the Clean Water Act; 40 CFR Parts 122, 123 and 124.

**Public Hearing Date:** November 23, 2005 - 10 a.m.

Public comments may be submitted until December 30, 2005.

(See Calendar of Events section for additional information)

**Agency Contact:** George Cosby, Environmental Engineer, Department of Environmental Quality, Office of Water Permit Programs, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4067, FAX (804) 698-4032 or e-mail gecosby@deq.virginia.gov.

#### Summary:

*This regulation establishes permitting requirements for discharges of wastewater from car wash operations. These discharges are considered to be point sources of pollutants and thus are subject to regulation under the VPDES permit program. The existing general permit expires on October 15, 2007. This regulatory action reissues this general permit in order to continue making the permit available for car washes after that date. This is a reissuance of an existing regulation, and there are no changes to the regulation.*

#### 9 VAC 25-194-40. Effective date of the permit.

This general permit will become effective on October 15, 2002 2007. This general permit will expire five years after the effective date. This general permit is effective for any covered

owner upon compliance with all the provisions of 9 VAC 25-194-50 and the receipt of this general permit.

#### 9 VAC 25-194-70. General permit.

Any owner whose registration statement is accepted by the board will receive the following permit and shall comply with the requirements therein and be subject to all requirements of 9 VAC 25-31.

General Permit No.: VAG75  
Effective Date: *October 16, 2007*  
Expiration Date: *October 16, 2012*

#### GENERAL PERMIT FOR CAR WASH FACILITIES

#### AUTHORIZATION TO DISCHARGE UNDER THE VIRGINIA POLLUTANT DISCHARGE ELIMINATION SYSTEM AND THE VIRGINIA STATE WATER CONTROL LAW

In compliance with the provisions of the Clean Water Act, as amended, and pursuant to the State Water Control Law and regulations adopted pursuant thereto, owners of car wash facilities are authorized to discharge to surface waters within the boundaries of the Commonwealth of Virginia, except those specifically named in board regulations or policies which prohibit such discharges.

The authorized discharge shall be in accordance with this cover page, Part I -- Effluent Limitations and Monitoring Requirements, Part II -- Conditions Applicable to All VPDES Permits, as set forth herein.

#### PART I.

#### A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS.

1. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater originating from car wash facilities that discharge a monthly average flow rate less than or equal to 5,000 gallons per day from outfall(s):

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS		MONITORING REQUIREMENTS	
	Minimum	Maximum	Frequency	Sample Type
Flow (GPD)	NA	NL	1/Year	Estimate
pH (S.U.)	6.0*	9.0*	1/Year	Grab
TSS (mg/l)	NA	60	1/Year	5G/8HC
Oil and Grease (mg/l)	NA	15	1/Year	Grab

NL - No Limitation, monitoring requirement only

NA - Not applicable

# Proposed Regulations

\* Where the Water Quality Standards (9 VAC 25-260) establish alternate standards for pH in waters receiving the discharge, those standards shall be the maximum and minimum effluent limitations.

5G/8HC - Eight Hour Composite - Consisting of five grab samples collected at hourly intervals until the discharge ceases, or until a minimum of five grab samples have been collected.

Samples shall be collected by June 30 of each year and reported on the facility's Discharge Monitoring Report (DMR). DMRs shall be submitted by July 10 of each year.

2. There shall be no discharge of floating solids or visible foam in other than trace ~~amount~~ amounts.

## PART I.

### A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS.

1. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater originating from car wash facilities that discharge a monthly average flow rate greater than 5,000 gallons per day from outfall(s):

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS		MONITORING REQUIREMENTS	
	Minimum	Maximum	Frequency	Sample Type
Flow (GPD)	NA	NL	1/6 Months	Estimate
pH (S.U.)	6.0*	9.0*	1/6 Months	Grab
TSS (mg/l)	NA	60	1/6 Months	5G/8HC
Oil and Grease (mg/l)	NA	15	1/6 Months	Grab

NL - No Limitation, monitoring requirement only

NA - Not applicable

\* Where the Water Quality Standards (9 VAC 25-260) establish alternate standards for pH in waters receiving the discharge, those standards shall be the maximum and minimum effluent limitations.

5G/8HC - Eight Hour Composite - Consisting of five grab samples collected at hourly intervals until the discharge ceases, or until a minimum of five grab samples have been collected.

Samples shall be collected by December 31 and June 30 of each year and reported on the facility's Discharge Monitoring Report (DMR). DMRs shall be submitted by January 10 and July 10 of each year.

2. There shall be no discharge of floating solids or visible foam in other than trace ~~amount~~ amounts.

### B. Special conditions.

1. The permittee shall perform inspections of the effluent and maintenance of the wastewater treatment facilities at least once per week and document activities on the operational log. This operational log shall be made available for review by the department personnel upon request.

2. No sewage shall be discharged from a point source to surface waters from this facility except under the provisions of another VPDES permit specifically issued for that purpose.

3. There shall be no chemicals added to the water or waste which may be discharged other than those listed on the owner's accepted registration statement, unless prior approval of the chemical(s) is granted by the board.

4. Wastewater should be reused or recycled whenever feasible.

5. The permittee shall comply with the following solids management plan:

a. There shall be no discharge of floating solids or visible foam in other than trace amounts.

b. All settling basins shall be cleaned frequently in order to achieve effective treatment.

c. All solids resulting from the car wash facility covered under this general permit, shall be handled, stored and disposed of so as to prevent a discharge to state waters of such solids.

6. Washing of vehicles or containers bearing residue of animal manure or toxic chemicals (fertilizers, organic chemicals, etc.) into the wastewater treatment system is prohibited. If the facility is a self-service operation, the permittee shall post this prohibition on a sign prominently located and of sufficient size to be easily read by all patrons.

7. Any permittee discharging into a municipal separate storm sewer shall notify the owner of the municipal separate storm sewer system of the existence of the discharge within 30 days of coverage under the general permit and provide the following information: the name of the facility, a contact person and phone number, and the location of the discharge.

8. The permittee shall notify the department as soon as they know or have reason to believe:

a. That any activity has occurred or will occur that would result in the discharge, on a routine or frequent basis, of any toxic pollutant that is not limited in this permit, if that discharge will exceed the highest of the following notification levels:

(1) One hundred micrograms per liter;

(2) Two hundred micrograms per liter for acrolein and acrylonitrile; five hundred micrograms per liter for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter for antimony;

(3) Five times the maximum concentration value reported for that pollutant in the permit application; or

(4) The level established by the board.

b. That any activity has occurred or will occur that would result in any discharge, on a nonroutine or infrequent basis, of a toxic pollutant that is not limited in this permit,

if that discharge will exceed the highest of the following notification levels:

- (1) Five hundred micrograms per liter;
- (2) One milligram per liter for antimony;
- (3) Ten times the maximum concentration value reported for that pollutant in the permit application; or
- (4) The level established by the board.

## PART II.

### CONDITIONS APPLICABLE TO ALL VPDES PERMITS.

#### A. Monitoring.

1. Samples and measurements taken as required by this permit shall be representative of the monitored activity.
2. Monitoring shall be conducted according to procedures approved under 40 CFR Part 136 or alternative methods approved by the U.S. Environmental Protection Agency unless other procedures have been specified in this permit.
3. The permittee shall periodically calibrate and perform maintenance procedures on all monitoring and analytical instrumentation at intervals that will ensure accuracy of measurements.

#### B. Records.

1. Records of monitoring information shall include:
  - a. The date, exact place, and time of sampling or measurements;
  - b. The individuals who performed the sampling or measurements;
  - c. The dates and times analyses were performed;
  - d. The individuals who performed the analyses;
  - e. The analytical techniques or methods used; and
  - f. The results of such analyses.
2. Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities which shall be retained for a period of at least five years, the permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the registration statement for this permit, for a period of at least three years from the date of the sample, measurement, report or request for coverage. This period of retention shall be extended automatically during the course of any unresolved litigation regarding the regulated activity or regarding control standards applicable to the permittee, or as requested by the board.

#### C. Reporting monitoring results.

1. The permittee shall submit the results of the monitoring required by this permit not later than the 10th day of the month after monitoring takes place, unless another reporting schedule is specified elsewhere in this permit.

Monitoring results shall be submitted to the department's regional office.

2. Monitoring results shall be reported on a Discharge Monitoring Report (DMR) or on forms provided, approved or specified by the department.

3. If the permittee monitors any pollutant specifically addressed by this permit more frequently than required by this permit using test procedures approved under 40 CFR Part 136 or using other test procedures approved by the U.S. Environmental Protection Agency or using procedures specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR or reporting form specified by the department.

4. Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified in this permit.

D. Duty to provide information. The permittee shall furnish to the department, within a reasonable time, any information which the board may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. The board may require the permittee to furnish, upon request, such plans, specifications, and other pertinent information as may be necessary to determine the effect of the wastes from his discharge on the quality of state waters, or such other information as may be necessary to accomplish the purposes of the State Water Control Law. The permittee shall also furnish to the department upon request, copies of records required to be kept by this permit.

E. Compliance schedule reports. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date.

F. Unauthorized discharges. Except in compliance with this permit or another permit issued by the board, it shall be unlawful for any person to:

1. Discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances; or
2. Otherwise alter the physical, chemical or biological properties of such state waters and make them detrimental to the public health, or to animal or aquatic life, or to the use of such waters for domestic or industrial consumption, or for recreation, or for other uses.

G. Reports of unauthorized discharges. Any permittee who discharges or causes or allows a discharge of sewage, industrial waste, other wastes or any noxious or deleterious substance into or upon state waters in violation of Part II F; or who discharges or causes or allows a discharge that may reasonably be expected to enter state waters in violation of Part II F, shall notify the department of the discharge immediately upon discovery of the discharge, but in no case later than 24 hours after said discovery. A written report of the unauthorized discharge shall be submitted to the department within five days of discovery of the discharge. The written report shall contain:

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1. A description of the nature and location of the discharge;
2. The cause of the discharge;
3. The date on which the discharge occurred;
4. The length of time that the discharge continued;
5. The volume of the discharge;
6. If the discharge is continuing, how long it is expected to continue;
7. If the discharge is continuing, what the expected total volume of the discharge will be; and
8. Any steps planned or taken to reduce, eliminate and prevent a recurrence of the present discharge or any future discharges not authorized by this permit.

Discharges reportable to the department under the immediate reporting requirements of other regulations are exempted from this requirement.

H. Reports of unusual or extraordinary discharges. If any unusual or extraordinary discharge including a bypass or upset should occur from a treatment works and the discharge enters or could be expected to enter state waters, the permittee shall promptly notify, in no case later than 24 hours, the department by telephone after the discovery of the discharge. This notification shall provide all available details of the incident, including any adverse effects on aquatic life and the known number of fish killed. The permittee shall submit the report to the department in writing within five days of discovery of the discharge in accordance with Part II I 2. Unusual and extraordinary discharges include but are not limited to any discharge resulting from:

1. Unusual spillage of materials resulting directly or indirectly from processing operations;
2. Breakdown of processing or accessory equipment;
3. Failure or taking out of service some or all of the treatment works; and
4. Flooding or other acts of nature.

I. Reports of noncompliance. The permittee shall report any noncompliance which may adversely affect state waters or may endanger public health.

1. An oral report shall be provided within 24 hours from the time the permittee becomes aware of the circumstances. The following shall be included as information which shall be reported within 24 hours under this subsection:

- a. Any unanticipated bypass; and
- b. Any upset which causes a discharge to surface waters.

2. A written report shall be submitted within five days and shall contain:

- a. A description of the noncompliance and its cause;
- b. The period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and

c. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

The board may waive the written report on a case-by-case basis for reports of noncompliance under Part II I if the oral report has been received within 24 hours and no adverse impact on state waters has been reported.

3. The permittee shall report all instances of noncompliance not reported under Parts II I 1 or 2, in writing, at the time the next monitoring reports are submitted. The reports shall contain the information listed in Part II I 2.

NOTE: The immediate (within 24 hours) reports required in Part II G, H and I may be made to the department's regional office. Reports may be made by telephone or by FAX. For reports outside normal working hours, leave a message and this shall fulfill the immediate reporting requirement. For emergencies, the Virginia Department of Emergency Management maintains a 24-hour telephone service at 1-800-468-8892.

J. Notice of planned changes.

1. The permittee shall give notice to the department as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:

a. The permittee plans alteration or addition to any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced:

(1) After promulgation of standards of performance under § 306 of the Clean Water Act which are applicable to such source; or

(2) After proposal of standards of performance in accordance with § 306 of the Clean Water Act which are applicable to such source, but only if the standards are promulgated in accordance with § 306 within 120 days of their proposal;

b. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations nor to notification requirements specified elsewhere in this permit; or

c. The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan.

2. The permittee shall give advance notice to the department of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

K. Signatory requirements.

1. Registration statement. All registration statements shall be signed as follows:

a. For a corporation: by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means: (i) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy-making or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

b. For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or

c. For a municipality, state, federal, or other public agency: by either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a public agency includes: (i) the chief executive officer of the agency, or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

2. Reporting requirements. All reports required by permits and other information requested by the board shall be signed by a person described in Part II K 1 or by a duly authorized representative of that person. A person is a duly authorized representative only if:

a. The authorization is made in writing by a person described in Part II K 1;

b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. A duly authorized representative may thus be either a named individual or any individual occupying a named position; and

c. The written authorization is submitted to the department.

3. Changes to authorization. If an authorization under Part II K 2 is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of Part II K 2 shall be submitted to the department prior to or together with any reports or information to be signed by an authorized representative.

4. Certification. Any person signing a document under Part II K 1 or 2 shall make the following certification:

"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 ensure 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. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

L. Duty to comply. The permittee shall comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the State Water Control Law and the Clean Water Act, except that noncompliance with certain provisions of this permit may constitute a violation of the State Water Control Law but not the Clean Water Act. Permit noncompliance is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application.

The permittee shall comply with effluent standards or prohibitions established under § 307(a) of the Clean Water Act for toxic pollutants and with standards for sewage sludge use or disposal established under § 405(d) of the Clean Water Act within the time provided in the regulations that establish these standards or prohibitions or standards for sewage sludge use or disposal, even if this permit has not yet been modified to incorporate the requirement.

M. Duty to reapply. If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee shall submit a new registration statement at least 180 days before the expiration date of the existing permit, unless permission for a later date has been granted by the board. The board shall not grant permission for registration statements to be submitted later than the expiration date of the existing permit.

N. Effect of a permit. This permit does not convey any property rights in either real or personal property or any exclusive privileges, nor does it authorize any injury to private property or invasion of personal rights, or any infringement of federal, state or local law or regulations.

O. State law. Nothing in this permit shall be construed to preclude the institution of any legal action under, or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any other state law or regulation or under authority preserved by § 510 of the Clean Water Act. Except as provided in permit conditions on "bypassing" (Part II U) and "upset" (Part II V), nothing in this permit shall be construed to relieve the permittee from civil and criminal penalties for noncompliance.

P. Oil and hazardous substance liability. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under Article 11 (§ 62.1-44.34:14 et seq.) of the State Water Control Law.

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Q. Proper operation and maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes effective plant performance, adequate funding, adequate staffing, and adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by the permittee only when the operation is necessary to achieve compliance with the conditions of this permit.

R. Disposal of solids or sludges. Solids, sludges or other pollutants removed in the course of treatment or management of pollutants shall be disposed of in a manner so as to prevent any pollutant from such materials from entering state waters.

S. Duty to mitigate. The permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

T. Need to halt or reduce activity not a defense. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

## U. Bypass.

1. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of Part II U 2 and U 3.

### 2. Notice.

a. Anticipated bypass. If the permittee knows in advance of the need for a bypass, prior notice shall be submitted, if possible, at least 10 days before the date of the bypass.

b. Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in Part II I.

### 3. Prohibition of bypass.

a. Bypass is prohibited, and the board may take enforcement action against a permittee for bypass, unless:

(1) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(2) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(3) The permittee submitted notices as required under Part II U 2.

b. The board may approve an anticipated bypass, after considering its adverse effects, if the board determines that it will meet the three conditions listed in Part II U 3 a.

## V. Upset.

1. An upset constitutes an affirmative defense to an action brought for noncompliance with technology based permit effluent limitations if the requirements of Part II V 2 are met. A determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is not a final administrative action subject to judicial review.

2. A permittee who wishes to establish the affirmative defense of upset shall demonstrate through properly signed, contemporaneous operating logs, or other relevant evidence that:

a. An upset occurred and that the permittee can identify the causes of the upset;

b. The permitted facility was at the time being properly operated;

c. The permittee submitted notice of the upset as required in Part II I; and

d. The permittee complied with any remedial measures required under Part II S.

3. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

W. Inspection and entry. The permittee shall allow the director, or an authorized representative, upon presentation of credentials and other documents as may be required by law to:

1. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;

2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;

3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and

4. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act and the State Water Control Law, any substances or parameters at any location.

For purposes of this section, the time for inspection shall be deemed reasonable during regular business hours, and whenever the facility is discharging. Nothing contained herein shall make an inspection unreasonable during an emergency.

X. Permit actions. Permits may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and

reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

Y. Transfer of permits.

1. Permits are not transferable to any person except after notice to the department. Except as provided in Part II Y 2, a permit may be transferred by the permittee to a new owner or operator only if the permit has been modified or revoked and reissued, or a minor modification made, to identify the new permittee and incorporate such other requirements as may be necessary under the State Water Control Law and the Clean Water Act.

2. As an alternative to transfers under Part II Y 1, this permit may be automatically transferred to a new permittee if:

- a. The current permittee notifies the department at least 30 days in advance of the proposed transfer of the title to the facility or property;
- b. The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage, and liability between them; and
- c. The board does not notify the existing permittee and the proposed new permittee of its intent to modify or revoke and reissue the permit. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in Part II Y 2 b.

Z. Severability. The provisions of this permit are severable, and, if any provision of this permit or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

VA.R. Doc. No. R05-05; Filed October 6, 2005, 12:14 p.m.

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**Regulatory Action Withdrawn**

Title of Regulation: **9 VAC 25-740. Regulation for Wastewater Reclamation and Reuse (adding 9 VAC 25-740-10 through 9 VAC 25-740-200).**

The State Water Control Board has WITHDRAWN the proposed regulation entitled, 9 VAC 25-740, Regulation for Wastewater Reclamation and Reuse, that was published in 19:12 VA.R. 1859-1872 February 24, 2003. The board has initiated a new regulatory action by issuing a new Notice of Intended Regulatory Action for this regulation, which was published in 22:1 VA.R. 19 September 19, 2005 (VA.R. Doc. No. R06-34).

Contact: Valerie Rourke, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4158, FAX (804) 698-4116 or e-mail varourke@deq.virginia.gov.

VA.R. Doc. No. R01-134; Filed October 5, 2005, 9:45 a.m.

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**REGISTRAR'S NOTICE:** The following regulations filed by the State Water Control Board are exempt from the Administrative Process Act in accordance with § 2.2-4006 A 9 of the Code of Virginia, which exempts general permits issued by the State Water Control Board pursuant to the State Water Control Law (§ 62.1-44.2 et seq.), Chapter 24 (§ 62.1-242 et seq.) of Title 62.1 and Chapter 25 (§ 62.1-254 et seq.) of Title 62.1 of the Code of Virginia if the board (i) provides a Notice of Intended Regulatory Action in conformance with the provisions of § 2.2-4007 B, (ii) following the passage of 30 days from the publication of the Notice of Intended Regulatory Action forms a technical advisory committee composed of relevant stakeholders, including potentially affected citizens groups, to assist in the development of the general permit, (iii) provides notice and receives oral and written comment as provided in § 2.2-4007 F, and (iv) conducts at least one public hearing on the proposed general permit.

Title of Regulation: **9 VAC 25-800. Virginia Water Protection General Permit for Minor Surface Water Withdrawals (adding 9 VAC 25-800-10 through 9 VAC 25-800-90).**

Statutory Authority: §§ 62.1-44.15 and 62.1-44.15:5 of the Code of Virginia.

Public Hearing Date: December 5, 2005 - 2 p.m.  
Public comments may be submitted until January 13, 2006.  
(See Calendar of Events section for additional information)

Agency Contact: Ellen Gilinsky, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4375, FAX (804) 698-4375, or e-mail egilinsky@deq.virginia.gov.

Summary:

*The proposed Virginia Water Protection (VWP) General Permit WP5 will authorize small surface water withdrawals, provided that the uses and amounts comply with the conditions set within the general permit. Public water supply projects must be included in the applicant's water supply plan before authorization will be given to use this general permit.*

*The permit creates three categories of water use (public water supply, agricultural, and other) and sets maximum withdrawal limits that are formula based. The larger the water body and the higher the stream flow, the more water the general permit allows to be withdrawn up to a maximum daily withdrawal of three million gallons per day.*

*The regulation unconditionally authorizes 11 minor and common types of water withdrawals that have little adverse environmental impact. Examples of such water withdrawals include the withdrawal of water for fire fighting, the temporary withdrawal of water for hydrostatic testing, the use of water by residences for gardening and landscaping, surface water put into portable containers by riparian property owners, water withdrawals from ponds that collect diffuse surface water from intermittent streams, the nonconsumptive diversion of water by riparian property owners when the water is returned to the same stream, the withdrawal of water from quarries, certain rates or volumes*

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of surface water withdrawals for agriculture and nonagriculture, and certain rates or volumes of surface water withdrawals from tidal waters.

Minor surface water withdrawals that do not qualify under the unconditional authorizations but are less than three million gallons per day may still qualify for authorization under this VWP general permit, provided that such withdrawals meet certain other conditions designed to protect the environment.

The regulation does not apply to certain categories of surface water withdrawals, such as withdrawals from trout waters, from waters designated as Exceptional Surface Waters, or from springs, and cannot be used for power plants or for interbasin transfers.

The VWP general permit contains monitoring and reporting requirements for water withdrawals that have withdrawal limits. For agricultural water withdrawals and public water supply withdrawals these monitoring and reporting requirements are the same as the existing requirements of the State Water Control Board's Water Withdrawal Reporting regulation (9 VAC 25-200).

Additional monitoring and reporting requirements apply to nonpublic water supply and nonagricultural withdrawals. These uses must cease withdrawal under drought conditions, and thus, stream flow monitoring is required, as is the volume of water withdrawn.

## CHAPTER 800.

### VIRGINIA WATER PROTECTION GENERAL PERMIT FOR MINOR SURFACE WATER WITHDRAWALS.

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

"Impacts" means results caused by human-induced activities conducted in surface waters, as specified in § 62.1-44.15:5 D of the Code of Virginia.

"Interbasin transfer" means the withdrawal and transport of water from one eight-digit United States Geological Service Hydrologic Unit to another eight-digit United States Geological Service Hydrologic Unit where it is discharged.

"Minor agricultural surface water withdrawal" means a withdrawal of surface water in Virginia or from the Potomac River for the purpose of agricultural, silvicultural, horticultural, or aquacultural operations as authorized by 9 VAC 25-800-30 B 2 or as applicable to 9 VAC 25-800-40. Agricultural surface water withdrawals include withdrawals for turf operations, but do not include withdrawals for landscaping activities, or turf installment and maintenance associated with landscaping activities.

"Minor public surface water supply withdrawal" means a withdrawal of surface water in Virginia or from the Potomac River for the production of drinking water, distributed to the general public for the purpose of, but not limited to, domestic use, as authorized by 9 VAC 25-800-30 B 1 or as applicable to 9 VAC 25-800-40.

"Minor surface water withdrawal" means a withdrawal of surface water in Virginia or from the Potomac River that is either authorized by 9 VAC 25-800-30 or is authorized under the limits of 9 VAC 25-800-40.

"Normal residential gardening, lawn and landscape maintenance" means ongoing noncommercial residential activities conducted by or on behalf of an individual occupant, including mowing, planting, fertilizing, mulching, tilling, vegetation removal by hand or by hand tools, placement of decorative stone, fencing and play equipment. Other appurtenant noncommercial activities, provided that they do not result in the conversion of a wetland to upland or to a different wetland type, may also be included.

"Perennial stream" means a well-defined channel that contains water year round during a year of normal rainfall. Generally, the water table is located above the streambed for most of the year and groundwater is the primary source for stream flow. A perennial stream exhibits the typical biological, hydrological, and physical characteristics commonly associated with the continuous conveyance of water.

"Permanently fixed intake structures" means a structure designed to remain in a single location in order to withdraw surface water from a water body. It does not include portable or mobile equipment.

"Person" means an individual, corporation, partnership, association, governmental body, municipal corporation, or other legal entity.

"Surface water withdrawal" means the removal or diversion of surface water from its natural water course by humans for their beneficial use.

#### **9 VAC 25-800-20. Purpose; delegation of authority; effective date of VWP general permit.**

A. The purpose of this regulation is to establish VWP General Permit Number WP5 under the VWP permit program regulation to govern the construction and operation of minor surface water withdrawals. Applications for coverage under this VWP general permit shall be processed for approval, approval with conditions, or denial by the board.

B. The director or his designee may perform any act of the board provided under this chapter, except as limited by § 62.1-44.14 of the Code of Virginia.

C. This VWP general permit regulation will become effective on [ insert month and day ], 2006, and will expire on [ insert month and day that is 10 years later ], 2016.

D. Authorization to construct or operate surface water withdrawals under this VWP general permit is effective upon compliance with the provisions of 9 VAC 25-800-30. Notwithstanding the expiration date of this general permit regulation, individual authorizations to construct or operate surface water withdrawals under this VWP general permit will continue for a maximum of 10 years.

**9 VAC 25-800-30. Authorization to construct or operate minor surface water withdrawals and limits on minor surface water withdrawals.**

A. Any person governed by this VWP general permit is authorized to construct or operate a minor surface water withdrawal, provided that the applicant submits an application or a notification as required in 9 VAC 25-800-60, remits the required application processing fee pursuant to 9 VAC 25-20, complies with the limitations and other requirements of 9 VAC 25-800-90, receives approval from the board, and has not been required to obtain a VWP individual permit under the VWP permit program regulation (9 VAC 25-210) for the proposed project. The applicant, at his discretion, may seek a VWP individual permit in lieu of coverage under this VWP general permit. In order for public water supply applicants to be considered for coverage under this VWP general permit regulation, the surface water withdrawal must meet the requirements of this VWP general permit regulation, and the applicant must either currently hold a VWP individual permit for the surface water withdrawal or the surface water withdrawal must be identified in an approved water supply plan, pursuant to § 62.1-44.38:1 of the Code of Virginia and 9 VAC 25-780 of the Virginia Administrative Code.

B. The right to withdraw water from any watercourse is limited to the amount that can be put to beneficial use by the public to be served. Surface water withdrawals authorized by this VWP general permit shall not exceed the daily totals as calculated below, or 3.0 million gallons per day (1,095 million gallons per year), whichever is less:

1. Public surface water supply withdrawals as calculated by  $WD_{max} = C \times MAF$ , where:
  - a. "WD<sub>max</sub>" equals the maximum daily water withdrawal rate.
  - b. "C" equals a coefficient that varies according to whether the intake is located in a basin with low-, average-, or high-base flow characteristics, as presented in Table 1 below.
  - c. "MAF" equals the mean annual flow of the stream at the intake.

Table 1. C values for public surface water supply withdrawals.

Basin Type	C Value
Low Base Flow	0.01
Average Base Flow	0.02
High Base Flow	0.03

2. Agricultural surface water supply withdrawals as calculated by  $WD_{max} = C \times MAF$ , where:
  - a. "WD<sub>max</sub>" equals the maximum daily water withdrawal rate in a calendar year.
  - b. "C" equals a coefficient that varies according to whether the intake is located in a basin with low-, average-, or high-base flow characteristics and according to the calendar month, as presented in Table 2 below.
  - c. "MAF" equals the mean annual flow of the stream at the intake.

Table 2. C values for agricultural surface water supply withdrawals.

Month	C Value Low Base Flow	C Value Average Base Flow	C Value High Base Flow
January	0.02	0.03	0.03
February	0.02	0.03	0.03
March	0.02	0.03	0.03
April	0.02	0.02	0.03
May	0.02	0.02	0.03
June	0.02	0.02	0.03
July	0.02	0.02	0.03
August	0.02	0.02	0.03
September	0.01	0.01	0.02
October	0.01	0.01	0.02
November	0.01	0.02	0.03
December	0.01	0.02	0.03

3. All other surface water withdrawals as calculated by  $WD_{max} = C \times MAF$ , where:

- a. "WD<sub>max</sub>" equals the maximum daily water withdrawal rate.
- b. "C" equals a coefficient that varies according to the calendar month and according to the flow in the stream, as presented in Table 3 below.
- c. "MAF" equals the mean annual flow of the stream at the intake.
- d. When the flow in the stream is less than or equal to the instream flow-by requirement (IFR), surface water withdrawal is prohibited. The monthly 80% exceedance flow (Monthly Q<sub>80</sub>) is the flow that, on average for each month, is exceeded 80% of the time.

Table 3. C and IFR values for all other surface water withdrawals.

Value	January – May	June – October	November - December
C	0.04	0.03	0.03
IFR	40% of MAF	Monthly Q <sub>80</sub>	30 % of MAF

D. Surface water withdrawals in the basins listed herein shall be deemed to have low base flow. Calculations made to determine surface water withdrawal limits in these basins shall use the C values for low base flow specified in Tables 1 and 2:

1. Potomac River Basin: The North Fork Shenandoah River and its tributaries from its confluence with Linville Creek to its headwaters; Happy Creek from its confluence with the South Fork Shenandoah River to its headwaters; South Fork of Quantico Creek and its tributaries from its confluence with Quantico Creek to its headwaters; Catoctin Creek and its tributaries from its confluence with the Potomac River to its headwaters; Goose Creek and its tributaries from its confluence with the Potomac River to its headwaters; Occoquan River and its tributaries from Occoquan Dam to its headwaters; and Aquia Creek and its tributaries from its confluence with the Potomac River to its headwaters.

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2. *Rappahannock River Basin: The Rush River and its tributaries from its confluence with the Thornton River to its headwaters, and Battle Run and its tributaries from its confluence with the Thornton River to its headwaters.*
  3. *York River Basin: Contrary Creek and its tributaries from Lake Anna to its headwaters; the Mattaponi River and its tributaries from the Route 301 bridge to its headwaters; the Little River and its tributaries from its confluence with the North Anna River to its headwaters; Totopotomy Creek and its tributaries from its confluence with the Pamunkey River to its headwaters; Beaverdam Swamp in Gloucester and its tributaries from its confluence with the Ware River to its headwaters; and Dragon Run Swamp and its tributaries from the Route 17 bridge to its headwaters.*
  4. *James River Basin: The South Fork Rivanna River and its tributaries from its confluence with Moores Creek to its headwaters; the Chickahominy River and its tributaries from Walkers dam to its headwaters; Deep Creek in Amelia and its tributaries from its confluence with the Appomattox River to its headwaters; and Falling Creek in Chesterfield County and its tributaries from its confluence with the James River to its headwaters.*
  5. *Chowan River Basin: The Blackwater River in Virginia and all its tributaries; the Nottoway River and its tributaries from a point at State Route 723 on the Lunenburg and Nottoway County border upstream to its headwaters; and Stony Creek in Dinwiddie County and its tributaries from U.S. Route 1 to its headwaters.*
  6. *New River Basin: Glade Creek and its tributaries from its confluence with the New River to its headwaters.*
  7. *Roanoke River Basin: The Hyco River and its tributaries in Virginia from its confluence with Kerr Lake to its headwaters; Roanoke Creek and its tributaries from its confluence with the Roanoke River to its headwaters; and Allen Creek and its tributaries from its confluence with Lake Gaston to its headwaters.*
  8. *Big Sandy River Basin: Russell Fork and its tributaries from its confluence with the Pound River upstream to its headwaters, and Levisa Fork and its tributaries from the Kentucky state line upstream to its headwaters.*
- E. Surface water withdrawals in the basins listed herein shall be deemed to have high base flow. Calculations made to determine surface water withdrawal limits in these basins shall use the C values for high base flow specified in Tables 1 and 2:*
1. *James River Basin: The Bullpasture River and its tributaries from its confluence with the Calfpasture River to its headwaters.*
  2. *Shenandoah River Basin: Abrams Creek and its tributaries from the confluence with Opequon Creek to its headwaters; Christians Creek and its tributaries from its confluence with Middle River to its headwaters; the South River and all its tributaries from its confluence with the South Fork Shenandoah to its headwaters; and the South Fork Shenandoah River proper from its confluence with the South River to the Route 211 bridge in Page County.*
  3. *Roanoke River Basin: All tributaries of the Mayo River in Virginia from the North Carolina line to its headwaters, and the Pigg River and its tributaries from its confluence with Leesville Lake to its headwaters.*
  4. *The New River Basin: The New River in Virginia and all its tributaries with the exception of the tributary basins of Glade Creek, Peak Creek, Wolf Creek, Walker Creek and the Bluestone River.*
  5. *Tennessee River Basin: The Middle Fork Holston River and its tributaries from South Fork Holston Reservoir to its headwaters; the South Fork Holston River and its tributaries from South Fork Holston Reservoir to its headwaters; Beaver Creek in Virginia and its tributaries; and Copper Creek and its tributaries from its confluence with the Clinch River to its headwaters.*
- F. All other streams not stated in subdivisions D and E of this subsection shall be considered to have average base flow.*
- G. When surface water is withdrawn from multiple intakes for the same facility, the maximum withdrawal for all intakes shall not exceed 3.0 million gallons per day (1,095 million gallons per year). The total withdrawal permitted shall be divided between the intakes in proportion to the average flow at each intake location. The mean annual flow of upstream intakes shall be subtracted from the mean annual flow of downstream intakes in computing the total mean annual flow at the downstream intakes.*
- H. Authorization for coverage under this VWP general permit may be used in combination with authorization for coverage under VWP general permits WP1 (9 VAC 25-660), WP2 (9 VAC 25-670), WP3 (9 VAC 25-680), or WP4 (9 VAC 25-690), provided that the thresholds of this VWP general permit and the thresholds of the other VWP general permits are not exceeded.*
- I. Receipt of this VWP general permit authorization does not relieve a permittee of the responsibility to comply with other applicable federal, state or local statutes, ordinances, or regulations.*
- J. In evaluating the application, the board shall make an assessment of the project in combination with other existing or proposed projects with impacts. The board shall deny an applicant authorization to use this VWP general permit for impacts, either separate or cumulative, that cause or contribute to, or may reasonably be expected to cause or contribute to, a significant impairment of the state waters or fish and wildlife resources, or that may cause or contribute to a violation of water quality standards.*
- 9 VAC 25-800-40. Activities not requiring authorization.**
- The following activities are regulated under the Virginia Water Protection Permit Program but do not require the submittal of a Joint Permit Application, or DEQ authorization under this VWP general permit regulation, unless the activity is otherwise prohibited by 9 VAC 25-800-50. These activities may require other permits under local, state, or federal law:*
1. *Dry hydrants or emergency surface water withdrawals for firefighting or for the training activities related to firefighting.*

2. Surface water withdrawals placed into portable containers by persons owning property on, or holding easements to, riparian lands.

3. Surface water withdrawn for the purposes of hydrostatic pressure testing of water tight containers, pipelines, and vessels.

4. Surface water withdrawals from nontidal surface waters for agricultural, aquacultural, horticultural, or floricultural purposes that total less than one million gallons in a single month.

5. Surface water withdrawals from nontidal surface waters for all other purposes that total less than 10,000 gallons per day.

6. Surface water withdrawals from tidal surface waters for agricultural, aquacultural, horticultural, or floricultural purposes that total less than 60 million gallons in a single month.

7. Surface water withdrawals from tidal surface waters for all other purposes that total less than two million gallons per day.

8. Surface water withdrawals for normal single-family home residential gardening, lawn and landscape maintenance.

9. Surface water withdrawals from ponds collecting diffuse surface water and not situated on a perennial stream.

10. Surface water withdrawals that are located on a property, such that the withdrawal returns to the stream of origin; not more than half of the flow is diverted; not more than 1,000 feet of stream channel separate the withdrawal point from the return point; and both banks of the affected stream segment are located within that property boundary.

11. Surface water withdrawals from quarry pits, such that the withdrawal does not alter the physical, biological, or chemical properties of surface waters connected to the quarry pit.

## **9 VAC 25-800-50. Activities prohibited from coverage.**

A. This VWP general permit may not be used for the following activities:

1. Withdrawal of surface water that originates directly from springs or that exists on the ground surface between the spring and the beginning point of a stream channel.

2. Impacts to streams or open waters, other than the physical removal of surface water, or impacts to wetlands. Separate authorizations from federal, state and local agencies may be required to cover those impacts.

3. Withdrawals utilized as cooling water at power plants.

4. Withdrawals from stockable trout waters (DEQ Class V, subclasses v and vi) and natural trout waters (DEQ Class VI).

5. Withdrawals from surface waters where the proposed activity will impact federal or state listed or proposed threatened or endangered species, or proposed or

designated critical habitat, pursuant to § 62.1-44.15:5 of the Code of Virginia.

6. Withdrawals from surface waters where the proposed activity will impact surface waters designated as Exceptional Surface Waters, pursuant to 9 VAC 25-260-30 A 3 of the Virginia Administrative Code and § 62.1-44.15 of the Code of Virginia.

7. Interbasin transfers.

B. The activity to impact surface waters shall not have been prohibited by state law or regulations, nor shall it contravene applicable Water Quality Standards (9 VAC 25-260-5 et seq.).

C. Authorization for coverage under this VWP general permit may not be combined with another authorization for coverage under this same VWP general permit in order to increase the authorized limits contained herein.

## **9 VAC 25-800-60. Application and notification.**

A. Applications shall be filed with the board as follows:

1. The applicant shall file a complete application, using the appropriate version of the Joint Permit Application (JPA), as noted in the forms section of this VWP general permit regulation. The appropriate JPA shall serve as an application under this regulation for a VWP general permit number WP5 for the construction and operation of minor surface water withdrawals and shall serve as a notice of intent for coverage under this VWP general permit.

2. The Virginia Department of Transportation may use its monthly Interagency Coordination Meeting process for submitting applications.

B. The application shall be signed in accordance with 9 VAC 25-210-100. If an agent is acting on behalf of an applicant, the applicant shall submit an authorization of the agent that includes the signatures of both the applicant and the agent.

C. Incomplete application. Where an application is incomplete, the board shall require the submission of additional information and shall suspend processing the application until such time as the applicant has supplied the missing or deficient information and the application is complete. Further, where the applicant becomes aware that he omitted one or more relevant facts from an application, or submitted incorrect information in an application or in a report to the board, the applicant shall immediately submit such facts or the correct information. Such application with new information shall be deemed a new application, but shall not require an additional permit application fee.

D. Coordination. The board will determine whether the proposed activity requires coordination with the United States Fish and Wildlife Service, the Virginia Department of Conservation and Recreation, the Virginia Department of Agriculture and Consumer Services, and the Virginia Department of Game and Inland Fisheries regarding the presence of federal or state proposed or listed threatened and endangered species or proposed or designated critical habitat. Based upon consultation with these agencies, the board may deny coverage under this VWP general permit.

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# Proposed Regulations

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E. Reauthorization. Reapplication for the continuation of authorized surface water withdrawals under this VWP general permit regulation must be made no less than 60 days prior to the expiration date of the permittee's valid VWP general permit authorization, at which time the board will determine the appropriate VWP permit action. Reapplication shall be made in accordance with subsections A and B of this section, and a permit application fee will be charged. Reapplication shall be subject to the procedures established in subsections C and D of this section.

## **9 VAC 25-800-70. Modification of authorization (notice of planned changes).**

A. Authorization under this VWP general permit regulation may be modified after issuance for a change in project plans that does not result in a change to the authorized surface water withdrawal activities or authorized withdrawal volumes.

B. Authorization under this VWP general permit regulation may be modified after issuance for typographical errors.

C. Application for a planned change shall consist of a written request to the board, submitted by the permittee no less than 30 days in advance of the planned change. The request shall include the valid permit authorization number; the permitted facility name and location; the name, address, and signature of the permittee or authorized agent; a detailed description of and purpose for the requested change to authorization; and dated, plan-view and cross-sectional view sketches of all proposed changes to a structure, if applicable. No permit application fee shall be charged.

D. The request for a planned change shall be reviewed by the board according to all provisions of this regulation.

## **9 VAC 25-800-80. Termination of authorization by consent.**

If the authorized activities requiring application or notification under 9 VAC 25-800-60 are completed prior to the authorization expiration date or will not occur, the permittee may submit a request for termination by consent within 30 days of project completion, project cancellation, or the voluntary termination of authorized surface water withdrawals. The director may accept this termination of authorization on behalf of the board. The permittee shall submit the following information:

1. Name, mailing address, and telephone number;
2. Name and location of the authorized activities;
3. The VWP permit authorization number; and
4. One of the following certifications:

a. For project completion:

"I certify under penalty of law that the activities authorized by a VWP general permit have been completed. I understand that by submitting this notice of termination, that I am no longer authorized to perform the activities covered by this VWP general permit, and that performing such activities is unlawful where the activity is not authorized by a VWP permit. I also understand that the submittal of this notice does not release me from liability for violations of this VWP general permit authorization."

b. For project cancellation:

"I certify under penalty of law that the activities authorized by this VWP general permit will not occur. I understand that by submitting this notice of termination, that I am no longer authorized to perform activities covered by this VWP general permit, and that performing such activities is unlawful where the activity is not authorized by a VWP permit. I also understand that the submittal of this notice does not release me from liability for violations of this VWP general permit authorization, nor does it allow me to resume the permitted activities without reapplication and reauthorization.

c. For voluntary termination of authorized, surface water withdrawals:

"I certify under penalty of law that the surface water withdrawal authorized by a VWP general permit have been voluntarily terminated. I understand that by submitting this notice of termination, that I am no longer authorized to withdraw surface water as covered under this VWP general permit, and that continuing to withdraw surface water is unlawful where the activity is not authorized by a VWP permit. I also understand that the submittal of this notice does not release me from liability for violations of this VWP general permit authorization."

## **9 VAC 25-800-90. VWP general permit.**

An applicant whose application has been accepted by the board shall be subject to the following requirements:

VWP General Permit Number WP5

Authorization effective date:

Authorization expiration date:

### **VWP GENERAL PERMIT FOR MINOR SURFACE WATER WITHDRAWALS UNDER THE VIRGINIA WATER PROTECTION PERMIT PROGRAM AND THE VIRGINIA STATE WATER CONTROL LAW**

Based upon an examination of the information submitted by the applicant, and in compliance with § 401 of the Clean Water Act, as amended (33 USC § 1341), the State Water Control Law, and regulations adopted pursuant thereto, the board has determined that there is a reasonable assurance that the activity authorized by this VWP general permit, if conducted in accordance with the conditions set forth herein, will protect instream beneficial uses and will not violate applicable water quality standards. The board finds that the effect of the activity, together with other existing or proposed activities, will not cause or contribute to a significant impairment of state waters or fish and wildlife resources.

Subject to the provisions of the Clean Water Act, as amended, and pursuant to the State Water Control Law and regulations adopted pursuant to it, the permittee is authorized to construct or operate a minor surface water withdrawal.

Permittee:

Address:

Activity Location:

Activity Description:

Authorization Note(s):

The permittee shall comply with the following maximum daily surface water withdrawal limits in addition to all other requirements of this VWP general permit authorization:

The authorized activity shall be in accordance with this cover page, Part I - Special Conditions, Part II - Monitoring and Reporting Conditions, and Part III - Conditions Applicable to All VWP General Permits, as set forth herein.

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Director, Department of Environmental Quality      Date

Part I. Special Conditions.

A. Authorized activities.

1. This permit authorizes the construction and operation of a minor surface water withdrawal where the maximum allowable withdrawal shall be equal to the daily totals authorized by 9 VAC 25-800-30, or three million gallons per day (1,095 million gallons per year), whichever is less. The authorized activity shall be subject to the limitations and prohibitions in 9 VAC 25-800-30 and 9 VAC 25-800-50.

2. Any changes to the authorized activities associated with this project shall require either a Notice of Planned Change in accordance with 9 VAC 25-800-70, or another VWP permit application. A termination by consent may be requested when the change involves project completion before the authorization expiration date, or project cancellation, as per 9 VAC 25-800-80.

3. Reapplication for the continuation of authorized surface water withdrawals under this VWP general permit regulation must be made no less than 60 days prior to the expiration date of the permittee's valid VWP general permit authorization, at which time the board will determine the appropriate VWP permit action. Reapplication shall be made in accordance with 9 VAC 25-800-60 A and B, and a permit application fee will be charged.

B. Unauthorized impacts. Impacts to streams or open waters, other than the physical removal of surface water, or impacts to wetlands are not authorized by this VWP general permit. Separate authorizations from federal, state and local agencies may be required to cover those impacts.

C. General conditions.

1. The activities authorized by this VWP general permit shall be executed in a manner so as to minimize adverse impacts on instream beneficial uses as defined in § 62.1-10 (b) of the Code of Virginia.

2. No activity may substantially disrupt the movement of aquatic life indigenous to the water body, including those species which normally migrate through the area, unless the primary purpose of the activity is to impound surface water. No activity may cause more than minimal adverse effect on navigation. Furthermore the activity must not impede the passage of normal or expected high flows, and the structure or discharge must withstand expected high flows.

3. The permittee shall conduct activities in accordance with all time-of-year restrictions that may be recommended by

the Department of Game and Inland Fisheries or the Virginia Marine Resources Commission, and shall ensure that all contractors are aware of the time-of-year restrictions imposed.

4. Permanently fixed intake structures shall be designed to include a screen over the pipe opening that has a maximum mesh size of one millimeter and to allow a through-screen velocity of 0.5 feet per second.

5. For each authorized surface water withdrawal, except minor agricultural surface water withdrawals, as defined in 9 VAC 25-800-10, a drought response and contingency plan shall be developed by the permittee that contains, at a minimum, the mandatory water conservation activities that are identified by the permittee as reducing current water use by 10-15%. The plan shall be implemented upon declaration by the Governor of the Commonwealth of Virginia or the appointed drought response coordinator that emergency drought conditions exist in the region where the permittee is authorized to conduct water withdrawal activities. The permittee shall maintain a copy of the plan for the effective term of this permit authorization and shall provide DEQ with a copy upon request.

D. Conditions applicable to construction activities.

1. Wet or uncured concrete shall be prohibited from entry into flowing surface waters. Excess or waste concrete shall not be disposed of in flowing surface waters or washed into flowing surface waters.

2. Erosion and sedimentation controls shall be designed in accordance with the Virginia Erosion and Sediment Control Handbook, Third Edition, 1992. These controls shall be placed prior to clearing and grading and maintained in good working order to minimize impacts to state waters. These controls shall remain in place until the area is stabilized and shall then be removed.

3. Exposed slopes and streambanks shall be stabilized immediately upon completion of work in each permitted impact area. Denuded areas shall be properly stabilized in accordance with the Virginia Erosion and Sediment Control Handbook, Third Edition, 1992.

4. Construction, construction access (for example, cofferdams, sheetpiling, and causeways), and demolition activities associated with this project shall be accomplished in a manner that minimizes construction or waste materials from entering surface waters to the maximum extent practicable, unless authorized by this VWP general permit.

5. No machinery may enter flowing surface waters, unless authorized by this VWP general permit.

6. The permittee shall employ measures to prevent spills of fuels or lubricants from entering state waters.

7. Water quality standards shall not be violated as a result of the construction, construction access (for example, cofferdams, sheetpiling, and causeways), and demolition activities, unless authorized by this VWP general permit.

E. Stream modification and stream bank protection.

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# Proposed Regulations

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1. Riprap or other bank stabilization structures or materials shall not be placed below the ordinary high water mark in stream channels, into wetlands, or into open water without separate authorization, if required, from federal, state, and local agencies.
2. Riprap bank stabilization placed above the ordinary high water mark in stream channels shall be of an appropriate size and design in accordance with the Virginia Erosion and Sediment Control Handbook, Third Edition, 1992.
3. Riprap aprons for outfall structures placed above the ordinary high water mark in stream channels shall be designed in accordance with the Virginia Erosion and Sediment Control Handbook, Third Edition, 1992.
4. For stream bank protection activities, the structure and backfill, when placed above the ordinary high water mark in stream channels, shall be placed as close to the stream bank as practicable. No material shall be placed in excess of the minimum necessary for erosion protection.
5. Redistribution of existing stream substrate for the purpose of erosion control is prohibited.

## Part II. Monitoring and Reporting Conditions.

A. General reporting. All permittees shall comply with the following general reporting procedures:

1. Written communications required by this VWP general permit shall be submitted to the appropriate DEQ office. The VWP general permit authorization number shall be included on all correspondence. All communications and documentation required by this VWP general permit shall contain the following signed certification statement:

"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. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violation."

2. The permittee shall notify DEQ in writing when unusual or potentially complex conditions are encountered that involve a potentially toxic substance. Measures to remove the toxic substance or to change the location of structures are prohibited until approved by DEQ.
3. The permittee shall report fish kills or spills of oil or fuel immediately upon discovery. If spills or fish kills occur between the hours of 8:15 a.m. to 5 p.m., Monday through Friday, the appropriate DEQ regional office shall be notified. If DEQ cannot be contacted, the permittee shall notify the Department of Emergency Management at 1-800-468-8892.
4. The permittee shall report (i) unauthorized discharges of sewage, industrial waste, other wastes, or any noxious or deleterious substance into or upon state waters that is

associated with the authorized activities under this VWP general permit, or (ii) unauthorized discharges that may reasonably be expected to enter state waters and are associated with the authorized activities under this VWP general permit. The permittee shall report the incident to the appropriate DEQ regional office within 24 hours. If DEQ cannot be contacted, the permittee shall notify the Department of Emergency Management at 1-800-468-8892, or the coordinator of emergency services appointed pursuant to § 44-146.19 of the Code of Virginia for the political subdivision reasonably expected to be affected by the discharge. A written notice shall immediately follow the initial report. The written notice shall be addressed to the Director of the Department of Environmental Quality and submitted to the appropriate DEQ regional office.

5. The permittee shall retain all records of water withdrawal and gage calibration for the effective term of this VWP general permit authorization.

6. The permittee shall make all monitoring and reporting records available to the board upon request. The board encourages users to confer with the board staff before installing gaging devices or implementing other methodologies to measure withdrawal volumes.

B. Monitoring and reporting for surface water withdrawals. The following monitoring and reporting requirements are specific to the type of withdrawal:

1. For public surface water withdrawals authorized by 9 VAC 25-800-30 B 1 and for agricultural surface water supply withdrawals authorized by 9 VAC 25-800-30 B 2, the permittee shall monitor and report water use in compliance with the Water Withdrawal Reporting regulation, 9 VAC 25-200.

2. For other surface water withdrawals authorized by 9 VAC 25-800-30 B 3 and withdrawals having instream flow-by requirements, the permittee shall monitor and report water withdrawals as follows:

- a. For each day that water is withdrawn, the permittee shall monitor and record the following information: the date, the amount of water withdrawn, the stream flow at the USGS monitoring gage (see Authorization Notes section of this VWP general permit authorization), and the time of day that the gage is monitored.

- b. The permittee shall submit the information required in subdivision 2 a of this subsection for each calendar year (January through December) that water withdrawal occurs. The information shall be recorded on a reporting form designated by the board and submitted to DEQ by January 31 of the following calendar year.

## Part III. Conditions Applicable to All VWP General Permits.

A. Duty to comply. The permittee shall comply with all conditions of the VWP general permit. Nothing in this VWP general permit shall be construed to relieve the permittee of the duty to comply with all applicable federal and state statutes, regulations, and toxic standards and prohibitions. Noncompliance with this VWP general permit is a violation of the Clean Water Act, as amended, and State Water Control

Law, and is grounds for enforcement action, VWP general permit authorization termination for cause, VWP general permit authorization revocation, or denial of a reauthorization request.

**B. Duty to mitigate.** The permittee shall take reasonable steps to minimize or prevent impacts in violation of this VWP general permit that may have a reasonable likelihood of adversely affecting human health or the environment.

**C. Reopener.** This VWP general permit authorization may be reopened to modify its conditions when the circumstances on which the previous VWP general permit authorization was based have materially and substantially changed, or special studies conducted by the board or the permittee show material and substantial change, since the time that the VWP general permit authorization was issued, and thereby constitutes cause for revocation of the VWP general permit authorization.

**D. Compliance with state and federal law.** Compliance with this VWP general permit constitutes compliance with the VWP permit requirements of the State Water Control Law. Nothing in this VWP general permit shall be construed to preclude the institution of legal action under or relieve the permittee from responsibilities, liabilities, or other penalties established pursuant to other state laws or regulations or under the authority preserved by § 510 of the Clean Water Act.

**E. Property rights.** The issuance of this VWP general permit does not convey property rights in either real or personal property, or exclusive privileges, nor does it authorize injury to private property or invasion of personal property rights, nor infringement of federal, state or local laws or regulations.

**F. Right of entry.** The permittee shall allow the board or its agents, upon the presentation of credentials, at reasonable times and under reasonable circumstances:

1. To enter the permittee's property, public or private, and have access to, inspect, and copy records that must be kept as part of the VWP general permit conditions;
2. To inspect facilities, operations, or practices (including monitoring and control equipment) regulated or required under the VWP general permit; or
3. To sample or monitor substances, parameters, or activities for the purpose of assuring compliance with the conditions of the VWP general permit or as otherwise authorized by law.

For the purpose of this section, the time for inspection shall be deemed reasonable during regular business hours. Nothing contained herein shall make an inspection time unreasonable during an emergency.

**G. Transferability of VWP general permit authorization.** This VWP general permit authorization may be transferred to another person by a permittee if:

1. The current permittee notifies the board of the transfer of the title to the facility or property;
2. The notice to the board includes a written agreement between the existing and new permittee containing a specific date of transfer of VWP general permit authorization responsibility, coverage and liability to the new

permittee, or that the existing permittee will retain such responsibility, coverage or liability, including liability for compliance with the requirements of enforcement activities related to the permitted activity; and

3. The board does not notify the existing and new permittee of its intent to modify or revoke and reissue the VWP general permit authorization within 15 days.

On the date of the VWP general permit authorization transfer, the transferred VWP general permit authorization shall be as fully effective as if it had been issued directly to the new permittee.

**H. Reauthorization.** Reapplication for the continuation of authorized surface water withdrawals shall be made in accordance with 9 VAC 25-800-70.

**I. Modifications (notice of planned change).** If a planned change occurs, the permittee shall notify the board in accordance with 9 VAC 25-800-70.

**J. VWP general permit authorization termination for cause.** This VWP general permit authorization is subject to termination for cause by the board after public notice and opportunity for a hearing. Reasons for termination for cause are as follows:

1. Noncompliance by the permittee with any condition of the VWP general permit authorization;
2. The permittee's failure in the application or during the VWP general permit authorization issuance process to disclose fully all relevant facts or the permittee's misrepresentation of any relevant facts at any time;
3. The permittee's violation of a special or judicial order; or
4. A determination that the permitted activity endangers human health or the environment and can be regulated to acceptable levels by a VWP general permit authorization planned change or termination for cause.

**K. VWP general permit authorization termination by consent.** This VWP general permit authorization may be terminated by consent in accordance with 9 VAC 25-800-80.

**L. Civil and criminal liability.** Nothing in this VWP general permit shall be construed to relieve the permittee from civil and criminal penalties for noncompliance.

**M. Oil and hazardous substance liability.** Nothing in this VWP general permit shall be construed to preclude the institution of legal action or relieve the permittee from responsibilities, liabilities, or penalties to which the permittee is or may be subject under § 311 of the Clean Water Act or §§ 62.1-44.34:14 through 62.1-44.34:23 of the State Water Control Law.

**N. Duty to cease or confine activity.** It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the activity for which a VWP permit has been granted in order to maintain compliance with the conditions of the VWP permit.

**O. Duty to provide information.**

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1. The permittee shall furnish to the board any information that the board may request to determine whether cause exists for modifying or terminating the VWP permit authorization, or to determine compliance with the VWP permit authorization. The permittee shall also furnish to the board, upon request, copies of records required to be kept by the permittee.

2. Plans, maps, conceptual reports, and other relevant information shall be submitted as required by the board prior to commencing construction.

*P. Monitoring and records requirements.*

1. Monitoring and reporting shall be in accordance with Part II A and B of this section.

2. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.

3. The permittee shall retain records of monitoring information, including the calibration and maintenance records and the original strip chart or electronic recordings for continuous monitoring instrumentation, copies of reports required by the VWP permit, and records of data used to complete the application for the VWP permit, for a period of at least three years from the date of the VWP general permit authorization expiration. This period may be extended by request of the board at any time.

*Q. Unauthorized discharge of pollutants. Except in compliance with this VWP general permit, it shall be unlawful for the permittee to:*

1. Discharge sewage, industrial wastes, other wastes, or noxious or deleterious substances into state waters;

2. Otherwise alter the physical, chemical, or biological properties of state waters, such that the waters are made detrimental to the public health, to animal or aquatic life, or to the uses of such waters.

**NOTICE:** The forms used in administering 9 VAC 25-800, Virginia Water Protection General Permit for Minor Surface Water Withdrawals, are not being published; however, the name of each form is listed below. The forms are available for public inspection at the Department of Environmental Quality, 629 East Main Street, Richmond, Virginia, or at the office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia.

## FORMS

*Department of Environmental Quality, Water Quality Division, Permit Application Fee Form (eff. 7/04).*

*Joint Permit Application for Activities in Waters and Wetlands of the Commonwealth of Virginia (eff. 10/04).*

*Virginia Department of Transportation Joint Permit Application for Activities in Waters and Wetlands of the Commonwealth of Virginia (eff. 10/02).*

## DOCUMENTS INCORPORATED BY REFERENCE

*Virginia Erosion and Sediment Control Handbook, Third Edition, 1992, Department of Conservation and Recreation.*

VA.R. Doc. No. R04-263; Filed October 5, 2005, 9:45 a.m.

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# FINAL REGULATIONS

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For information concerning Final Regulations, see Information Page.

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## Symbol Key

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

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## TITLE 4. CONSERVATION AND NATURAL RESOURCES

### MARINE RESOURCES COMMISSION

**REGISTRAR'S NOTICE:** The following regulations filed by the Marine Resources Commission are exempt from the Administrative Process Act in accordance with § 2.2-4006 A 12 of the Code of Virginia; however, the commission is required to publish the full text of final regulations.

Titles of Regulations: **4 VAC 20-70. Pertaining to the Harvesting of Clams (amending 4 VAC 20-70-30, 4 VAC 20-70-70 and 4 VAC 20-70-140).**

**4 VAC 20-110. Pertaining to Lobster (amending 4 VAC 20-110-60).**

**4 VAC 20-150. Pertaining to the Dredging of Conchs (Also Known as Whelks) (amending 4 VAC 20-150-60).**

**4 VAC 20-230. Pertaining to the Harvesting of Surf Clams (amending 4 VAC 20-230-30 and 4 VAC 20-230-50).**

**4 VAC 20-610. Pertaining to Commercial Fishing and Mandatory Harvest Reporting (amending 4 VAC 20-610-40 and 4 VAC 20-610-50).**

**4 VAC 20-670. Pertaining to Recreational Gear Licenses (amending 4 VAC 20-670-20).**

**4 VAC 20-730. Pertaining to Nonresident Harvesters License Fee (repealing 4 VAC 20-730-20).**

**4 VAC 20-890. Pertaining to Channeled Whelk (amending 4 VAC 20-890-25).**

**4 VAC 20-900. Pertaining to Horseshoe Crab (amending 4 VAC 20-900-30).**

**4 VAC 20-920. Pertaining to Landing Licenses (amending 4 VAC 20-920-30 and 4 VAC 20-920-40).**

**4 VAC 20-1090. Pertaining to Licensing Requirements and License Fees (adding 4 VAC 20-1090-10 through 4 VAC 20-1090-40).**

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

Effective Date: December 1, 2005.

Agency Contact: Deborah Cawthon, Agency Regulatory Coordinator, Marine Resources Commission, 2600 Washington Avenue, 3rd Floor, Newport News, VA 23607, telephone (757) 247-2248, FAX (757) 247-2002 or e-mail debbie.cawthon@mrc.virginia.gov.

#### Summary:

*The amendments delete the references to the fees for the designated licenses within existing regulations and establish*

*the license fees in a new regulation, 4 VAC 20-1090, Pertaining to Licensing Requirements and License Fees. The new regulation specifies the fees for each license required of persons to take, catch, harvest, possess or market fish, oysters, crabs, clams or other seafood species in the tidal waters of Virginia for commercial purposes or to take, catch or possess any species for recreational purposes.*

#### **4 VAC 20-70-30. License required.**

A. It shall be unlawful to take or catch soft shell clams from any leased grounds in any of the tidal waters of the Commonwealth by the use of a hydraulic dredge without first obtaining (i) a soft shell clam dredge license for each boat used for such a purpose and (ii) a permit for each boat and operator thereof.

B. Any lessee desiring to take or catch soft shell clams from leased ground by the use of a hydraulic dredge shall apply to the officer in charge of the district, in writing, specifying the location and identity of the specific lease or leases where he desires to dredge and request the privilege to dredge the specific lease or leases.

C. Each application will be reviewed by the commission. The commission may conduct a public hearing on such application if, in its discretion, it is deemed necessary. If the commission deems it wise to permit dredging of soft shell clams within the area of such a lease, the commission engineers shall first approve the existing boundaries, survey and plat of each lease. Any surveying or marking of the lease which may be necessary shall be at the expense of the lessee, unless such survey shows that the leased ground was properly marked.

~~D. Pursuant to § 28.2-201 of the Code of Virginia, the commission hereby establishes a license fee of \$50 for each boat using a hydraulic dredge for the purpose of taking or catching soft shell clams from leased ground or public ground. There shall be no refund of the license fee or any part thereof in case a license or permit is suspended or revoked.~~

#### **4 VAC 20-70-70. License required.**

A. It shall be unlawful for any person, other than an employee of the commission or the Virginia Institute of Marine Science while conducting tests or experiments, to take or catch soft shell clams from any public grounds in the tidal waters of the Commonwealth by the use of a dredge without first obtaining (i) a soft shell clam dredge license as set forth in subsection E of this section for each boat used for such purpose and (ii) a permit for each boat and operator thereof.

B. Any person desiring to take or catch soft shell clams from the public grounds by the use of a hydraulic dredge shall apply to the officer in charge of the district, in writing, describing the area and requesting the privilege to dredge the specific area.

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C. Each application shall be reviewed by the commission. The commission shall conduct a public hearing to determine the suitability of the area for the production of oysters, and shall make such further investigations and studies as in its discretion it deems necessary. If the commission deems it wise to permit dredging of soft shell clams in such an area, the area must be surveyed and marked by the commission before a license and permit is issued.

D. If the application is approved by the commission, no person shall have the exclusive use of the area for taking or catching soft shell clams by hydraulic dredge. The area shall be open to the general public for such a purpose provided each person obtains the necessary license and permit and complies with all other provisions of this chapter.

~~E. Pursuant to § 28.2-201 of the Code of Virginia, the commission hereby establishes a license fee of \$50 for each boat using a hydraulic dredge for the purpose of taking or catching soft shell clams from public grounds or leased grounds. There shall be no refund of the license fee or any part thereof in case a license or permit is suspended or revoked.~~

#### 4 VAC 20-70-140. License required.

~~A. Pursuant to § 28.2-201 of the Code of Virginia, the commission hereby establishes a license fee of \$35 for each boat using one or more power lifted conventional dredges and \$15 for each boat using one or more hand-operated conventional dredges for the purpose of taking or catching hard shell clams from unassigned grounds on the seaside of Accomack and Northampton counties, as allowed in subsection B of this section.~~

~~B. The license shall at all times be on board the boat available for inspection by any officer.~~

VA.R. Doc. No. R06-71; Filed October 6, 2005, 3:11 p.m.

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#### 4 VAC 20-110-60. License required.

In accordance with the provisions of § 28.2-201 of the Code of Virginia, the Marine Resources Commission does hereby establish a Lobster Boat License to be valid for one calendar year and does hereby require that each such vessel engaged in the fishing for or landing of lobster within or upon the waters within the jurisdiction of the Commonwealth procure and display such license provided that such vessel be not otherwise licensed for fishing by the Marine Resources Commission or engaged in the use of fishing gear that is not otherwise licensed by the Marine Resources Commission. ~~The fee for such Lobster Boat License shall be \$100, except that any boat using less than 200 pots shall pay \$25.~~

VA.R. Doc. No. R06-72; Filed October 6, 2005, 3:11 p.m.

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#### 4 VAC 20-150-60. License.

A. It shall be unlawful to dredge for conchs without first having obtained a license therefor, except that when dredging for conchs in Area Number 1, persons holding the regular crab

dredging license prescribed by § 28.2-702 of the Code of Virginia, need not have the conch dredging license prescribed in this section. ~~The fee for This license to dredge for conchs shall be \$35, and~~ may be obtained from the marine patrol ~~police~~ officer in charge of the district.

B. Any license shall at all times be on board the boat and available for inspection by any law-enforcement officer of the Marine Resources Commission.

C. There shall be no refund of any license fee or any part of one in the event a license is surrendered, suspended, or revoked.

VA.R. Doc. No. R06-73; Filed October 6, 2005, 3:12 p.m.

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#### 4 VAC 20-230-30. License.

~~A. Any person, desiring to harvest surf clams from the waters under the jurisdiction of the Commonwealth shall first obtain a license from the Marine Resources Commission for each boat so engaged. Such license shall be for one calendar year.~~

~~B. The fee for this license shall be \$100, and no amount of such fee shall be prorated or returnable in the event the vessel fishes for less than a full calendar year.~~

#### 4 VAC 20-230-50. Enforcement.

Any marine ~~Patrol~~ *police* officer of the Marine Resources Commission, and any U.S. Department of Commerce, National Marine Fisheries Service law-enforcement officer, shall have and is hereby granted authority to enforce the provisions of this chapter.

VA.R. Doc. No. R06-74; Filed October 6, 2005, 3:13 p.m.

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#### 4 VAC 20-610-40. Registration procedures.

A. Applicants holding a valid Commercial Fisherman Registration License may register during the period December 1 through February 28 of each year as commercial fishermen as follows:

1. The applicant shall complete an application for a Commercial Fisherman Registration License.
2. The applicant shall mail the completed application ~~and \$150, or \$75 if 70 years old or older during the license year,~~ to the Virginia Marine Resources Commission, 2600 Washington Avenue, 3rd Floor, Newport News, VA 23607.
3. The Commercial Fisherman Registration License will be returned to the applicant by mail upon validation of his application.

B. Persons desiring to enter the commercial fishery and those fishermen failing to register as provided in subdivision A may apply only during December, January or February of each year. All such applications shall be for a delayed registration and shall be made as provided below.

1. The applicant shall complete an application for a Commercial Fisherman Registration License by providing

his complete name, mailing address, social security number, birth date, weight, height, eye color, hair color, telephone number of residence, and signature.

2. The applicant shall mail the completed application ~~and \$150, or \$75 if 70 years old or older during the license year,~~ to the Virginia Marine Resources Commission, 2600 Washington Avenue, Newport News, VA 23607.

3. The Commercial Fisherman Registration License will be returned to the applicant by mail two years after the date of receipt of the application by the commission. Notification of any change in the address of the applicant shall be the responsibility of the applicant.

C. No part of the Commercial Fisherman Registration License fee shall be refundable.

D. The Commercial Fisherman Registration License may be renewed annually during the months of December, January or February. Any person failing to renew his license shall be subject to the delay provision of subsection B of this section.

**4 VAC 20-610-50. Commercial hook-and-line license.**

A. On or after January 1, 1993, it shall be unlawful for any person to take or catch fish in the tidal waters of Virginia with hook-and-line, rod-and-reel, or hand line and to sell such catch without first having purchased a Commercial Hook-and-Line License from the commission or its agent.

~~B. The fee for the Commercial Hook and Line License shall be \$25.~~

~~C. B.~~ A Commercial Fisherman Registration License, as described in § 28.2-241 H of the Code of Virginia, is required prior to the purchase of this license.

VA.R. Doc. No. R06-75; Filed October 6, 2005, 3:14 p.m.

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**4 VAC 20-670-20. Recreational gear licenses.**

A. Any person desiring to take or catch finfish or shellfish for recreational purposes in the tidal waters of Virginia using commercial gear authorized under § 28.2-226.1 of the Code of Virginia shall first pay the specified fee and obtain the license for the appropriate gear, as follows:

- 1. Recreational gill net \_\_\_\_\_ \$7.50
- 2. Recreational fish cast net \_\_\_\_\_ \$8.00
- 3. Recreational fish dip net \_\_\_\_\_ \$6.00
- 4. Recreational crab pot \_\_\_\_\_ \$29.00
- 5. Recreational crab trap \_\_\_\_\_ \$5.00
- 6. Recreational ordinary crab trot line \_\_\_\_\_ \$8.00
- 7. Recreational eel pot \_\_\_\_\_ \$10.00

B. Any license to use fishing gear for recreational purposes shall be issued to an individual for his exclusive use and shall not be transferable.

C. No person shall be issued more than one recreational gill net license, more than one recreational crab pot license, more

than one crab trap license, nor more than one recreational eel pot license.

D. No license shall be required of any person taking minnows, menhaden, or mullet with a cast net for personal use as bait which is not to be sold, traded, or bartered.

VA.R. Doc. No. R06-76; Filed October 6, 2005, 3:13 p.m.

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**4 VAC 20-730-20. Fee established. (Repealed.)**

~~The fee for the nonresident harvesters license shall be \$350.~~

VA.R. Doc. No. R06-77; Filed October 6, 2005, 3:14 p.m.

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**4 VAC 20-890-25. Entry limitation; transfers; prohibitions.**

A. The sale of commercial conch pot licenses shall be limited to registered commercial fishermen, solely for the harvest of channeled whelk from Virginia waters described in this section, who meet either of the following requirements:

- 1. The fisherman shall have held a provisional Virginia conch pot permit in 1999 and reported in accordance with the requirements of 4 VAC 20-610-60 and the 1999 conch pot permit; or
- 2. The fisherman shall provide the commission with proof of having harvested channeled whelk from federal waters during the January 1, 1997, through October 1, 1999, period.

B. Any person licensed for commercial conch pot under the provisions of this section may transfer such license to any registered commercial fisherman when said transfer is documented on the form provided by the commission and approved by the Commissioner of Marine Resources. Upon approval, the person entering the Virginia commercial conch pot fishery shall purchase a commercial conch pot license in his own name. No commercial conch pot license shall be transferred more than once per calendar year.

C. It shall be unlawful for any person licensed under the provisions of subsection A of this section as a commercial conch pot fisherman to do any of the following, unless otherwise specified:

- 1. Place, set or fish any conch pot within any channel.
- 2. Fail to be on board the vessel when that vessel is operating in a commercial conch pot harvesting capacity within Virginia tidal waters;
- 3. Fail to display the commercial conch pot license plate prominently on the starboard side of the vessel;
- 4. Fail to inscribe each conch pot buoy with the last four numbers of the commercial fisherman registration license preceded by the letter "W," which correspond to the lawful conch pot licensee;
- 5. Place, set or fish more than 200 conch pots within Virginia tidal waters;

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6. Retain by-catch of any other species caught by conch pots;

7. Fail to report harvest-related data from harvests in Virginia waters on a monthly basis on forms supplied by the commission; and

8. Set, place, or fish a conch pot of any type in an area extending 250 yards from either span of the Chesapeake Bay Bridge-Tunnel. For purposes of this section, the distance shall be measured from the outer edges of each span and shall extend from the low water mark on Fisherman's Island to the one-mile marker on the south end of the bridge-tunnel.

D. It shall be unlawful for any person to take or catch channeled whelk with conch pots from the tidal waters of Virginia without first having purchased a conch pot license from the commission or its agent. *No person may purchase a conch pot license unless he is a registered commercial fisherman as described in § 28.2-241 of the Code of Virginia.*

~~The fee for the conch pot license shall be \$48.~~

~~No person may purchase a conch pot license unless he is a registered commercial fisherman as described in § 28.2-241 of the Code of Virginia.~~

VA.R. Doc. No. R06-78; Filed October 6, 2005, 3:10 p.m.

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#### 4 VAC 20-900-30. License requirements and exemption.

A. It shall be unlawful for any person to harvest horseshoe crabs by hand for commercial purposes without first obtaining a commercial fisherman registration license and a horseshoe crab hand harvester license. ~~The fee for the horseshoe crab hand harvester license shall be \$15.~~

B. The taking by hand of as many as five horseshoe crabs in any one day for personal use only shall be exempt from the above licensing requirement.

C. It shall be unlawful for any boat or vessel to land horseshoe crabs in Virginia for commercial purposes without first obtaining a horseshoe crab endorsement license as described in this section. The horseshoe crab endorsement license shall be required of each boat or vessel used to land horseshoe crabs for commercial purposes. Possession of any quantity of horseshoe crabs that exceeds the limit described in subsection B of this section shall be presumed for commercial purposes. There shall be no fee for the license.

D. To be eligible for a horseshoe crab endorsement license, the boat or vessel shall have landed and sold at least 500 horseshoe crabs in Virginia in at least one year during the period 1998-2000.

1. The owner shall complete an application for each boat or vessel by providing to the Marine Resources Commission a notarized and signed statement of applicant's name, address, telephone number, boat or vessel name and its registration or documentation number.

2. The owner shall complete a notarized authorization to allow the Marine Resources Commission to obtain copies of landings data from the National Marine Fisheries Service.

VA.R. Doc. No. R06-79; Filed October 6, 2005, 3:11 p.m.

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#### 4 VAC 20-920-30. License requirements and exemptions.

A. It shall be unlawful for any boat or vessel to land seafood in Virginia for commercial purposes without a Seafood Landing License provided from the Virginia Marine Resources Commission or its agent. The license shall be required of each boat or vessel used to land seafood for commercial purposes. Possession of any quantity of a marine seafood species which exceeds the recreational possession limit for that species shall be presumed to be for commercial purposes. ~~The fee for the license shall be \$150, and~~ Any boat or vessel so licensed shall display a Seafood Landing License decal provided by the Virginia Marine Resources Commission. The decals shall be displayed on both the port and starboard sides of the pilot house.

B. It shall be unlawful for any buyer of seafood to receive any marine seafood from any boat or vessel which is not licensed for the landing of seafood unless that boat or vessel is exempt from the requirement to obtain a Seafood Landing License as described in this section.

C. Any boat or vessel which is both owned and operated by a person who holds a valid Virginia Commercial Fisherman Registration License shall be exempt from the requirement to obtain a Seafood Landing License.

D. Any boat or vessel operated by a person harvesting and landing marine seafood from the Potomac River who holds a valid Potomac River Fisheries Commission commercial license shall be exempt from the requirement to obtain a Seafood Landing License.

E. Any boat or vessel operated by a person harvesting and landing marine seafood from leased ground or reharvesting marine seafood as part of the shellfish relay process shall be exempt from the requirements to obtain a Seafood Landing License.

#### 4 VAC 20-920-40. Summer Flounder endorsement license and exemption.

A. It shall be unlawful for any boat or vessel to land Summer Flounder in Virginia for commercial purposes without first obtaining a Seafood Landing License as described in 4 VAC 20-920-30 and a Summer Flounder Endorsement License. The Summer Flounder Endorsement License shall be required of each boat or vessel used to land Summer Flounder for commercial purposes. Possession of any quantity of Summer Flounder which exceeds the possession limit, described in 4 VAC 20-620-60, shall be presumed to be for commercial purposes. ~~There shall be no fee for the license, and~~ Any boat or vessel so licensed shall display a Summer Flounder Endorsement License decal, provided by the Virginia Marine Resources Commission. The decals shall be displayed on both the port and starboard sides of the pilot house.

B. It shall be unlawful for any buyer of seafood to receive any Summer Flounder from any boat or vessel which is not licensed for the landing of Summer Flounder unless that boat or vessel is exempt from the requirement to obtain a Seafood Landing License and a Summer Flounder Endorsement License as described in 4 VAC 20-920-30 and this section.

C. Any boat or vessel that is both owned and operated by a person who holds a valid Virginia Commercial Fisherman Registration License and is used solely for fishing for summer flounder only in Virginia waters shall be exempt from the requirement to obtain a Summer Flounder Endorsement License.

D. Any boat or vessel operated by a person harvesting and landing marine seafood from the Potomac River who holds a valid Potomac River Fisheries Commission commercial license shall be exempt from the requirement to obtain a Summer Flounder Endorsement License.

E. Any boat or vessel operated by a person harvesting and landing marine seafood from leased ground or reharvesting marine seafood as part of the relay process shall be exempt from the requirements to obtain a Summer Flounder Endorsement License.

F. To be eligible for a Summer Flounder Endorsement License the boat or vessel shall have landed and sold at least 500 pounds of Summer Flounder in Virginia in at least one year during the period of 1993 through 1995.

1. The owner shall complete an application for each boat or vessel by providing to the commission a notarized and signed statement of applicant's name, address, telephone number, boat or vessel name, and registration or documentation number and a copy of the vessel's federal Summer Flounder moratorium permit.

2. The owner shall complete a notarized authorization to allow the commission to obtain copies of landings data from the National Marine Fisheries Service.

G. Effective February 24, 2004, any vessel eligible for a Summer Flounder Endorsement License shall be considered a baseline vessel, and that vessel's total length and gross tonnage shall be used to determine eligibility for all future transfers of that Summer Flounder Endorsement License. A Summer Flounder Endorsement License may be transferred from one vessel to another vessel that is entering the Summer Flounder fishery, provided the vessel receiving the Summer Flounder Endorsement License does not exceed, by more than 10%, the total length and gross tonnage of the baseline vessel that held that Summer Flounder Endorsement License on February 24, 2004.

VA.R. Doc. No. R06-80; Filed October 6, 2005, 3:09 p.m.

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CHAPTER 1090.  
PERTAINING TO LICENSING REQUIREMENTS AND  
LICENSE FEES.

**4 VAC 20-1090-10. Purpose.**

The purpose of this regulation is to specify the fees for each license required of persons to take, catch, harvest, possess or market fish, oysters, crabs, clams or other seafood species in the tidal waters of Virginia for commercial purposes or to take, catch or possess any species for recreational purposes. The license fees described in this regulation supersede those fishing license fees described in Title 28.2 of the Code of Virginia.

**4 VAC 20-1090-20. License fees for calendar year 2005.**

The following listing of license fees applies to any person who purchases a license for the purposes of harvesting for commercial purposes, or fishing for recreational purposes, during calendar year 2005: License sales for calendar year 2005 end December 31, 2005:

<b>1. COMMERCIAL LICENSES.</b>	
Commercial Fisherman Registration License	\$150.00
Commercial Fisherman Registration License for a person 70 years or older	\$75.00
Delayed Entry Registration	\$150.00
Delayed Entry Registration License for a person 70 years or older	\$75.00
Seafood Landing License for each boat or vessel	\$150.00
For each Commercial Fishing Pier over or upon subaqueous beds (mandatory)	\$50.00
Seafood Buyer's License – For each boat or motor vehicle	\$25.00
Seafood Buyer's License – For each place of business	\$50.00
Nonresident Harvester's License	\$350.00
<b>Oyster Harvesting and Shucking Licenses</b>	
For each person taking oysters by hand, or with ordinary tongs	\$10.00
For each single-rigged patent tong boat taking oysters	\$35.00
For each double-rigged patent tong boat taking oysters	\$70.00
Oyster Dredge Public Ground	\$50.00
Oyster Hand Scrape	\$50.00
To shuck and pack oysters, for any number of gallons under 1000	\$7.50
To shuck and pack oysters, for 1000 gallons, up to 10,000	\$20.00
To shuck and pack oysters, for 10,000 gallons, up to 25,000	\$45.00
To shuck and pack oysters, for 25,000 gallons, up to 50,000	\$75.00
To shuck and pack oysters, for 50,000 gallons, up to 100,000	\$125.00

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To shuck and pack oysters, for 100,000 gallons, up to 200,000	\$175.00
To shuck and pack oysters, for 200,000 gallons or over	\$275.00
<b>Blue Crab Harvesting and Shedding Licenses</b>	
For each person taking or catching crabs by dip nets	\$8.00
For ordinary trotlines	\$8.00
For patent trotlines	\$31.00
For each boat used for taking or catching hard crabs with dredges	\$58.00
For each single-rigged crab-scrape boat	\$16.00
For each double-rigged crab-scrape boat	\$32.00
For up to 100 crab pots	\$29.00
For over 100 but not more than 150 crab pots	\$48.00
For over 150 but not more than 200 crab pots	\$48.00
For over 200 but not more than 300 crab pots	\$48.00
For over 300 but not more than 500 crab pots	\$100.00
For up to 300 peeler pots	\$29.00
For up to 20 tanks and floats for shedding crabs	\$7.50
For more than 20 tanks or floats for shedding crabs	\$15.00
For each crab trap or crab pound	\$5.00
<b>Horseshoe Crab and Lobster Licenses</b>	
For each person harvesting horseshoe crabs by hand	\$15.00
For each boat engaged in fishing for, or landing of, lobster using less than 200 pots	\$25.00
For each boat engaged in fishing for, or landing of, lobster using 200 pots or more	\$100.00
<b>Clam Harvesting Licenses</b>	
For each person taking or harvesting clams by hand, rake or with ordinary tongs	\$15.00
For each single-rigged patent tong boat taking clams	\$35.00
For each double-rigged patent tong boat taking clams	\$70.00
For each boat using clam dredge (hand)	\$15.00
For each boat using clam dredge (power)	\$35.00
For each boat using hydraulic dredge to catch soft shell clams	\$50.00
For each person taking surf clams	\$100.00
<b>Conch (Whelk) Harvesting Licenses</b>	
For each boat using a conch dredge	\$35.00
For each person taking channeled whelk by conch pot	\$48.00
<b>Finfish Harvesting Licenses</b>	
Each pound net	\$25.00
Each stake gill net of 1200 feet in length or under, with a fixed location	\$15.00
All other gill nets up to 600 feet	\$10.00

All other gill nets over 600 feet and up to 1200 feet	\$15.00
Each person using a cast net or throw net or similar device	\$8.00
Each fyke net head, weir, or similar device	\$8.00
For fish trotlines	\$12.00
Each person using or operating a fish dip net	\$6.00
On each haul seine used for catching fish, under 500 yards in length	\$29.00
On each haul seine used for catching fish, from 500 yards in length to 1000 yards in length	\$88.00
For each person using commercial hook and line	\$25.00
For each person using commercial hook and line for catching striped bass only	\$25.00
On each boat or vessel under 70 gross tons fishing with purse net, per gross ton but not more than \$150	\$3.00
On each boat or vessel over 70 gross tons fishing with purse net, per gross ton. Provided the maximum license fee for such vessels shall not be more than \$600.	\$5.00
For up to 100 fish pots or eel pots	\$12.00
For over 100 but not more than 300 fish pots or eel pots	\$20.00
For over 300 fish pots or eel pots	\$50.00
<b>2. COMMERCIAL GEAR FOR RECREATIONAL USE.</b>	
Up to five Crab pots	\$29.00
Crab trotline (300 feet maximum)	\$8.00
One crab trap or crab pound	\$5.00
One gill net up to 300 feet in length	\$7.50
Fish dip net	\$6.00
Fish cast net	\$8.00
Up to two eel pots	\$10.00
<b>3. SALTWATER RECREATIONAL FISHING LICENSE.</b>	
Individual License	\$7.50
Temporary 10-Day License	\$5.00
Recreational boat	\$30.00
Head Boat/Charter Boat, six or less passengers	\$150.00
Head Boat/Charter Boat, more than six passengers plus \$4.00 per person over six	\$150.00
Rental Boat, per boat, with maximum fee of	\$7.50
Commercial Fishing Pier (Optional)	\$450.00
Disabled Resident Lifetime Saltwater License	\$5.00
Reissuance of Saltwater Recreational Boat License	\$5.00
Combined Sportfishing License to fish in all inland waters and tidal waters of the Commonwealth during open season	
Residents	\$19.50
Nonresidents	\$37.50
Combined Sportfishing Trip License to fish in all inland waters and tidal waters of the Commonwealth during open season, for five consecutive days:	
Residents	\$10.50

Nonresidents	\$15.50
Individual Lifetime License	\$250.00
Individual Lifetime License age 45 – 50	\$120.00
Individual Lifetime License age 51 – 55	\$90.00
Individual Lifetime License age 56 – 60	\$60.00
Individual Lifetime License age 61 – 64	\$30.00

**4 VAC 20-1090-30. License fees for calendar year 2006.**

The following listing of license fees applies to any person who purchases a license for the purposes of harvesting for commercial purposes, or fishing for recreational purposes, during calendar year 2006. License sales for calendar year 2006 commence December 1, 2005:

<b>1. COMMERCIAL LICENSES.</b>	
Commercial Fisherman Registration License	\$190.00
Commercial Fisherman Registration License for a person 70 years or older	\$90.00
Delayed Entry Registration.	\$190.00
Delayed Entry Registration License for a person 70 years or older	\$90.00
Seafood Landing License for each boat or vessel	\$175.00
For each Commercial Fishing Pier over or upon subaqueous beds (mandatory)	\$83.00
Seafood Buyer's License – For each boat or motor vehicle	\$63.00
Seafood Buyer's License – For each place of business	\$126.00
Nonresident Harvester's License	\$444.00
<b>Oyster Harvesting and Shucking Licenses</b>	
For each person taking oysters by hand, or with ordinary tongs	\$10.00
For each single-rigged patent tong boat taking oysters	\$35.00
For each double-rigged patent tong boat taking oysters	\$70.00
Oyster Dredge Public Ground	\$50.00
Oyster Hand Scrape	\$50.00
To shuck and pack oysters, for any number of gallons under 1000	\$12.00
To shuck and pack oysters, for 1000 gallons, up to 10,000	\$33.00
To shuck and pack oysters, for 10,000 gallons, up to 25,000	\$74.00
To shuck and pack oysters, for 25,000 gallons, up to 50,000	\$124.00
To shuck and pack oysters, for 50,000 gallons, up to 100,000	\$207.00
To shuck and pack oysters, for 100,000 gallons, up to 200,000	\$290.00
To shuck and pack oysters, for 200,000 gallons or over	\$456.00

<b>Blue Crab Harvesting and Shedding Licenses</b>	
For each person taking or catching crabs by dip nets	\$13.00
For ordinary trotlines	\$13.00
For patent trotlines	\$51.00
For each boat used for taking or catching hard crabs with dredges	\$96.00
For each single-rigged crab-scrape boat	\$26.00
For each double-rigged crab-scrape boat	\$53.00
For up to 100 crab pots	\$48.00
For over 100 but not more than 150 crab pots	\$79.00
For over 150 but not more than 200 crab pots	\$79.00
For over 200 but not more than 300 crab pots	\$79.00
For over 300 but not more than 500 crab pots	\$127.00
For up to 300 peeler pots	\$36.00
For up to 20 tanks and floats for shedding crabs	\$9.00
For more than 20 tanks or floats for shedding crabs	\$19.00
For each crab trap or crab pound	\$8.00
<b>Horseshoe Crab and Lobster Licenses</b>	
For each person harvesting horseshoe crabs by hand	\$16.00
For each boat engaged in fishing for, or landing of, lobster using less than 200 pots	\$41.00
For each boat engaged in fishing for, or landing of, lobster using 200 pots or more	\$166.00
<b>Clam Harvesting Licenses</b>	
For each person taking or harvesting clams by hand, rake or with ordinary tongs	\$24.00
For each single-rigged patent tong boat taking clams	\$58.00
For each double-rigged patent tong boat taking clams	\$84.00
For each boat using clam dredge (hand)	\$19.00
For each boat using clam dredge (power)	\$44.00
For each boat using hydraulic dredge to catch soft shell clams	\$83.00
For each person taking surf clams	\$124.00
<b>Conch (Whelk) Harvesting Licenses</b>	
For each boat using a conch dredge	\$58.00
For each person taking channeled whelk by conch pot	\$51.00
<b>Finfish Harvesting Licenses</b>	
Each pound net	\$41.00
Each stake gill net of 1,200 feet in length or under, with a fixed location	\$24.00
All other gill nets up to 600 feet	\$16.00
All other gill nets over 600 feet and up to 1200 feet	\$24.00
Each person using a cast net or throw net or similar device	\$13.00
Each fyke net head, weir, or similar device	\$13.00
For fish trotlines	\$19.00

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Each person using or operating a fish dip net	\$9.00
On each haul seine used for catching fish, under 500 yards in length	\$48.00
On each haul seine used for catching fish, from 500 yards in length to 1000 yards in length	\$146.00
For each person using commercial hook and line	\$31.00
For each person using commercial hook and line for catching striped bass only	\$31.00
On each boat or vessel under 70 gross tons fishing with purse net, per gross ton, but not more than \$249	\$4.00
On each boat or vessel over 70 gross tons fishing with purse net, per gross ton. Provided the maximum license fee for such vessels shall not be more than \$996	\$8.00
For up to 100 fish pots or eel pots	\$19.00
For over 100 but not more than 300 fish pots or eel pots	\$24.00
For over 300 fish pots or eel pots	\$62.00
<b>2. COMMERCIAL GEAR FOR RECREATIONAL USE.</b>	
Up to five Crab pots	\$36.00
Crab trotline (300 feet maximum)	\$10.00
One crab trap or crab pound	\$6.00
One gill net up to 300 feet in length	\$9.00
Fish dip net	\$7.00
Fish cast net	\$10.00
Up to two eel pots	\$10.00
<b>3. SALTWATER RECREATIONAL FISHING LICENS.</b>	
Individual License	\$12.50
Temporary 10-Day License	\$5.00
Recreational boat	\$38.00
Head Boat/Charter Boat, six or less passengers	\$190.00
Head Boat/Charter Boat, more than six passengers plus \$5.00 per person over six	\$190.00
Rental Boat, per boat, with maximum fee of	\$9.00
Commercial Fishing Pier (Optional)	\$571.00
Disabled Resident Lifetime Saltwater License	\$5.00
Reissuance of Saltwater Recreational Boat License	\$5.00
Combined Sportfishing License to fish in all inland waters and tidal waters of the Commonwealth during open season	
Residents	\$24.50
Nonresidents	\$42.50
Combined Sportfishing Trip License to fish in all inland waters and tidal waters of the Commonwealth during open season, for five consecutive days	
Residents	\$10.50
Nonresidents	\$15.50
Individual Lifetime License	\$250.00
Individual Lifetime License age 45 – 50	\$120.00
Individual Lifetime License age 51 – 55	\$90.00
Individual Lifetime License age 56 – 60	\$60.00
Individual Lifetime License age 61 – 64	\$30.00

## 4 VAC 20-1090-40. Penalty.

As set forth in § 28.2-903 of the Code of Virginia, any person violating any provision of this regulation shall be guilty of a Class 3 misdemeanor, and a second or subsequent violation of any provision of this regulation committed by the same person within 12 months of a prior violation is a Class 1 misdemeanor.

VA.R. Doc. No. R06-65; Filed October 3, 2005, 9:38 a.m.

\* \* \* \* \*

**Title of Regulation: 4 VAC 20-310. Pertaining to Relaying of Shellfish (amending 4 VAC 20-310-20, 4 VAC 20-310-40 and 4 VAC 20-310-50; adding 4 VAC 20-310-15).**

**Statutory Authority:** §§ 28.2-201 and 28.2-801 of the Code of Virginia.

**Effective Date:** October 1, 2005.

**Agency Contact:** Deborah Cawthon, Agency Regulatory Coordinator, Marine Resources Commission, 2600 Washington Avenue, 3rd Floor, Newport News, VA 23607, telephone (757) 247-2248, FAX (757) 247-2002 or e-mail debbie.cawthon@mrc.virginia.gov.

### Summary:

The amendments define seed-stock shellfish and exempt individuals handling seed-stock shellfish from the harvesting, transporting, and handling requirements of this regulation. The title of marine patrol officer is changed to marine police officer.

## 4 VAC 20-310-15. Definitions.

The following term when used in this chapter shall have the following meaning unless the context clearly indicates otherwise:

"Seed-stock shellfish" means those wild and cultured shellfish that are at least six months from marketing for human consumption.

## 4 VAC 20-310-20. General provisions.

A. Nothing in this chapter shall prohibit the harvesting, transporting, or handling of wild and cultured seed-stock shellfish from condemned areas.

~~A-~~ B. It shall be unlawful for any person to relay molluscan shellfish by use of any container or cage except in compliance with the requirements of this chapter.

~~B-~~ C. Shellfish to be relayed within containers or cages shall be limited to the hard clam, *Mercenaria mercenaria*, and the American oyster, *Crassostrea virginica*.

~~C-~~ D. Any person wishing to use containers for shellfish relaying shall petition the Marine Resources Commission demonstrating their ability to handle containers, describing the area where containers will be deployed and providing a description of the containers to be used.

~~D-~~ E. Permission to use containers shall be determined on a case-by-case basis by the Marine Resources Commission

and the Virginia Department of Health. Permit issuance shall be controlled so as to ensure proper monitoring and enforcement as required by the National Shellfish Sanitation Program Manual of Operations (1993), Part I.

~~E.~~ F. Any person wishing to use containers for relaying shellfish shall meet the criteria set forth in Chapter 8 (§ 28.2-800 et seq.) of Title 28.2 of the Code of Virginia and applicable portions of the National Shellfish Sanitation Program Manual of Operations (1993), Part I. In addition, any dealer utilizing a vehicle, vessel, property, or premises where shellfish are transported, held, stored, processed, packed, or repacked in preparation for marketing shall meet the applicable criteria set forth in the National Shellfish Sanitation Program Manual of Operations (1993), Part II, as determined by the Virginia Department of Health.

~~F.~~ G. Any person harvesting shellfish from polluted waters for containerized relaying to approved areas shall land at designated Marine Resources Commission condemned shellfish landing areas, or make arrangements with the marine ~~Patrol~~ police officer to meet at approved relaying grounds so that the relaying operation is carried out under appropriate supervision.

#### 4 VAC 20-310-40. Loading and deployment.

A. Areas where any container is to be relayed for commercial purposes shall be clearly marked and easily identified as required in § 28.2-818 of the Code of Virginia.

B. Landing of polluted shellfish, loading of vehicles and containers, and container deployment and harvest shall be conducted under Marine Resources Commission supervision. Scheduling of loading and unloading of vehicles and containers shall be determined by marine ~~Patrol~~ police area supervisors.

C. Containers shall be deployed and spaced in such a manner and spacing so that different lots are separated and easily identified.

1. Spacing between adjacent groups of containers shall be a minimum of 25 feet.

2. Individual containers shall be no closer than six feet from any other container within the group.

D. The maximum height of shellfish loaded into any one container shall not exceed six inches, measured from the bottom of the container.

E. Each container deployed shall be sealed with a Marine Resources Commission standard seal and the seal number recorded. Shellfish harvested from polluted waters for containerized relaying shall be under Marine Resources Commission seal before sunset. Marine ~~Patrol~~ police officers are the only persons authorized to seal vehicles and containers and break the seals on vehicles and containers used in the transporting and relaying of shellfish from polluted areas.

#### 4 VAC 20-310-50. Harvest.

A. Commercial harvest to be sold for public consumption.

1. Any relay container shall remain in the relaying area for a minimum of 15 days in water temperatures above 50°F and in salinities sufficient to assure effective cleansing through active pumping. If a relay area is closed due to a pollution event during the relay process, the 15-day relay period shall coincide with the reopening of the area.

2. Requests to harvest specific containers shall be made to the marine ~~Patrol~~ police officer, specifying which sealed containers have been released for harvest by the Virginia Department of Health.

3. No shellfish shall be reharvested until a Permit to Remove Shellfish is received from the Virginia Department of Health. The seal on each container shall not be broken by anyone except a marine ~~Patrol~~ police officer.

4. After the seal is broken, the reharvested shellfish shall be moved into the certified shellstock storage facility (if provided) for washing, grading, bagging, tagging, and storage prior to shipment. Shellfish packed on boats, monitors or barges shall be immediately transferred to a certified shellstock storage facility or an enclosed vehicle for shipment to market or other certified dealers. No shellfish shall be washed, graded, bagged, or stored onshore or on a dock unless protected facilities are provided and approved by the Virginia Department of Health.

B. Noncommercial, private use.

1. Noncommercial relaying activity will be permitted from June 1 through September 30. All containers shall remain in the clean relay area for a minimum of 15 consecutive days. In the event the clean relay area is closed due to a pollution event during the relay process, the 15-day relay period shall start over when the area is reopened. For private noncommercial purposes, the container should be marked with a yellow flag for the entire relay period.

2. Requests should be made to the local marine ~~Patrol~~ police office to obtain a noncommercial relay permit (MRC 59) by the relayer. The marine ~~Patrol~~ police officer will then approve the clean relay site. The Conservation and Replenishment Department at the VMRC main office shall be contacted to obtain the report forms that must be completed to receive a permit to remove the shellfish. These reports, completed and signed, shall be returned in a timely manner to the Conservation and Replenishment Department to avoid delay in receiving a Virginia Department of Health permit for removing the shellfish.

3. No shellfish shall be harvested until a permit to remove the shellfish is received from the Virginia Department of Health. After the 15-day relay period and receipt of the permit by the relayer, the yellow flag may be removed and the shellfish harvested.

VA.R. Doc. No. R06-61; Filed September 30, 2005, 8:46 a.m.

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**Title of Regulation:** 4 VAC 20-720. Pertaining to Restrictions on Oyster Harvest (amending 4 VAC 20-720-20, 4 VAC 20-720-40, 4 VAC 20-720-50, 4 VAC 20-720-60, 4 VAC 20-720-70, 4 VAC 20-720-75, 4 VAC 20-720-80 and 4 VAC 20-720-100; repealing appendix containing maps).

**Statutory Authority:** §§ 28.2-201 and 28.2-507 of the Code of Virginia.

**Effective Date:** October 1, 2005.

**Agency Contact:** Deborah Cawthon, Agency Regulatory Coordinator, Marine Resources Commission, 2600 Washington Avenue, 3rd Floor, Newport News, VA 23607, telephone (757) 247-2248, FAX (757) 247-2002 or e-mail debbie.cawthon@mrc.virginia.gov.

**Summary:**

*The amendments establish the public harvest seasons for 2005-2006 and increase the catch limit from eight bushels to 12 bushels per registered commercial fisherman licensee for certain areas. The amendments also remove the 16-bushel maximum limit for vessels oystering in the Tangier and Pocomoke Sounds.*

**4 VAC 20-720-20. Definitions.**

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

"Blackberry Hangs Hand Scrape Area" means the area in Public Ground No. 118 in the Upper Chesapeake Bay, south from the Smith Point Light to the Great Wicomico Light.

"Coan River Area" means that area of the Coan River to the Virginia-Maryland state line (PRV1A to PRV1B), except for that area above a line from Walnut Point (Survey Station Walnut) to Stephens Point (Survey Station Arthur).

"Corrotoman River Hand Tong Area" means that area of the Corrotoman River north of the line drawn from Balls Pt. to Corrotoman Pt.

"Deep Rock Patent Tong Dredge Area (Lower Chesapeake Bay)" means the area described as follows: starting at Cherry Point, Gwynns Island, thence northeast to G"1P" along the south side of the channel to Piankatank River; thence east-southeast to G"1R"; thence southwest to Sandy Point, Gwynns Island, North of Hole-in-the-Wall (see map).

"Deep Water Shoal State Replenishment Seed Area (DWS)" in the James River (574.66 Acres) means the areas beginning at a point approximately 530 feet west of Deep Water Shoal Light, said point being Corner 1 as located by Virginia State Plane Coordinates, South Zone, NAD 1927, north 302,280.00, east 2,542,360.00; thence north azimuth 30°49'59", 4,506.99 feet to Corner 2, north 306,150.00, east 2,544,670.00; thence north azimuth 135°08'57", 5,430.60 feet to Corner 3, north 302,300.00, east 2,548,500.00; thence north azimuth 212°13'54", 3,487.42 feet to Corner 4, north 299,350.00, east 2,546,640.00; thence north azimuth 269°10'16", 2,765.29 feet to Corner 5, north 299,310.00, east 2,543,875.00; thence north azimuth 332°58'26", 3,334.09 feet to Corner 1, being the point of beginning.

"Drumming Ground Hand Scrape Area" means that portion of the Rappahannock and Corrotoman River, west of the Rt. 3 bridge (Norris Bridge), and north of a line from the center of the Rt. 3 bridge (Norris Bridge) following westward along the channel to Towles Point at Buoy "R6", excluding the Corrotoman River north of a line from Balls Pt. to Corrotoman Pt.

"Great Wicomico River Hand Scrape Area" means that area of a line drawn from Sandy Point to Cockrell Point.

"Hand scrape" means any device or instrument with a catching bar having an inside measurement of no more than 22 inches, which is used or usable for the purpose of extracting or removing shellfish from a water bottom or the bed of a body of water.

"James River Hand Scrape Area" means those public oyster grounds of the James River west of the Monitor and Merrimac Bridge Tunnel and northeast of the Mills E. Godwin/Nansemond River Bridge (Route 17) to the James River Bridge (Route 17).

"Lower Machodoc Area" means that area of the Lower Machodoc River to the Virginia-Maryland state line (PRV5A to PRV5C).

"Nomini River Area" means that area of the Nomini River to the Virginia-Maryland state line (PRV6A to PRV6B).

"Pocomoke and Tangier Sounds Management Area (PTSMA)" means the area as defined in § 28.2-524 of the Code of Virginia.

"Pocomoke Sound" means that area northeast from a line from Beach Island Light to the house on the Great Fox Island.

"Public oyster ground" means all those grounds defined in § 28.2-551 of the Code of Virginia, all ground set aside as public oyster ground by court order, and all ground set aside as public oyster ground by order of the Marine Resources Commission.

~~"Rappahannock River Drumming Ground Hand Scrape Area" means that portion of the Rappahannock and Corrotoman River, west of the Route 3 bridge (Norris Bridge), and north of a line from the center of the Route 3 bridge (Norris Bridge) following westward along the channel to Towles Point at Buoy "R6," excluding the Corrotoman River north of a line from Balls Point to Corrotoman Point. (See map.)~~

"Rappahannock River Hand Scrape Area" means that area in the Rappahannock River including all public grounds between a line extending from the eastern-most point of Long Point thence in an easterly direction to flashing red buoy #8; thence due east to Rogue Point, upriver to a line extending from Tarpley Point; thence in a southwesterly direction to flashing green buoy #13; thence south-southwesterly to Jones Point. (See map.)

~~"Rappahannock River Temples Bay Hand Scrape Area" means that area in the Rappahannock River, west of the Route 3 bridge (Norris Bridge) and south of a line drawn from the center of the Route 3 bridge (Norris Bridge) upriver to Towles Point continuing the line upriver to red buoy #8; thence across to the southside of the river to Long Point, thence back~~

~~to the Route 3 bridge (Norris Bridge) along the southern shoreline. (See map.)~~

*"Rappahannock River Hand Tong Area" means that area of the Rappahannock River west of the line drawn from Tarpley Pt. to Green Buoy #13 to Jones Pt.*

"Standard oyster dredge" means any device or instrument having a maximum weight of 150 pounds with attachments, maximum width of 50 inches and maximum tooth length of four inches.

"Tangier Sound" means that area from Tangier Light north to the Maryland-Virginia line (red buoy #6).

"Tangier Sound Hand Tong Area" means that area in the PTSMA south and west of a line from Fishbone Island thence southeast to bell buoy #5, thence south southwest to buoy #3 (such area to include all of Public Ground 3 and Flat Rock) and shall be a hand tong area only (~~see map~~) and Cod Harbor (approximately 1,124 acres) beginning at a point of East Point Marsh, said point having the Virginia state coordinates, south section, coordinates of north 555,414.89, east 2,730,388.85; thence south 79°59', east 2,260 feet to a line designating the western extent of the PTSMA as described in § 28.2-524 of the Code of Virginia; thence south 10°16', west 2,800 feet; thence south 28°46', west 8,500 feet to a point on Sand Spit, position north 545,131.78, east, 2,728,014.94; thence along the mean low water line of Cod Harbor in a west, north and northeast direction crossing Canton Creek and Mailboat Harbor from headland to headland to the point of beginning. (~~See map.~~)

*"Temples Bay Hand Scrape Area" means that area in the Rappahannock River west of the Rt. 3 bridge (Norris Bridge) and south of a line drawn from the center of the Rt. 3 bridge (Norris Bridge) upriver to Towles Pt. continuing the line upriver to Red Buoy 8; thence across to the southside of the river to Long Pt., thence back to the Rt. 3 bridge (Norris Bridge) along the southern shoreline.*

"Thomas Rock Hand Scrape Area" means an area in the James River with an eastern boundary being the James River, Route 17 bridge and a western boundary being a line drawn from the south side of the river at Rainbow Farm Point; thence to the channel buoy green #5; and thence to Blunt Point on the north side of the river.

"Unassigned ground" means all grounds other than public oyster ground as defined by this chapter and which have not been set aside or assigned by lease, permit, or easement by the Marine Resources Commission.

*"Yeocomico River Area" means that area of the Yeocomico River inside Public Grounds 102, 104, 107, 112 and 113.*

"York River Hand Scrape Area" means an area above the Route 17 or Coleman Bridge in Public Ground No. 30, along the north side of the river, to just above Aberdeen Creek.

#### **4 VAC 20-720-40. Open season and areas.**

The lawful seasons and areas for the harvest of oysters from the public oyster grounds and unassigned grounds are as follows:

1. James River Seed Area, including the Deep Water Shoal State Replenishment Seed Area and James River Jail Island and Point of Shoals Clean Cull Areas: October 1, 2004 2005, through April 30, 2005 2006.

2. Seaside of Eastern Shore: for clean cull oysters only, ~~November 1, 2004~~ October 1, 2005, through January 31, 2005 2006.

~~3. The Rappahannock River Hand Scrape Area; the Rappahannock River Drumming Ground Hand Scrape Area; the Rappahannock River Temples Bay Hand Scrape Area: October 15, 2004, through January 15, 2005, and February 1, 2005, through March 31, 2005.~~

~~4. That area of the Rappahannock River, west of the line drawn from Tarpley Point to green buoy #13 to Jones Point and the area of the Corrotoman River, north of the line drawn from Balls Point to Corrotoman Point; that area of the Nomini and Lower Machodoc Rivers to the Virginia-Maryland state line (PRV6A to PRV6B; and PRV5A to PRV5C, respectively); that area of the Coan River to the Virginia-Maryland state line (PRV1A to PRV1B), except for that area above a line from Walnut Point (Survey Station Walnut) to Stephens Point (Survey Station Arthur); that area of the Yeocomico River inside Public Grounds 102, 104, 107, 112 and 113; that area of the Piankatank River, west of the Route 3 bridge; and Little Wicomico River: October 15, 2004, through January 15, 2005.~~

~~5. The following areas of the PTSMA in Tangier Sound, from Tangier Light north to the Maryland-Virginia Line (red buoy #6) and in the Pocomoke Sound, northeast from a line from Beach Island Light to the house on the Great Fox Island, excluding the Tangier Sound Hand Tong Areas: December 1, 2004, through February 28, 2005.~~

~~6. Great Wicomico River Hand Scrape Area and James River Hand Scrape Area: February 1, 2005, through March 31, 2005.~~

~~7. Upper Chesapeake Bay, Blackberry Hangs Hand Scrape Area and in the York River Hand Scrape Area: December 1, 2004, through January 31, 2005. Thomas Rock Hand Scrape Area: December 1, 2004, through March 31, 2005.~~

~~8. Lower Chesapeake Bay, Deep Rock Patent Tong Area: February 1, 2005, through March 31, 2005.~~

3. *The following areas shall be opened from October 1, 2005, through January 31, 2006: the Rappahannock River Hand Tong Area; the Corrotoman River Hand Tong Area; the Rappahannock River Hand Scrape Area; the Drumming Ground Hand Scrape Area (Rappahannock River); the Temples Bay Hand Scrape Area (Rappahannock River); the Coan River; the Nomini River; the Lower Machodoc River; the Yeocomico River; the Piankatank River; the Little Wicomico River; the Great Wicomico River Hand Scrape Area; the James River Hand Scrape Area; the Blackberry Hangs Hand Scrape Area (Upper Chesapeake Bay); the York River Hand Scrape Area; the Thomas Rock Hand Scrape Area (James River); and the Deep Rock Dredge Area (Lower Chesapeake Bay).*

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4. ~~Tangier Sound and Pocomoke Sound: December 1, 2005, through February 28, 2006.~~

#### 4 VAC 20-720-50. Closed harvest season and areas.

It shall be unlawful for any person to harvest oysters from the following areas during the specified periods:

1. All public oyster grounds and unassigned grounds in the Chesapeake Bay and its tributaries, including the tributaries of the Potomac River, except those areas listed in 4 VAC 20-720-40, are closed: ~~October 1, 2004~~ 2005, through September 30, ~~2005~~ 2006.

2. James River Seed Area, including the Deep Water Shoal State Replenishment Seed Area and the James River Jail Island and Point of Shoals Clean Cull Areas: May 1, ~~2005~~ 2006, through September 30, ~~2005~~ 2006.

3. All public oyster grounds and unassigned grounds on the Seaside of Eastern Shore: for clean cull oysters, ~~October 1, 2004, through October 31, 2004, and February 1, 2005~~ 2006, through September 30, ~~2005~~ 2006, and for seed oysters, all year. Oyster harvest from leased oyster ground and fee simple oyster ground shall require a permit from the Marine Resources Commission as set forth in 4 VAC 20-720-90.

4. ~~That area of the Rappahannock River west of the line drawn from Tarpley Point to green buoy #13 to Jones Point; the area of the Corrotoman River, north of the line drawn from Balls Point to Corrotoman Point; that area of the Nomini and Lower Machodoc Rivers to the Virginia-Maryland state line; that area of the Coan River to the Virginia-Maryland state line, except for above a line from Walnut Point to Stephens Point; that area of the Piankatank River west of the Route 3 bridge; and that area of the Yeocomico River inside Public Grounds 102, 104, 107, 112 and 113; and Little Wicomico River: October 1, 2004, through October 14, 2004, and January 16, 2005, through September 30, 2005. The Rappahannock River Hand Scrape Area, the Rappahannock River Temples Bay Hand Scrape Area, and the Rappahannock River Drumming Ground Hand Scrape Area: October 1, 2004, through October 14, 2004, and January 16, 2005, through January 31, 2005, and April 1, 2005, through September 30, 2005.~~

5. ~~The following areas of the PTSMA: in Tangier, from Tangier Light north to the Maryland-Virginia line, and in the area of the PTSMA in the Pocomoke Sound, northeast from a line from Beach Island Light to the house on the Great Fox Island: October 1, 2004, through November 30, 2004, and March 1, 2005, through September 30, 2005.~~

6. ~~Great Wicomico River Hand Scrape Area and the James River Hand Scrape Area: October 1, 2004, through January 31, 2005, and April 1, 2005, through September 30, 2005.~~

7. ~~Upper Chesapeake Bay, Blackberry Hangs Hand Scrape Area and the York River Hand Scrape Area: October 1, 2004, through November 30, 2004, and February 1, 2005, through September 30, 2005. The Thomas Rock Hand Scrape Area: October 1, 2004, through November 30, 2004, and April 1, 2005, through September 30, 2005.~~

8. ~~Lower Chesapeake Bay, Deep Rock Patent Tong Area: October 1, 2004, through January 31, 2005, and April 1, 2005, through September 30, 2005.~~

4. ~~The following areas shall be closed from February 1, 2006, through September 30, 2006: the Rappahannock River Hand Tong Area; the Corrotoman River Hand Tong Area; the Rappahannock River Hand Scrape Area; the Temples Bay Hand Scrape Area (Rappahannock River); the Drumming Ground Hand Scrape Area (Rappahannock River); the Nomini River; the Lower Machodoc River; the Coan River; the Piankatank River; the Yeocomico River; the Little Wicomico River; the Great Wicomico River Hand Scrape Area; the James River Hand Scrape Area; the Thomas Rock Hand Scrape Area and the Blackberry Hangs Hand Scrape Area (Upper Chesapeake Bay); the York River; the Deep Rock Dredge Area (Lower Chesapeake Bay).~~

5. ~~Tangier Sound and Pocomoke Sound: October 1, 2005 through November 30, 2005, and March 1, 2006, through September 30, 2006.~~

#### 4 VAC 20-720-60. Day and time limit.

A. It shall be unlawful to take, catch or possess oysters on Saturday and Sunday from the public oyster grounds or unassigned grounds in the waters of the Commonwealth of Virginia, except that this provision shall not apply to any person harvesting no more than one bushel per day by hand for household use only during the season when the public oyster grounds or unassigned grounds are legally open for harvest. The presence of any gear normally associated with the harvesting of oysters on board the boat or other vehicle used during any harvesting under this exception shall be prima facie evidence of violation of this chapter.

B. It shall be unlawful for any person to harvest or attempt to harvest oysters prior to sunrise or after 2 p.m. from the areas described in subdivisions 1 and 3 through 8 and 4 of 4 VAC 20-720-40.

C. It shall be unlawful for a boat with an oyster dredge aboard to leave the dock until one hour before sunrise or return to the dock after sunset.

D. It shall be unlawful for a boat with a hand scrape aboard to leave the dock until one-half hour before sunrise or return to the dock after sunset.

#### 4 VAC 20-720-70. Gear restrictions.

A. It shall be unlawful for any person to harvest oysters in the James River Seed Areas, including the Deep Water Shoal State Replenishment Seed Area; the James River Point Jail Island and Point of Shoals Clean Cull Areas; areas in the Rappahannock River, west of the line drawn from Tarpley Point to green buoy #13 to Jones Point ~~Hand Tong Area~~; the area of the Corrotoman River, north of the line drawn from Balls Point to Corrotoman Point ~~Hand Tong Area~~; that area of the Nomini and Lower Machodoc Rivers to the Virginia-Maryland state line (PRV6A to PRV6B and PRV5A to PRV5C, respectively); that area of the Coan River to the Virginia-Maryland state line (PRV1A to PRV1B), except for that area above a line from Walnut Point (Survey Station Walnut) to

~~Stephens Point (Survey Station Arthur); that area of the Yeocomico River inside public grounds 102, 104, 107, 112 and 113; that area of the Piankatank River, west of the Route 3 bridge; and Little Wicomico River, except by hand or ordinary tong. It shall be unlawful for any person to have a hand scrape on board a boat that is harvesting or attempting to harvest oysters from public grounds by hand tong.~~

B. It shall be unlawful to harvest oysters from the seaside of the Eastern Shore, except by hand.

C. It shall be unlawful to harvest oysters from the hand scrape areas in the Rappahannock River; James River, Great Wicomico River, Upper Chesapeake Bay, and York River, except by hand scrape.

D. It shall be unlawful for any person to have more than one hand scrape on board any boat that is harvesting oysters or attempting to harvest oysters from public grounds. It shall be unlawful for any person to have a hand tong on board a boat that is harvesting or attempting to harvest oysters from public grounds by hand scrape.

E. It shall be unlawful to harvest oysters from the ~~PTSMA Pocomoke and Tangier Sounds Management Area and Deep Rock Dredge Area~~ except by a standard oyster dredge.

~~F. Harvesting with an oyster patent tong shall be allowed in the Deep Rock Patent Tong Area in the Lower Chesapeake Bay. It shall be unlawful to harvest oysters from the Lower Chesapeake Bay except by patent tongs.~~

**4 VAC 20-720-75. Gear license fees.**

A. It shall be unlawful for any person to harvest shellfish from the hand scrape areas in the Rappahannock River, James River, Great Wicomico River, Upper Chesapeake Bay, and York River who has not first obtained a current hand scrape license ~~at a cost of \$50.~~

B. It shall be unlawful for any person to harvest shellfish with a dredge from the public oyster grounds in the ~~PTSMA and the Deep Rock Dredge Area~~ who has not first obtained a current dredge license ~~at a cost of \$50.~~

**4 VAC 20-720-80. Quotas and harvest limits.**

A. In the James River Seed Area, including the Deep Water Shoal State Replenishment Seed Area, there shall be an oyster harvest quota of 80,000 bushels of seed oysters. It shall be unlawful for any person to harvest seed oysters from the James River Seed Area after the 80,000 bushel quota has been reached. In the James River Seed Area, including the Deep Water Shoal State Replenishment Seed Area, and Clean Cull Areas there shall be an oyster harvest quota of 15,000 bushels of market oysters. It shall be unlawful for any person to harvest market oysters from the James River Seed and Clean Cull Areas after the 15,000 bushel quota has been reached.

B. The lawful daily limit of clean cull oysters harvested from the areas as described in ~~subdivisions~~ *subdivision* 3, ~~4 and 6 through 8~~ of 4 VAC 20-720-40 shall be determined by the number of registered commercial fishermen licensees on board the vessel multiplied by ~~eight~~ 12 bushels. It shall be

unlawful to possess on board any vessel or to land more than the daily limit of clean cull oysters.

C. In the PTSMA in Tangier Sound, ~~from Tangier Light north to the Maryland-Virginia line, and in the Pocomoke Sound, northeast from a line from Beach Island Light to the house on the Great Fox Island,~~ where harvesting is allowed by dredge, there shall be a harvest limit of eight *bushels* per registered commercial fisherman licensee on board the vessel, ~~not to exceed 16 bushels per day, per vessel. It shall be unlawful to possess on board any vessel more than 16 bushels per day or~~ *for any* registered commercial fisherman licensee to possess more than eight bushels per day. No blue crab bycatch is allowed. It shall be unlawful to possess on board any vessel more than 250 hard clams.

D. Harvesters who export the oysters to an out-of-state market or do not sell the oysters to a licensed and Department of Health certified Virginia buyer but sell the oysters directly to the public for human consumption shall report oysters harvested on a daily basis and pay oyster taxes weekly.

**4 VAC 20-720-100. Seed oyster planting procedures.**

A. The marine ~~patrol~~ *police* officer at the point of seed harvest may require that an officer be present during the seed planting. When this is required, it will be specified on the seed transfer permit. If an officer is required to be present at planting, the planter shall notify the law-enforcement officer in the area prior to planting. It shall be unlawful for the permittee or planter to plant the oysters without a marine ~~patrol~~ *police* officer being present.

B. The planting of seed oysters shall consist of spreading the oysters loosely on the bottom of the planting area. It shall be unlawful to plant seed oysters in any manner except by spreading the oysters loosely on the bottom.

C. Seed oysters shall be placed on a designated and marked area of the private ground from which said oysters are not to be removed until after the public oyster season has closed (4 VAC 20-720-40). It shall be unlawful to reharvest these seed oysters prior to the end of the public oyster season.

APPENDIX

**REGISTRAR'S NOTICE:** The maps of the Rappahannock River Drumming Hand Scrape Area, the Pocomoke-Tangier Management Area Hand Tong Area, and the Lower Chesapeake Bay Deep Rock Dredge Area, although not printed here, are stricken in their entirety from this chapter.

VA.R. Doc. No. R06-63; Filed September 30, 2005, 8:46 a.m.



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# Final Regulations

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## TITLE 9. ENVIRONMENT

### STATE AIR POLLUTION CONTROL BOARD

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

**Titles of Regulations:** 9 VAC 5-50. New and Modified Stationary Sources (amending 9 VAC 5-50-400).

**9 VAC 5-60. Hazardous Air Pollutant Sources (amending 9 VAC 5-60-60, 9 VAC 5-60-90 and 9 VAC 5-60-100).**

**Statutory Authority:** § 10.1-1308 of the Code of Virginia; § 112 of the Clear Air Act; and 40 CFR Parts 61 and 63.

**Effective Date:** December 1, 2005.

**Agency Contact:** Karen G. Sabasteanski, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4426, FAX (804) 698-4510 or email kgsabastea@deq.virginia.gov.

**Summary:**

*The amendments update references to federal regulations incorporated by reference to reflect the Code of Federal Regulations as published on July 1, 2005. In addition, the list of hazardous air pollutants, petitions process, lesser quantity designations, and source category list is revised to include the deletion of ethylene glycol monobutyl ether at 40 CFR 63.63.*

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

The U.S. Environmental Protection Agency Regulations on Standards of Performance for New Stationary Sources (NSPSs), as promulgated in 40 CFR Part 60 and designated in 9 VAC 5-50-410 are, unless indicated otherwise, incorporated by reference into the regulations of the board as amended by the word or phrase substitutions given in 9 VAC 5-50-420. The complete text of the subparts in 9 VAC 5-50-410 incorporated herein by reference is contained in 40 CFR Part 60. The 40 CFR section numbers appearing under each subpart in 9 VAC 5-50-410 identify the specific provisions of the subpart incorporated by reference. The specific version of the provision adopted by reference shall be that contained in the CFR (~~2004~~ 2005) in effect July 1, ~~2004~~ 2005. In making reference to the Code of Federal Regulations, 40 CFR Part 60 means Part 60 of Title 40 of the Code of Federal Regulations; 40 CFR 60.1 means 60.1 in Part 60 of Title 40 of the Code of Federal Regulations.

**9 VAC 5-60-60. General.**

The Environmental Protection Agency (EPA) Regulations on National Emission Standards for Hazardous Air Pollutants (NESHAP), as promulgated in 40 CFR Part 61 and designated

in 9 VAC 5-60-70 are, unless indicated otherwise, incorporated by reference into the regulations of the board as amended by the word or phrase substitutions given in 9 VAC 5-60-80. The complete text of the subparts in 9 VAC 5-60-70 incorporated herein by reference is contained in 40 CFR Part 61. The 40 CFR section numbers appearing under each subpart in 9 VAC 5-60-70 identify the specific provisions of the subpart incorporated by reference. The specific version of the provision adopted by reference shall be that contained in the CFR (~~2004~~ 2005) in effect July 1, ~~2004~~ 2005. In making reference to the Code of Federal Regulations, 40 CFR Part 61 means Part 61 of Title 40 of the Code of Federal Regulations; 40 CFR 61.01 means 61.01 in Part 61 of Title 40 of the Code of Federal Regulations.

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

The Environmental Protection Agency (EPA) National Emission Standards for Hazardous Air Pollutants for Source Categories (Maximum Achievable Control Technologies, or MACTs) as promulgated in 40 CFR Part 63 and designated in 9 VAC 5-60-100 are, unless indicated otherwise, incorporated by reference into the regulations of the board as amended by the word or phrase substitutions given in 9 VAC 5-60-110. The complete text of the subparts in 9 VAC 5-60-100 incorporated herein by reference is contained in 40 CFR Part 63. The 40 CFR section numbers appearing under each subpart in 9 VAC 5-60-100 identify the specific provisions of the subpart incorporated by reference. The specific version of the provision adopted by reference shall be that contained in the CFR (~~2004~~ 2005) in effect July 1, ~~2004~~ 2005. In making reference to the Code of Federal Regulations, 40 CFR Part 63 means Part 63 of Title 40 of the Code of Federal Regulations; 40 CFR 63.1 means 63.1 in Part 63 of Title 40 of the Code of Federal Regulations.

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

Subpart A--General Provisions.

40 CFR 63.1 through 40 CFR 63.11; 40 CFR 63.16

(applicability, definitions, units and abbreviations, prohibited activities and circumvention, construction and reconstruction, compliance with standards and maintenance requirements, performance testing requirements, monitoring requirements, notification requirements, recordkeeping and reporting requirements, control device requirements, performance track provisions)

Subpart B--Not applicable.

Subpart C--List of Hazardous Air Pollutants, Petitions Process, Lesser Quantity Designations, Source Category List.

40 CFR 63.60 ~~and~~, 40 CFR 63.62 ~~and~~ 40 CFR 63.63

(deletion of caprolactam from the list of hazardous air pollutants, redefinition of glycol ethers listed as hazardous air pollutants, *deletion of ethylene glycol monobutyl ether*)

Subpart D--Not applicable.

Subpart E--Not applicable.

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

40 CFR 63.100 through 40 CFR 63.106

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

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

40 CFR 63.110 through 40 CFR 63.152

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

Subpart H--Organic Hazardous Air Pollutants for Equipment Leaks.

40 CFR 63.160 through 40 CFR 63.182

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

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

40 CFR 63.190 through 40 CFR 63.192

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

Subpart J--Polyvinyl Chloride and Copolymers Production.

40 CFR 63.210 through 40 CFR 63.217

(production of PVC and copolymers)

Subpart K--Reserved.

Subpart L--Coke Oven Batteries.

40 CFR 63.300 through 40 CFR 63.313

(existing by-product coke oven batteries at a coke plant, and existing nonrecovery coke oven batteries located at a coke plant)

Subpart M--Perchloroethylene Dry Cleaning Facilities.

40 CFR 63.320 through 40 CFR 63.325

(each dry cleaning facility that uses perchloroethylene)

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

40 CFR 63.340 through 40 CFR 63.347

(each chromium electroplating or chromium anodizing tank at facilities performing hard chromium electroplating, decorative chromium electroplating, or chromium anodizing)

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

40 CFR 63.360 through 40 CFR 63.367

(sterilization sources using ethylene oxide in sterilization or fumigation operations)

Subpart P--Reserved.

Subpart Q--Industrial Process Cooling Towers.

40 CFR 63.400 through 40 CFR 63.406

(industrial process cooling towers that are operated with chromium-based water treatment chemicals)

Subpart R--Gasoline Distribution Facilities.

40 CFR 63.420 through 40 CFR 63.429

(bulk gasoline terminals and pipeline breakout stations)

Subpart S--Pulp and Paper Industry.

40 CFR 63.440 through 40 CFR 63.458

(processes that produce pulp, paper, or paperboard, and use the following processes and materials: kraft, soda, sulfite, or semi-chemical pulping processes using wood; or mechanical pulping processes using wood; or any process using secondary or nonwood fibers)

Subpart T--Halogenated Solvent Cleaning.

40 CFR 63.460 through 40 CFR 63.469

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

Subpart U--Group I Polymers and Resins.

40 CFR 63.480 through 40 CFR 63.506

(elastomer product process units that produce butyl rubber, halobutyl rubber, epichlorohydrin elastomers, ethylene propylene rubber, HypalonTM, neoprene, nitrile butadiene rubber, nitrile butadiene latex, polysulfide rubber, polybutadiene rubber/styrene butadiene rubber by solution, styrene butadiene latex, and styrene butadiene rubber by emulsion)

Subpart V--Reserved.

Subpart W--Epoxy Resins Production and Non-Nylon Polyamides Production.

40 CFR 63.520 through 40 CFR 63.527

(manufacturers of basic liquid epoxy resins and wet strength resins)

Subpart X--Secondary Lead Smelting.

40 CFR 63.541 through 40 CFR 63.550

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(at all secondary lead smelters: blast, reverbatory, rotary, and electric smelting furnaces; refining kettles; agglomerating furnaces; dryers; process fugitive sources; and fugitive dust sources)

Subpart Y--Marine Tank Vessel Tank Loading Operations.

40 CFR 63.560 through 40 CFR 63.567

(marine tank vessel unloading operations at petroleum refineries)

Subpart Z--Reserved.

Subpart AA--Phosphoric Acid Manufacturing Plants.

40 CFR 63.600 through 40 CFR 63.610

(wet-process phosphoric acid process lines, evaporative cooling towers, rock dryers, rock calciners, superphosphoric acid process lines, purified acid process lines)

Subpart BB--Phosphate Fertilizers Production Plants.

40 CFR 63.620 through 40 CFR 63.631

(diammonium and monoammonium phosphate process lines, granular triple superphosphate process lines, and granular triple superphosphate storage buildings)

Subpart CC--Petroleum Refineries.

40 CFR 63.640 through 40 CFR 63.654

(storage tanks, equipment leaks, process vents, and wastewater collection and treatment systems at petroleum refineries)

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

40 CFR 63.680 through 40 CFR 63.697

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

Subpart EE--Magnetic Tape Manufacturing Operations.

40 CFR 63.701 through 40 CFR 63.708

(manufacturers of magnetic tape)

Subpart FF--Reserved.

Subpart GG--Aerospace Manufacturing and Rework Facilities.

40 CFR 63.741 through 40 CFR 63.752

(facilities engaged in the manufacture or rework of commercial, civil, or military aerospace vehicles or components)

Subpart HH--Oil and Natural Gas Production Facilities.

40 CFR 63.760 through 40 CFR 63.779

(facilities that process, upgrade, or store hydrocarbon liquids or natural gas; ancillary equipment and compressors intended to operate in volatile hazardous air pollutant service)

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

40 CFR 63.780 through 40 CFR 63.788

(shipbuilding and ship repair operations)

Subpart JJ--Wood Furniture Manufacturing Operations.

40 CFR 63.800 through 40 CFR 63.819

(finishing materials, adhesives, and strippable spray booth coatings; storage, transfer, and application of coatings and solvents)

Subpart KK--Printing and Publishing Industry.

40 CFR 63.820 through 40 CFR 63.831

(publication rotogravure, product and packaging rotogravure, and wide-web printing processes)

Subpart LL--Primary Aluminum Reduction Plants.

40 CFR 63.840 through 40 CFR 63.859

(each pitch storage tank, potline, paste production plant, or anode bulk furnace associated with primary aluminum production)

Subpart MM--Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite and Stand-Alone Semicheical Pulp Mills.

40 CFR 63.860 through 40 CFR 63.868

(chemical recovery systems, direct and nondirect contact evaporator recovery furnace systems, lime kilns, sulfite combustion units, semicheical combustion units)

Subpart NN--Reserved.

Subpart OO--Tanks--Level 1.

40 CFR 63.900 through 40 CFR 63.907

(for off-site waste and recovery operations, fixed-roof tanks)

Subpart PP--Containers.

40 CFR 63.920 through 40 CFR 63.928

(for off-site waste and recovery operations, containers)

Subpart QQ--Surface Impoundments.

40 CFR 63.940 through 40 CFR 63.948

(for off-site waste and recovery operations, surface impoundment covers and vents)

Subpart RR--Individual Drain Systems.

40 CFR 63.960 through 40 CFR 63.966

(for off-site waste and recovery operations, inspection and maintenance of individual drain systems)

Subpart SS--Closed Vent Systems, Control Devices, Recovery Devices and Routing to a Fuel Gas System or a Process.

40 CFR 63.980 through 40 CFR 63.999

(closed vent systems, control devices, recovery devices, and routing to a fuel gas system or a process, when associated with facilities subject to a referencing subpart)

Subpart TT--Equipment Leaks--Control Level 1.

40 CFR 63.1000 through 40 CFR 63.1018

(control of air emissions from equipment leaks when associated with facilities subject to a referencing subpart)

Subpart UU--Equipment Leaks--Control Level 2.

40 CFR 63.1019 through 40 CFR 63.1039

(control of air emissions from equipment leaks when associated with facilities subject to a referencing subpart: pumps, compressors, agitators, pressure relief devices, sampling connection systems, open-ended valves or lines, valves, connectors, instrumentation systems, closed vent systems and control devices)

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

40 CFR 63.1040 through 40 CFR 63.1049

(for off-site waste and recovery operations, oil-water separators and organic-water separator roofs and vents)

Subpart WW--Storage Vessels (Tanks)--Control Level 2.

40 CFR 63.1060 through 40 CFR 63.1066

(storage vessels associated with facilities subject to a referencing subpart)

Subpart XX--Ethylene Manufacturing Process Units: Heat Exchange Systems and Waste.

40 CFR 63.1080 through 40 CFR 63.1098

(any cooling tower system or once-through cooling water system)

Subpart YY--Generic Maximum Achievable Control Technology Standards.

40 CFR 63.1100 through 40 CFR 63.1113

(acetal resins production, acrylic and modacrylic fibers production, hydrogen fluoride production, polycarbonate production)

Subpart ZZ--Reserved.

Subpart AAA--Reserved.

Subpart BBB--Reserved.

Subpart CCC--Steel Pickling--Hydrogen Chloride Process Facilities and Hydrochloric Acid Regeneration Plants.

40 CFR 63.1155 through 40 CFR 63.1174

(steel pickling facilities that pickle carbon steel using hydrochloric acid solution, hydrochloric acid regeneration plants)

Subpart DDD--Mineral Wool Production.

40 CFR 63.1175 through 40 CFR 63.1199

(cupolas and curing ovens at mineral wool manufacturing facilities)

Subpart EEE--Hazardous Waste Combustors.

40 CFR 63.1200 through 40 CFR 63.1213

(hazardous waste combustors)

Subpart FFF--Reserved.

Subpart GGG--Pharmaceutical Production.

40 CFR 63.1250 through 40 CFR 63.1261

(pharmaceutical manufacturing operations)

Subpart HHH--Natural Gas Transmission and Storage Facilities.

40 CFR 63.1270 through 40 CFR 63.1289

(natural gas transmission and storage facilities that transport or store natural gas prior to entering the pipeline to a local distribution company or to a final end user)

Subpart III--Flexible Polyurethane Foam Production.

40 CFR 63.1290 through 40 CFR 63.1309

(flexible polyurethane foam or rebond processes)

Subpart JJJ--Group IV Polymers and Resins.

40 CFR 63.1310 through 40 CFR 63.1335

(facilities which manufacture acrylonitrile butadiene styrene resin, styrene acrylonitrile resin, methyl methacrylate butadiene styrene resin, polystyrene resin, poly(ethylene terephthalate) resin, or nitrile resin)

Subpart KKK--Reserved.

Subpart LLL--Portland Cement Manufacturing.

40 CFR 63.1340 through 40 CFR 63.1359

(kilns; in-line kilns/raw mills; clinker coolers; raw mills; finish mills; raw material dryers; raw material, clinker, or finished product storage bins; conveying system transfer points; bagging systems; bulk loading or unloading systems)

Subpart MMM--Pesticide Active Ingredient Production.

40 CFR 63.1360 through 40 CFR 63.1369

(pesticide active ingredient manufacturing process units, waste management units, heat exchange systems, and cooling towers)

Subpart NNN--Wool Fiberglass Manufacturing.

40 CFR 63.1380 through 40 CFR 63.1399

(glass melting furnaces, rotary spin wool fiberglass manufacturing lines producing bonded wool fiberglass building insulation or bonded heavy-density product)

Subpart OOO--Amino/Phenolic Resins Production.

40 CFR 63.1400 through 40 CFR 63.1419

(unit operations, process vents, storage vessels, equipment subject to leak provisions)

Subpart PPP--Polyether Polyols Production.

40 CFR 63.1420 through 40 CFR 63.1439

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(polyether polyol manufacturing process units)

Subpart QQQ--Primary Copper Smelting.

40 CFR 63.1440 through 40 CFR 63.1-1459

(batch copper converters, including copper concentrate dryers, smelting furnaces, slag cleaning vessels, copper converter departments, and the entire group of fugitive emission sources)

Subpart RRR--Secondary Aluminum Production.

40 CFR 63.1500 through 40 CFR 63.1520

(scrap shredders; thermal chip dryers; scrap dryers/delacquering kilns/decoating kilns; group 2, sweat, dross-only furnaces; rotary dross coolers; processing units)

Subpart SSS--Reserved.

Subpart TTT--Primary Lead Smelting.

40 CFR 63.1541 through 40 CFR 63.1550

(sinter machines, blast furnaces, dross furnaces, process fugitive sources, fugitive dust sources)

Subpart UUU--Petroleum Refineries: Catalytic Cracking Units, Catalytic Reforming Units, and Sulfur Recovery Units.

40 CFR 63.1560 through 40 CFR 63.1579

(petroleum refineries that produce transportation and heating fuels or lubricants, separate petroleum, or separate, crack, react, or reform an intermediate petroleum stream, or recover byproducts from an intermediate petroleum stream)

Subpart VVV--Publicly Owned Treatment Works.

40 CFR 63.1580 through 40 CFR 63.1595

(intercepting sewers, outfall sewers, sewage collection systems, pumping, power, and other equipment)

Subpart WWW--Reserved.

Subpart XXX--Ferroalloys Production: Ferromanganese and Silicomanganese.

40 CFR 63.1620 through 40 CFR 63.1679

(submerged arc furnaces, metal oxygen refining processes, crushing and screening operations, fugitive dust sources)

Subpart YYY--Reserved.

Subpart ZZZ--Reserved.

Subpart AAAA--Municipal Solid Waste Landfills.

40 CFR 63.1930 through 40 CFR 63.1990

(municipal solid waste landfills that have accepted waste since November 8, 1987, or have additional capacity for waste deposition)

Subpart BBBB--Reserved.

Subpart CCCC--Manufacturing of Nutritional Yeast.

40 CFR 63.2130 through 40 CFR 63.2192

(fermentation vessels)

Subpart DDDD--~~Reserved~~ Plywood and Composite Wood Products.

40 CFR 63.2230 through 40 CFR 63.2292

(manufacture of plywood and composite wood products by bonding wood material or agricultural fiber with resin under heat and pressure to form a structural panel or engineered wood product)

Subpart EEEE--Organic Liquids Distribution (Nongasoline).

40 CFR 63.2330 through 40 CFR 63.2406

(transfer of noncrude oil liquids or liquid mixtures that contain organic hazardous air pollutants, or crude oils downstream of the first point of custody, via storage tanks, transfer racks, equipment leak components associated with pipelines, and transport vehicles)

Subpart FFFF--Miscellaneous Organic Chemical Manufacturing.

40 CFR 63.2430 through 40 CFR 63.2550

(reaction, recovery, separation, purification, or other activity, operation, manufacture, or treatment that are used to produce a product or isolated intermediate)

Subpart GGGG--Solvent Extraction for Vegetable Oil Production.

40 CFR 63.2830 through 40 CFR 63.2872

(vegetable oil production processes)

Subpart HHHH--Wet-formed Fiberglass Mat Production.

40 CFR 63.2980 through 63.3079

(wet-formed fiberglass mat drying and curing ovens)

Subpart IIII--Surface Coating of Automobiles and Light-Duty Trucks.

40 CFR 63.3080 through 40 CFR 63.3176.

(application of topcoat to new automobile or new light-duty truck bodies or body parts)

Subpart JJJJ--Paper and Other Web Coating.

40 CFR 63.3280 through 40 CFR 63.3420

(web coating lines engaged in the coating of metal webs used in flexible packaging and in the coating of fabric substrates for use in pressure-sensitive tape and abrasive materials)

Subpart KKKK--Surface Coating of Metal Cans.

40 CFR 63.3480 through 40 CFR 63.3561

(application of coatings to a substrate using spray guns or dip tanks, including one- and two-piece draw and iron can body coating; sheetcoating; three-piece can body assembly coating; and end coating)

Subpart LLLL--Reserved.

Subpart MMMM--Surface Coating of Miscellaneous Metal Parts and Products.

40 CFR 63.3880 through 40 CFR 63.3981

(application of coatings to industrial, household, and consumer products)

Subpart NNNN--Surface Coating of Large Appliances.

40 CFR 63.4080 through 40 CFR 63.4181

(surface coating of a large appliance part or product, including cooking equipment; refrigerators, freezers, and refrigerated cabinets and cases; laundry equipment; dishwashers, trash compactors, and water heaters; and HVAC units, air-conditioning, air-conditioning and heating combination units, comfort furnaces, and electric heat pumps)

Subpart OOOO--Printing, Coating, and Dyeing of Fabrics and Other Textiles.

40 CFR 63.4280 through 40 CFR 63.4371

(printing, coating, slashing, dyeing, or finishing of fabric and other textiles)

Subpart PPPP--Surface Coating of Plastic Parts and Products.

40 CFR 63.4480 through 40 CFR 63.4581

(application of coating to a substrate using spray guns or dip tanks, including motor vehicle parts and accessories for automobiles, trucks, recreational vehicles; sporting and recreational goods; toys; business machines; laboratory and medical equipment; and household and other consumer products)

Subpart QQQQ--Surface Coating of Wood Building Products.

40 CFR 63.4680 through 40 CFR 63.4781

(finishing or laminating of wood building products used in the construction of a residential, commercial, or institutional building)

Subpart RRRR--Surface Coating of Metal Furniture.

40 CFR 63.4880 through 40 CFR 63.4981

(application of coatings to substrate using spray guns and dip tanks)

Subpart SSSS--Surface Coating of Metal Coil.

40 CFR 63.5080 through 40 CFR 63.5209

(organic coating to surface of metal coil, including web unwind or feed sections, work stations, curing ovens, wet sections, and quench stations)

Subpart TTTT--Leather Finishing Operations.

40 CFR 63.5280 through 40 CFR 63.5460

(multistage application of finishing materials to adjust and improve the physical and aesthetic characteristics of leather surfaces)

Subpart UUUU--Cellulose Products Manufacturing.

40 CFR 63.5480 through 40 CFR 63.5610

(cellulose food casing, rayon, cellulosic sponge, cellophane manufacturing, methyl cellulose, hydroxypropyl methyl cellulose, hydroxypropyl cellulose, hydroxyethyl cellulose, and carboxymethyl cellulose manufacturing industries)

Subpart VVVV--Boat Manufacturing.

40 CFR 63.5680 through 40 CFR 63.5779

(resin and gel coat operations, carpet and fabric adhesive operations, aluminum recreational boat surface coating operations)

Subpart WWWW--Reinforced Plastic Composites Production.

40 CFR 63.5780 through 40 CFR 63.5935

(reinforced or nonreinforced plastic composites or plastic molding compounds using thermostat resins and gel coats that contain styrene)

Subpart XXXX--Rubber Tire Manufacturing.

40 CFR 63.5980 through 63.6015

(production of rubber tires and components including rubber compounds, sidewalls, tread, tire beads, tire cord and liners)

Subpart YYYY--Stationary Combustion Turbines.

40 CFR 63.6080 through 40 CFR 63.6175

(simple cycle, regenerative/recuperative cycle, cogeneration cycle, and combined cycle stationary combustion turbines)

Subpart ZZZZ--Stationary Reciprocating Internal Combustion Engines.

40 CFR 63.6580 through 40 CFR 63.6675.

(any stationary internal combustion engine that uses reciprocating motion to convert heat energy into mechanical work)

Subpart AAAAA--Lime Manufacturing Plants.

40 CFR 63.7080 through 40 CFR 63.7143.

(manufacture of lime product, including calcium oxide, calcium oxide with magnesium oxide, or dead burned dolomite, by calcination of limestone, dolomite, shells or other calcareous substances)

Subpart BBBB--Semiconductor Manufacturing.

40 CFR 63.7180 through 63.7195

(semiconductor manufacturing process units used to manufacture p-type and n-type semiconductors and active solid-state devices from a wafer substrate)

Subpart CCCC--Coke Ovens: Pushing, Quenching, and Battery Stacks.

40 CFR 63.7280 through 40 CFR 63.7352

(pushing, soaking, quenching, and battery stacks at coke oven batteries)

Subpart DDDDD--~~Reserved~~ Industrial, Commercial, and Institutional Boilers and Process Heaters.

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40 CFR 63.7480 through 40 CFR 63.7575

(boilers that consist of an enclosed device using controlled flame combustion and having the primary purpose of recovering thermal energy in the form of steam or hot water; process heaters that consist of an enclosed device using controlled flame, that is not a boiler, whose primary purpose is to transfer heat indirectly to a process material or to a heat transfer material for use in a process unit, instead of generating steam)

Subpart EEEEE--Iron and Steel Foundries.

40 CFR 63.7680 through 40 CFR 63.7765

(metal melting furnaces, scrap preheaters, pouring areas, pouring stations, automated conveyor and pallet cooling lines, automated shakeout lines, and mold and core making lines)

Subpart FFFFF--Integrated Iron and Steel Manufacturing.

40 CFR 63.7780 through 40 CFR 63.7852

(each sinter plant, blast furnace, and basic oxygen process furnace at an integrated iron and steel manufacturing facility)

Subpart GGGGG--Site Remediation.

40 CFR 63.7880 through 40 CFR 63.7957

(activities or processes used to remove, destroy, degrade, transform, immobilize, or otherwise manage remediation material)

Subpart HHHHH--Miscellaneous Coating Manufacturing.

40 CFR 63.7980 through 40 CFR 63.8105

(process vessels; storage tanks for feedstocks and products; pumps, compressors, agitators, pressure relief devices, sampling connection systems, open-ended valves or lines, valves, connectors, and instrumentation systems; wastewater tanks and transfer racks)

Subpart IIIII--Mercury Cell Chlor-Alkali Plants.

40 CFR 63.8180 through 40 CFR 63.8266

(byproduct hydrogen streams, end box ventilation system vents, and fugitive emission sources associated with cell rooms, hydrogen systems, caustic systems, and storage areas for mercury-containing wastes)

Subpart JJJJJ--Brick and Structural Clay Products Manufacturing.

40 CFR 63.8380 through 40 CFR 63.8515

(manufacture of brick, clay pipe, roof tile, extruded floor and wall tile, and other extruded, dimensional clay products)

Subpart KKKKK--Clay Ceramics Manufacturing.

40 CFR 63.8530 through 40 CFR 63.8665

(manufacture of pressed floor tile, pressed wall tile, other pressed tile, or sanitaryware)

Subpart LLLLL--Asphalt Processing and Asphalt Roof Manufacturing.

40 CFR 63.8680 through 40 CFR 63.8698

(preparation of asphalt flux at stand-alone asphalt processing facilities, petroleum refineries, and asphalt roofing facilities)

Subpart MMMMM--Flexible Polyurethane Foam Fabrication Operations.

40 CFR 63.8780 through 40 CFR 63.8830

(flexible polyurethane foam fabrication plants using flame lamination or loop slitter adhesives)

Subpart NNNNN--Hydrochloric Acid Production.

40 CFR 63.8980 through 40 CFR 63.9075

(HCl production facilities that produce a liquid HCl product)

Subpart OOOOO--Reserved.

Subpart PTTTT--Engine Test Cells and Stands.

40 CFR Subpart 63.9280 through 40 CFR 63.9375

(any apparatus used for testing uninstalled stationary or uninstalled mobile (motive) engines)

Subpart QQQQQ--Friction Materials Manufacturing Facilities.

40 CFR 63.9480 through 40 CFR 63.9579

(friction materials manufacturing facilities that use a solvent-based process)

Subpart RRRRR--Taconite Iron Ore Processing.

40 CFR 63.9580 through 40 CFR 63.9652

(ore crushing and handling, ore dryer stacks, indurating furnace stacks, finished pellet handling, and fugitive dust)

Subpart SSSSS--Refractory Products Manufacturing.

40 CFR 63.9780 through 40 CFR 63.9824

(manufacture of refractory products, including refractory bricks and shapes, monolithics, kiln furniture, crucibles, and other materials for liming furnaces and other high temperature process units)

Subpart TTTTT--Primary Magnesium Refining.

40 CFR 63.9880 through 40 CFR 63.9942

(spray dryer, magnesium chloride storage bin scrubber, melt/reactor system, and launder off-gas system stacks)

Subpart UUUUU--Reserved.

Subpart VVVVV--Reserved.

Subpart WWWWV--Reserved.

Subpart XXXXX--Reserved.

Subpart YYYYY--Reserved.

Subpart ZZZZZ--Reserved.

Appendix A--Test Methods.

Appendix B--Sources Defined for Early Reduction Provisions.

Appendix C--Determination of the Fraction Biodegraded (F subbio ) in a Biological Treatment Unit.

Appendix D--Alternative Validation Procedure for EPA Waste and Wastewater Methods.

VA.R. Doc. No. R06-66; Filed October 5, 2005, 9:43 a.m.

## STATE WATER CONTROL BOARD

**REGISTRAR'S NOTICE:** The following regulation filed by the State Water Control Board is exempt from the Administrative Process Act in accordance with § 2.2-4006 A 9 of the Code of Virginia, which exempts general permits issued by the State Water Control Board pursuant to the State Water Control Law (§ 62.1-44.2 et seq.), Chapter 24 (§ 62.1-242 et seq.) of Title 62.1 and Chapter 25 (§ 62.1-254 et seq.) of Title 62.1 of the Code of Virginia if the board (i) provides a Notice of Intended Regulatory Action in conformance with the provisions of § 2.2-4007 B, (ii) following the passage of 30 days from the publication of the Notice of Intended Regulatory Action forms a technical advisory committee composed of relevant stakeholders, including potentially affected citizens groups, to assist in the development of the general permit, (iii) provides notice and receives oral and written comment as provided in § 2.2-4007 F, and (iv) conducts at least one public hearing on the proposed general permit.

**Title of Regulation:** **9 VAC 25-110. Virginia Pollutant Discharge Elimination System (VPDES) General Permit for Domestic Sewage Discharges of Less Than or Equal to 1,000 Gallons Per Day (amending 9 VAC 25-110-10, 9 VAC 25-110-20, 9 VAC 25-110-60, 9 VAC 25-110-70, 9 VAC 25-110-80).**

**Statutory Authority:** § 62.1-44.15 of the Code of Virginia; § 402 of the Clean Water Act; 40 CFR Parts 122, 123, and 124.

**Effective Date:** November 30, 2005.

**Agency Contact:** Burton R. Tuxford, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4086, FAX (804) 698-4032, or e-mail brtuxford@deq.virginia.gov.

**Summary:**

*The amendments reissue the existing general VPDES permit for domestic sewage discharges of less than or equal to 1,000 gallons per day that will expire on August 1, 2006. The permit sets forth guidelines for the permitting of discharges of treated wastewater from small volume sources of domestic sewage. These plants are typically installed at individual homes, duplexes, churches, gas stations, etc., when central sewer is not available and the soil conditions prohibit the use of onsite disposal methods such as septic tanks and drainfields. The significant revisions to the regulation are as follows:*

*The effluent limitations have been revised to recognize changes in the Water Quality Standards (9 VAC 25-260) regarding bacteria standards and disinfection policy. Recent study results indicate that chlorine appears to be an*

*appropriate surrogate for E. coli when the discharge is into freshwater. When methods other than chlorine are used and the discharge is into freshwater, the E. coli standard applies. When the discharge is into saltwater or a transition zone, the enterococci standard applies. For discharges into shellfish waters, in addition to the appropriate chlorine, E. coli or enterococci limits, the general permit will continue to limit fecal coliform because the Virginia Department of Health, Bureau of Shellfish Sanitation, still uses fecal coliform as an indicator for determining the quality of shellfish waters.*

*The submittal of a copy of the maintenance contract along with the registration statement is no longer required for existing facilities. However, the name of the contract provider and the expiration date of the current contract must be provided.*

*The submittal of an operation and maintenance plan for existing facilities will not be required if the operation and maintenance plan has been approved previously and remains current and complete. Also, installation of an electric timer is no longer included as part of the operation and maintenance plan.*

*Deadlines for submitting a registration statement have been expanded to cover both new and existing facilities.*

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

**9 VAC 25-110-10. Definitions.**

The words and terms used in this chapter shall have the same meanings as given in the State Water Control Law, Chapter 3.1 (§ 62.1-44.2 et seq.) of Title 62.1 of the Code of Virginia and ~~9 VAC 25-31-10 et seq.~~ (the VPDES Permit Regulation) (9 VAC 25-31), unless the context clearly indicates otherwise, except that for the purposes of this chapter:

"DEQ" means the Virginia Department of Environmental Quality or the department.

"Domestic sewage" means the water-carried human wastes from residences, buildings, industrial establishments or other places.

**9 VAC 25-110-20. Purpose; delegation of authority; effective date of permit.**

A. This general permit regulation governs domestic sewage discharges to surface waters from treatment works with a design discharge flow of less than or equal to 1,000 gallons per day on a monthly average.

B. The Director of the Department of Environmental Quality, or his designee, may perform any act of the board provided under this chapter, except as limited by § 62.1-44.14 of the Code of Virginia.

C. This general VPDES permit will become effective on August 4, ~~2004~~ 2, 2006, and it expires on August 1, ~~2006~~ 2011. With respect to a particular facility, this general permit shall become effective upon the facility owner's compliance

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with the provisions of 9 VAC 25-110-60 and receipt of a copy of the general VPDES permit.

## 9 VAC 25-110-60. Authorization to discharge.

A. Any owner of a treatment works governed by this general permit is hereby authorized to discharge treated domestic sewage to surface waters of the Commonwealth of Virginia provided that the owner has filed with the department the registration statement described in 9 VAC 25-110-70, has complied with the effluent limitations and other requirements of 9 VAC 25-110-80, and has complied with all the following conditions:

1. The owner shall not have been required to obtain an individual VPDES permit as may be required in 9 VAC 25-31-170 B;
2. The owner shall not be authorized by this general permit to discharge to surface waters specifically named in other board regulations or policies that prohibit such discharges;
3. The owner shall not be authorized by this general permit to discharge to surface waters where there are central sewage facilities reasonably available, as determined by the department; and
4. The owner of any proposed treatment works or any treatment works that has not previously been issued a valid VPDES permit shall have applied to the Virginia Department of Health for an onsite sewage disposal system permit and the Virginia Department of Health must have determined that there is no technology available to serve that parcel of land with an onsite system.

B. Receipt of this general VPDES permit does not relieve any owner of the responsibility to comply with any other applicable federal, state or local statute, ordinance or regulation, including applicable regulations of the Virginia Department of Health adopted pursuant to §§ 32.1-163 and 32.1-164 of the Code of Virginia *and, for any owner of sewage treatment works that serve nonsingle family dwellings, the Sewage Collection and Treatment Regulations (9 VAC 25-790) adopted by the State Water Control Board pursuant to § 62.1-44.18 of the Code of Virginia.*

## 9 VAC 25-110-70. Registration statement.

A. Deadlines for submitting registration statement. The owner shall file a complete General VPDES Permit Registration Statement, *which shall serve as a notice of intent to be covered under the general VPDES permit for domestic sewage discharges of less than or equal to 1,000 gallons per day in accordance with this chapter.*

1. *New facilities.* Any owner proposing a new discharge shall file a complete registration statement with the department at least 60 days prior to the date planned for commencing ~~construction or~~ operation of the treatment works ~~from which the discharge will emanate.~~
2. *Existing facilities.*
  - a. Any owner of an existing treatment works covered by an individual VPDES permit who ~~proposes~~ *is proposing* to be covered by this general permit shall file a complete

registration statement at least 180 days prior to the expiration date of the individual VPDES permit.

- b. ~~To avoid a lapse in permit coverage,~~ Any owner of an existing treatment works that was authorized to discharge under the general permit issued in ~~1996~~ 2001 shall have filed a complete registration statement prior to ~~August 1, 2004~~ June 2, 2006.

- c. *Any owner of an existing treatment works not currently covered by a VPDES permit who is proposing to be covered by this general permit shall file a complete registration statement by August 2, 2006.*

3. *New owners of existing facilities.* Any new owner of an existing facility that is covered by this general permit must submit a registration statement or a "Change of Ownership" form within 30 days of the ownership change.

4. *Late notifications.* Any owner of a new or existing facility is not precluded from submitting a registration statement after the applicable dates provided in subdivisions 1, 2 and 3 of this subsection. If a late registration statement is submitted, the owner is only authorized for discharges that occur after permit coverage is granted. The department reserves the right to take appropriate enforcement actions for any unpermitted discharges.

B. Registration statement. ~~The owner shall submit a~~ registration statement ~~that contains~~ shall contain the following information:

1. Name and location of the facility/residence.
2. Name, mailing address, and work and home telephone numbers of the facility owner. Indicate if the owner is or will be the occupant of the facility.
3. Name of the water body receiving the discharge. Indicate if the discharge point is on a stream that usually flows during dry weather.
4. The amount of discharge, in gallons per day, on a monthly average.
5. A description of any pollutants, other than domestic sewage, to be discharged.
6. If there are central sewage facilities available to serve this facility.
7. If the facility currently has a VPDES permit. Provide the permit number, if applicable. Indicate if the facility has been built and begun discharge.
8. For the owner of any proposed treatment works or any treatment works that has not previously been issued a valid VPDES permit:
  - a. A topographic map that indicates the discharge point, the location of the property to be served by the treatment works, and the location of any wells, springs, and other water bodies, or downstream residences within 1/2 mile downstream from the discharge;
  - b. A site diagram of the existing or proposed sewage treatment works; *and* including the property boundaries, the location of the facility/residence to be served, the

individual sewage treatment units, the receiving water body, and the discharge line location; and

c. A notification from the Virginia Department of Health that an onsite sewage disposal system permit has been applied for and that the Virginia Department of Health has determined that there is no technology available to serve that parcel of land with an onsite system.

9. For the owner of any existing treatment works, ~~a copy of indicate if a valid maintenance contract has been obtained, or if an exception to the maintenance contract has been requested and granted in accordance with subdivision 10 of this subsection. Provide the name of the contract provider and the expiration date of the current contract, if applicable.~~ A valid maintenance contract ~~that provides shall provide~~ for the following:

a. Performance of all testing required in accordance with 9 VAC 25-110-80 Part I A and periodic inspections of the treatment works;

b. A written notification to the owner within 24 hours whenever the contract provider becomes aware that maintenance or repair of the owner's treatment works is necessary. The owner is responsible for prompt maintenance and repair of the treatment works including all costs associated with the maintenance or repair. Immediately upon receipt of notice that repair or maintenance is required, the owner shall begin emergency pump and haul of all sewage generated in the dwelling if full and complete repairs cannot be accomplished within 48 hours.

c. A log of the following items will be maintained by the contract provider:

- (1) Results of all tests and sampling;
- (2) Alarm activation incidents;
- (3) Maintenance, corrective, or repair activities performed;
- (4) Recommended repair or replacement items; and
- (5) Copies of all reports prepared by the contract provider.

d. An inspection will be conducted by the contract provider within 48 hours after notification by the owner that a problem may be occurring; and

e. A minimum of 24 months of consecutive coverage under the maintenance contract.

10. The owner of any existing treatment works may request an exception to the maintenance contract requirement by submitting an operation and maintenance plan to the department for review and approval. *If an operation and maintenance plan has been approved by the department previously and remains current and complete, then it does not need to be resubmitted. In such cases, provide the date of approval of the operation and maintenance plan and identify any changes have been made to the approved operation and maintenance plan.* At a minimum, the

*operation and maintenance* plan shall contain the following information:

a. An up-to-date operation and maintenance manual for the treatment works;

b. A log of maintenance performed on the plant including, but not limited to, the following:

(1) The date and amount of disinfection chemicals added to the chlorinator.

(2) If dechlorination is used, the date and amount of any dechlorination chemicals that are added.

(3) The date and time of equipment failure(s) and the date and time the equipment was restored to service.

(4) The date and approximate volume of sludge removed;

c. Dated receipts for chemicals purchased, equipment purchased, and maintenance performed; *and*

~~d. Proof of installation of a nonresettable elapsed time meter for electric motor driven equipment; and~~

~~e.~~ *d.* An effluent monitoring plan in accordance with the requirements of 9 VAC 25-110-80 Part I A, *including all sample collection, preservation, and analysis procedures.*

11. The following certification: "I hereby grant to duly authorized agents of the Department of Environmental Quality, upon presentation of credentials, permission to enter the property where the treatment works is located for the purpose of determining compliance with or the suitability of coverage under the General Permit. 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. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment for knowing violations."

The registration statement shall be signed in accordance with the requirements of 9 VAC 25-31-110.

### **9 VAC 25-110-80. General permit.**

Any owner whose registration statement is accepted by the board will receive the following permit and shall comply with the requirements contained therein and be subject to all requirements of 9 VAC 25-31-170.

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General Permit No.: VAG40  
 Effective Date: August 1, 2004 2, 2006  
 Expiration Date: August 1, 2006 2011

GENERAL PERMIT FOR DOMESTIC SEWAGE  
 DISCHARGES OF LESS THAN OR EQUAL TO 1,000  
 GALLONS PER DAY

AUTHORIZATION TO DISCHARGE UNDER THE VIRGINIA  
 POLLUTANT DISCHARGE ELIMINATION SYSTEM AND  
 THE VIRGINIA STATE WATER CONTROL LAW

In compliance with the provisions of the Clean Water Act (33 USC § 1251 et seq.), as amended, and pursuant to the State

Water Control Law and regulations adopted pursuant thereto, owners of treatment works with domestic sewage discharges of a design flow of less than or equal to 1,000 gallons per day on a monthly average are authorized to discharge to surface waters within the boundaries of the Commonwealth of Virginia, except those waters specifically named in board regulations or policies that prohibit such discharges.

The authorized discharge shall be in accordance with this cover page, Part I-Effluent Limitations, Monitoring Requirements and Special Conditions, and Part II-Conditions Applicable to All VPDES Permits, as set forth herein.

Part I  
 Effluent Limitations, Monitoring Requirements and Special Conditions

A. Effluent limitations and monitoring requirements - *receiving waters where the 7Q10 flows are less than 0.2 MGD.*

1. During the period beginning with the permit's effective date and lasting until the permit's expiration date, the permittee is authorized to discharge from outfall ~~serial~~ number 001 to receiving waters where the 7Q10 flows are less than 0.2 MGD.

~~Such discharge~~ *The discharge* shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS		MONITORING REQUIREMENTS	
	Instantaneous Minimum	Instantaneous Maximum	Frequency	Sample Type
Flow (MGD) *	NA	NL	1/year	Estimate
BOD <sub>5</sub>	NA	30 mg/1	1/year	Grab
Total Suspended Solids	NA	30 mg/1	1/year	Grab
Total Residual Chlorine **				
After contact tank	1.0 mg/1	NA	1/year	Grab
Final effluent	NA	<del>Non-detectable</del> 0.016 mg/1	1/year	Grab
<i>E. coli</i> ***	NA	235/100 ml	1/year	Grab
<i>enterococci</i> ****	NA	104/100 ml	1/year	Grab
Fecal Coliform Bacteria *****	NA	200/100 ml	1/year	Grab
pH (standard units)	6.0	9.0	1/year	Grab
Dissolved Oxygen	5.0 mg/1	NA	1/year	Grab
NL = No Limitation, monitoring required	NA = Not Applicable			

~~[ 2. All monitoring data required by Part I A 1 shall be maintained on site in accordance with Part II B. Reporting of results to the department DEQ is not required; however, the monitoring results shall be made available to the department DEQ or Virginia Department of Health personnel upon request. ]~~

\* The design flow of this treatment facility is less than or equal to 1,000 gallons per day.

\*\* Applies only when chlorine is used for disinfection *and the discharge is in freshwater.* ~~Chlorine limitation of nondetectable is defined as <0.1 mg/l. The quantification level of chlorine shall be 0.1 mg/l.~~

\*\*\* Applies only when methods other than chlorine are used for disinfection *and the discharge is in freshwater.* Continuous disinfection capability shall be provided in order to maintain this effluent limit.

\*\*\*\* Applies only when the discharge is in saltwater or transition zone. Continuous disinfection capability shall be provided in order to maintain this effluent limit.

\*\*\*\*\* Applies only when the discharge is in shellfish water. Continuous disinfection capability shall be provided in order to maintain this effluent limit.

~~[ 2. All monitoring data required by Part I A 1 shall be maintained on site in accordance with Part II B. Reporting of results to DEQ is not required; however, the monitoring results shall be made available to DEQ or Virginia Department of Health personnel upon request. ]~~

3. 40 CFR 133.102(c) requires that the 30-day average percent removal for BOD<sub>5</sub> and total suspended solids shall not be less than 85%.

Part I  
Effluent Limitations Monitoring Requirements and Special Conditions

A. Effluent limitations and monitoring requirements - receiving waters where the 7Q10 flows are equal to or greater than 0.2 MGD.

1. During the period beginning with the permit's effective date and lasting until the permit's expiration date, the permittee is authorized to discharge from outfall serial number 001 to receiving waters where the 7Q10 flows are equal to or greater than 0.2 MGD.

Such discharges. The discharge shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS		MONITORING REQUIREMENTS	
	Instantaneous Minimum	Instantaneous Maximum	Frequency	Sample Type
Flow (MGD) *	NA	NL	1/year	Estimate
BOD <sub>5</sub>	NA	30 mg/1	1/year	Grab
Total Suspended Solids	NA	30 mg/1	1/year	Grab
Total Residual Chlorine **				
Final effluent	1.0 mg/1	2.0 mg/1	1/year	Grab
<i>E. coli</i> ***	NA	235/100 ml	1/year	Grab
<i>enterococci</i> ****	NA	104/100 ml	1/year	Grab
Fecal Coliform Bacteria *****	NA	200/100 ml	1/year	Grab
pH (standard units)	6.0	9.0	1/year	Grab
NL = No Limitation, monitoring required	NA = Not Applicable			

[ ~~2. All monitoring data required by Part I A 1 shall be maintained on site in accordance with Part II B. Reporting of results to the department DEQ is not required; however, the monitoring results shall be made available to department DEQ or Virginia Department of Health personnel upon request. ]~~

\* The design flow of this treatment facility is less than or equal to 1,000 gallons per day.

\*\* Applies only when chlorine is used for disinfection *and the discharge is in freshwater*. ~~Chlorine limitation of nondetectable is defined as <0.1 mg/l.~~

\*\*\* Applies only when methods other than chlorine are used for disinfection *and the discharge is in freshwater*. Continuous disinfection capability shall be provided in order to maintain this effluent limit.

\*\*\*\* Applies only when the discharge is in saltwater or transition zone. Continuous disinfection capability shall be provided in order to maintain this effluent limit.

\*\*\*\*\* Applies only when the discharge is in shellfish water. Continuous disinfection capability shall be provided in order to maintain this effluent limit.

[ ~~2. All monitoring data required by Part I A 1 shall be maintained on site in accordance with Part II B. Reporting of results to DEQ is not required; however, the monitoring results shall be made available to DEQ or Virginia Department of Health personnel upon request. ]~~

3. 40 CFR 133.102(c) requires that the 30-day average percent removal for BOD<sub>5</sub> and total suspended solids shall not be less than 85%.

B. Special conditions.

1. There shall be no discharge of floating solids or visible foam in other than trace amounts.

2. Schedule of compliance. This compliance schedule shall be allowed only for treatment works that were existing ~~on the effective date of~~ *as of their dates of coverage under* this general permit. Treatment works constructed after ~~the permit effective date~~ *their dates of coverage* are expected to comply with the limitations and conditions of the general permit from the date of operation. *For existing facilities that require upgrades*, the permittee shall install equipment or unit processes or make other physical modifications to the treatment works that are necessary to achieve compliance with the

limitations and conditions of this permit within 180 days of the date of coverage under the permit. The modifications shall not be initiated until written authorization is first provided by the Virginia Department of Health or ~~the Department of Environmental Quality DEQ~~. The permittee shall submit to the ~~Department of Environmental Quality DEQ~~ Regional Office a written notice certifying completion of any necessary modifications on or before the 180-day compliance deadline. If the permittee is unable to meet the deadline, a written notice shall be submitted that shall include the cause of the delay, any actions taken to eliminate the delay, and the projected date for compliance.

3. Maintenance contract. For existing treatment works, the permittee shall maintain a maintenance contract

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during the permit term, *unless an exception to the maintenance contract has been requested and granted in accordance with Part I B 4*. A copy of a valid maintenance contract shall be maintained at the site of treatment works and made available to ~~the department~~ DEQ or to the Virginia Department of Health for examination upon request. For proposed treatment works, the permittee shall submit a copy of a valid maintenance contract to ~~the department~~ DEQ prior to operation of the treatment works *unless an exception to the maintenance contract has been requested and granted in accordance with Part I B 4*. The maintenance contract shall provide for the following:

a. Performance of all testing required in accordance with Part I A and periodic inspections of the treatment works;

b. A written notification to the owner within 24 hours whenever the contract provider becomes aware that maintenance or repair of the owner's treatment works is necessary. The owner is responsible for prompt maintenance and repair of the treatment works including all costs associated with the maintenance or repair. Immediately upon receipt of notice that repair or maintenance is required, the owner shall begin emergency pump and haul of all sewage generated in the dwelling if full and complete repairs cannot be accomplished within 48 hours;

c. A log of the following items will be maintained by the contract provider:

- (1) Results of all tests and sampling;
- (2) Alarm activation incidents;
- (3) Maintenance, corrective, or repair activities performed;
- (4) Recommended repair or replacement items; and
- (5) Copies of all reports prepared by the contract provider;

d. An inspection will be conducted by the contract provider within 48 hours after notification by the owner that a problem may be occurring; and

e. A minimum of 24 months of consecutive coverage under the maintenance contract.

4. Operation and maintenance plan. The owner of any treatment works may request an exception to the maintenance contract requirement by submitting an operation and maintenance plan to ~~the department~~ DEQ for review and approval. At a minimum, the *operation and maintenance* plan shall contain the following information:

a. An up-to-date operation and maintenance manual for the treatment works;

b. A log of maintenance performed on the plant including, but not limited to, the following:

- (1) The date and amount of disinfection chemicals added to the chlorinator.

(2) If dechlorination is used, the date and amount of any dechlorination chemicals that are added.

(3) The date and time of equipment failure(s) and the date and time the equipment was restored to service.

(4) The date and approximate volume of sludge removed;

c. Dated receipts for chemicals purchased, equipment purchased, and maintenance performed; *and*

~~d. Proof of installation of a nonresettable elapsed time meter for electric motor driven equipment; and~~

e. *d.* An effluent monitoring plan in accordance with Part I A, *including all sample collection, preservation, and analysis procedures.*

Should the permittee fail to implement the approved operation and maintenance plan, or if there are violations of effluent limitations, ~~the department~~ DEQ reserves the right to require the permittee to obtain a maintenance contract.

## Part II

### Conditions Applicable to all VPDES Permits

#### A. Monitoring.

1. Samples and measurements taken as required by this permit shall be representative of the monitored activity.

2. Monitoring shall be conducted according to procedures approved under 40 CFR Part 136 or alternative methods approved by the U.S. Environmental Protection Agency, unless other procedures have been specified in this permit.

3. The permittee shall periodically calibrate and perform maintenance procedures on all monitoring and analytical instrumentation at intervals that will ensure accuracy of measurements.

#### B. Records.

1. Records of monitoring information shall include:

a. The date, exact place, and time of sampling or measurements;

b. The individual(s) who performed the sampling or measurements;

c. The date(s) and time(s) analyses were performed;

d. The individual(s) who performed the analyses;

e. The analytical techniques or methods used; and

f. The results of such analyses.

2. Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five years, the permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring

instrumentation, copies of all reports required by this permit, and records of all data used to complete the registration statement for this permit, for a period of at least three years from the date of the sample, measurement, report or request for coverage. This period of retention shall be extended automatically during the course of any unresolved litigation regarding the regulated activity or regarding control standards applicable to the permittee, or as requested by the board.

## C. Reporting monitoring results.

1. The permittee shall submit the results of the monitoring required by this permit not later than the 10th day of the month after monitoring takes place, unless another reporting schedule is specified elsewhere in this permit. Monitoring results shall be submitted to the department's regional office.

2. Monitoring results shall be reported on a Discharge Monitoring Report (DMR) or on forms provided, approved or specified by the department.

3. If the permittee monitors any pollutant specifically addressed by this permit more frequently than required by this permit using test procedures approved under 40 CFR Part 136 or using other test procedures approved by the U.S. Environmental Protection Agency or using procedures specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted on the DMR or reporting form specified by the department.

4. Calculations for all limitations that require averaging of measurements shall utilize an arithmetic mean unless otherwise specified in this permit.

D. Duty to provide information. The permittee shall furnish to the department, within a reasonable time, any information that the board may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. The board may require the permittee to furnish, upon request, such plans, specifications, and other pertinent information as may be necessary to determine the effect of the wastes from his discharge on the quality of state waters, or such other information as may be necessary to accomplish the purposes of the State Water Control Law. The permittee shall also furnish to the department, upon request, copies of records required to be kept by this permit.

E. Compliance schedule reports. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date.

F. Unauthorized discharges. Except in compliance with this permit, or another permit issued by the board, it shall be unlawful for any person to:

1. Discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances; or

2. Otherwise alter the physical, chemical or biological properties of such state waters and make them detrimental to the public health, to animal or aquatic life, to the use of such waters for domestic or industrial consumption, for recreation, or for other uses.

G. Reports of unauthorized discharges. Any permittee who discharges or causes or allows a discharge of sewage, industrial waste, other wastes or any noxious or deleterious substance into or upon state waters in violation of Part II F, or who discharges or causes or allows a discharge that may reasonably be expected to enter state waters in violation of Part II F, shall notify the department of the discharge immediately upon discovery of the discharge, but in no case later than 24 hours after said discovery. A written report of the unauthorized discharge shall be submitted to the department within five days of discovery of the discharge. The written report shall contain:

1. A description of the nature and location of the discharge;
2. The cause of the discharge;
3. The date on which the discharge occurred;
4. The length of time that the discharge continued;
5. The volume of the discharge;
6. If the discharge is continuing, how long it is expected to continue;
7. If the discharge is continuing, what the expected total volume of the discharge will be; and
8. Any steps planned or taken to reduce, eliminate and prevent a recurrence of the present discharge or any future discharges not authorized by this permit.

Discharges reportable to the department under the immediate reporting requirements of other regulations are exempted from this requirement.

H. Reports of unusual or extraordinary discharges. If any unusual or extraordinary discharge including a bypass or upset should occur from a treatment works and the discharge enters or could be expected to enter state waters, the permittee shall promptly notify, in no case later than 24 hours, the department by telephone after the discovery of the discharge. This notification shall provide all available details of the incident, including any adverse effects on aquatic life and the known number of fish killed. The permittee shall reduce the report to writing and shall submit it to the department within five days of discovery of the discharge in accordance with Part II I 2. Unusual and extraordinary discharges include, but are not limited to, any discharge resulting from:

1. Unusual spillage of materials resulting directly or indirectly from processing operations;
2. Breakdown of processing or accessory equipment;
3. Failure or taking out of service some or all of the treatment works; and
4. Flooding or other acts of nature.

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I. Reports of noncompliance. The permittee shall report any noncompliance that may adversely affect state waters or may endanger public health.

1. An oral report shall be provided within 24 hours from the time the permittee becomes aware of the circumstances. The following shall be included as information that shall be reported within 24 hours under this paragraph:

- a. Any unanticipated bypass; and
- b. Any upset that causes a discharge to surface waters.

2. A written report shall be submitted within five days and shall contain:

- a. A description of the noncompliance and its cause;
- b. The period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and
- c. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

The board may waive the written report on a case-by-case basis for reports of noncompliance under Part II I if the oral report has been received within 24 hours and no adverse impact on state waters has been reported.

3. The permittee shall report all instances of noncompliance not reported under Part II I 1 or 2, in writing, at the time the next monitoring reports are submitted. The reports shall contain the information listed in Part II I 2.

NOTE: The immediate (within 24 hours) reports required in Parts II G, H and I may be made to the department's regional office. Reports may be made by telephone or by fax. For reports outside normal working hours, leave a message and this shall fulfill the immediate reporting requirement. For emergencies, the Virginia Department of Emergency Management maintains a 24-hour telephone service at 1-800-468-8892.

J. Notice of planned changes.

1. The permittee shall give notice to the department as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:

a. The permittee plans alteration or addition to any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced:

(1) After promulgation of standards of performance under Section 306 of Clean Water Act that are applicable to such source; or

(2) After proposal of standards of performance in accordance with Section 306 of Clean Water Act that are applicable to such source, but only if the

standards are promulgated in accordance with Section 306 within 120 days of their proposal;

b. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants that are subject neither to effluent limitations nor to notification requirements specified elsewhere in this permit; or

c. The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan.

2. The permittee shall give advance notice to the department of any planned changes in the permitted facility or activity that may result in noncompliance with permit requirements.

K. Signatory requirements.

1. Registration statement. All registration statements shall be signed as follows:

a. For a corporation: by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means: (i) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or other actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

b. For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or

c. For a municipality, state, federal, or other public agency: by either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a public agency includes: (i) the chief executive officer of the agency or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

2. Reports, etc. All reports required by permits, and other information requested by the board shall be signed

by a person described in Part II K 1 or by a duly authorized representative of that person. A person is a duly authorized representative only if:

- a. The authorization is made in writing by a person described in Part II K 1;
- b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. A duly authorized representative may thus be either a named individual or any individual occupying a named position; and
- c. The written authorization is submitted to the department.

3. Changes to authorization. If an authorization under Part II K 2 is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of Part II K 2 shall be submitted to the department prior to or together with any reports, or information to be signed by an authorized representative.

4. Certification. Any person signing a document under Part II K 1 or 2 shall make the following certification:

"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. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

L. Duty to comply. The permittee shall comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the State Water Control Law and the Clean Water Act, except that noncompliance with certain provisions of this permit may constitute a violation of the State Water Control Law but not the Clean Water Act. Permit noncompliance is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application.

The permittee shall comply with effluent standards or prohibitions established under Section 307(a) of the Clean Water Act for toxic pollutants and with standards for sewage sludge use or disposal established under Section 405(d) of the Clean Water Act within the time provided in the regulations that establish these standards or prohibitions or standards for sewage sludge use or disposal, even if this permit has not yet been modified to incorporate the requirement.

M. Duty to reapply. If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee shall submit a new registration statement at least 180 days before the expiration date of the existing permit, unless permission for a later date has been granted by the board. The board shall not grant permission for registration statements to be submitted later than the expiration date of the existing permit.

N. Effect of a permit. This permit does not convey any property rights in either real or personal property or any exclusive privileges, nor does it authorize any injury to private property or invasion of personal rights, or any infringement of federal, state or local law or regulations.

O. State law. Nothing in this permit shall be construed to preclude the institution of any legal action under, or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to, any other state law or regulation or under authority preserved by Section 510 of the Clean Water Act. Except as provided in permit conditions on "bypassing" (Part II U), and "upset" (Part II V) nothing in this permit shall be construed to relieve the permittee from civil and criminal penalties for noncompliance.

P. Oil and hazardous substance liability. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under §§ 62.1-44.34:14 through 62.1-44.34:23 of the State Water Control Law.

Q. Proper operation and maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) that are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also include effective plant performance, adequate funding, adequate staffing, and adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems that are installed by the permittee only when the operation is necessary to achieve compliance with the conditions of this permit.

R. Disposal of solids or sludges. Solids, sludges or other pollutants removed in the course of treatment or management of pollutants shall be disposed of in a manner so as to prevent any pollutant from such materials from entering state waters.

S. Duty to mitigate. The permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit that has a reasonable likelihood of adversely affecting human health or the environment.

T. Need to halt or reduce activity not a defense. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

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## U. Bypass.

1. "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility. The permittee may allow any bypass to occur that does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to ensure efficient operation. These bypasses are not subject to the provisions of Parts II U 2 and 3.

### 2. Notice.

a. Anticipated bypass. If the permittee knows in advance of the need for a bypass, prior notice shall be submitted, if possible, at least 10 days before the date of the bypass.

b. Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in Part II I.

### 3. Prohibition of bypass.

a. Bypass is prohibited, and the board may take enforcement action against a permittee for bypass, unless:

(1) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(2) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass that occurred during normal periods of equipment downtime or preventive maintenance; and

(3) The permittee submitted notices as required under Part II U 2.

b. The board may approve an anticipated bypass after considering its adverse effects if the board determines that it will meet the three conditions listed above in Part II U 3 a.

## V. Upset.

1. An upset constitutes an affirmative defense to an action brought for noncompliance with technology-based permit effluent limitations if the requirements of Part II V 2 are met. A determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is not a final administrative action subject to judicial review.

2. A permittee who wishes to establish the affirmative defense of upset shall demonstrate through properly signed, contemporaneous operating logs, or other relevant evidence that:

a. An upset occurred and that the permittee can identify the cause(s) of the upset;

b. The permitted facility was at the time being properly operated;

c. The permittee submitted notice of the upset as required in Part II I; and

d. The permittee complied with any remedial measures required under Part II S.

3. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

## W. Inspection and entry.

The permittee shall allow the director, or an authorized representative, upon presentation of credentials and other documents as may be required by law, to:

1. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;

2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;

3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and

4. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act and the State Water Control Law, any substances or parameters at any location.

For purposes of this section, the time for inspection shall be deemed reasonable during regular business hours, and whenever the facility is discharging. Nothing contained herein shall make an inspection unreasonable during an emergency.

## X. Permit actions.

Permits may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, termination, or notification of planned changes or anticipated noncompliance does not stay any permit condition.

## Y. Transfer of permits.

1. Permits are not transferable to any person except after notice to the department. Except as provided in Part II Y 2, a permit may be transferred by the permittee to a new owner or operator only if the permit has been modified or revoked and reissued, or a minor modification made, to identify the new permittee and incorporate such other requirements as may be necessary under the State Water Control Law and the Clean Water Act.

2. As an alternative to transfers under Part II Y 1, this permit may be automatically transferred to a new permittee if:

- a. The current permittee notifies the department at least 30 days in advance of the proposed transfer of the title to the facility or property;
- b. The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage, and liability between them; and
- c. The board does not notify the existing permittee and the proposed new permittee of its intent to modify or revoke and reissue the permit. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in Part II Y 2 b.

Z. Severability.

The provisions of this permit are severable, and if any provision of this permit or the application of any provision of this permit to any circumstance is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

[ FORMS

~~Virginia DEQ Registration Statement General VPDES Permit for Domestic Sewage Discharges of Less Than or Equal to 1,000 Gallons Per Day (eff. 8/01 rev. 2006). ]~~

VA.R. Doc. No. R04-117; Filed October 6, 2005, 12:14 p.m.

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**REGISTRAR'S NOTICE:** The following regulatory actions are exempt 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 State Water Control Board will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

**Title of Regulation:** 9 VAC 25-180. Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Discharges of Storm Water from Construction Activities (repealing 9 VAC 25-180-10 through 9 VAC 25-180-70).

**Statutory Authority:** § 62.1-44.15 of the Code of Virginia; § 402 of the Clean Water Act; 40 CFR Parts 122, 123 and 124.

**Effective Date:** November 30, 2005.

**Agency Contact:** Burton R. Tuxford, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4086, or e-mail [brtuxford@deq.virginia.gov](mailto:brtuxford@deq.virginia.gov).

**Summary:**

*The 2004 General Assembly adopted legislation that transferred the Virginia Pollutant Discharge Elimination System (VPDES) construction activity storm water*

*permitting responsibility from the Department of Environmental Quality to the Department of Conservation and Recreation (DCR). The program was transferred to DCR on January 30, 2005, and is now in effect. The State Water Control Board VPDES Construction Activity General Permit Regulation has been repealed.*

VA.R. Doc. No. R06-67; Filed October 5, 2005, 9:45 a.m.

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**Title of Regulation:** 9 VAC 25-750. General Virginia Pollution Discharge Elimination System (VPDES) Permit Regulation for Discharges of Storm Water from Small Municipal Separate Storm Sewer Systems (repealing 9 VAC 25-750-10 through 9 VAC 25-750-50).

**Statutory Authority:** § 62.1-44.15 of the Code of Virginia; § 402 of the Clean Water Act.

**Effective Date:** November 30, 2005.

**Agency Contact:** Burton R. Tuxford, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4086, FAX (804) 698-4032 or e-mail [brtuxford@deq.virginia.gov](mailto:brtuxford@deq.virginia.gov).

**Summary:**

*The 2004 General Assembly adopted legislation that transferred the Virginia Pollution Discharge Elimination System (VPDES) municipal separate storm sewer system (MS4) storm water permitting responsibility from Department of Environmental Quality to the Department of Conservation and Recreation (DCR). The program was transferred to DCR on January 30, 2005, and is now in effect. The State Water Control Board VPDES Small MS4 General Permit Regulation has been repealed.*

VA.R. Doc. No. R06-68; Filed October 5, 2005, 9:43 a.m.



**TITLE 16. LABOR AND EMPLOYMENT**

**DEPARTMENT OF LABOR AND INDUSTRY**

**REGISTRAR'S NOTICE:** The Department of Labor and Industry has claimed an exemption 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 or the appropriation act where no agency discretion is involved. The Department of Labor and Industry will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

**Title of Regulation:** 16 VAC 15-21. Maximum Garnishment Amounts (amending 16 VAC 15-21-20 and 16 VAC 15-21-30).

**Statutory Authority:** § 34-29 of the Code of Virginia.

**Effective Date:** December 1, 2005.



**Statutory Authority:** §§ 54.1-2400 and 54.1-3223 of the Code of Virginia.

**Effective Date:** November 30, 2005.

**Agency Contact:** Elizabeth A. Carter, Ph.D., Executive Director, Board of Optometry, 6603 West Broad Street, 5th Floor, Richmond, VA 23230, telephone (804) 662-9910, FAX (804) 662-7098 or e-mail [elizabeth.carter@dhp.virginia.gov](mailto:elizabeth.carter@dhp.virginia.gov).

**Summary:**

*The amendments incorporate the requirements for initial licensure with therapeutic pharmaceutical agents (TPA) certification, fees for applications and renewals, and the continuing education requirement for TPA-certified optometrists into 18 VAC 105-20, Regulations Governing the Practice of Optometry. This action replaces the emergency regulations that have been in effect since December 8, 2004.*

*Since publication of the proposed regulation, the application fee for TPA certification that was set out in 18 VAC 105-30 has been incorporated into 18 VAC 105-20 to accommodate those optometrists who previously held a license without TPA certification but are now applying to have the additional credential. In addition, the board realized that the requirement for two hours of continuing education relating to use of therapeutic pharmaceutical agents was already included in the regulation, so the amendment was removed.*

*The board is also repealing 18 VAC 105-30, Regulations on Certification of Optometrists to Use Therapeutic Pharmaceutical Agents.*

**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.

**18 VAC 105-20-5. Definitions.**

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

*"Board" means the Virginia Board of Optometry.*

*"TPA" means therapeutic pharmaceutical agents.*

*"TPA certification" means authorization by the Virginia Board of Optometry for an optometrist to treat diseases and abnormal conditions of the human eye and its adnexa and to prescribe and administer certain therapeutic pharmaceutical agents.*

**18 VAC 105-20-10. Licensure by examination.**

A. The applicant, in order to be eligible for licensure by examination to practice optometry in the Commonwealth, shall *meet the requirements for TPA certification in 18 VAC 105-20-16 and shall:*

1. Be a graduate of a school of optometry accredited by the Council on Optometric Education; have an official transcript verifying graduation sent to the board;

2. Request submission of an official report from the National Board of Examiners in Optometry of a score received on each required part of the examination of the National Board of Examiners in Optometry or other board-approved examination; and

3. Submit a completed application and the prescribed fee.

B. Applicants who passed the National Board Examination prior to May 1985 shall apply for licensure by endorsement as provided for in 18 VAC 105-20-15.

C. Required examinations.

1. For the purpose of § 54.1-3211 of the Code of Virginia, the board adopts all parts of the examination of the National Board of Examiners in Optometry as its written examination for licensure. After July 1, 1997, the board shall require passage as determined by the board of Parts I, II, and III of the National Board Examination.

2. As part of the application for licensure, an applicant must sign a statement attesting that he has read, understands, and will comply with the statutes and regulations governing the practice of optometry in Virginia.

**18 VAC 105-20-15. Licensure by endorsement.**

A. An applicant for licensure by endorsement shall *meet the requirements for TPA certification in 18 VAC 105-20-16*, pay the fee as prescribed in 18 VAC 105-20-20 and file a completed application that certifies the following:

1. The applicant has successfully completed a licensing examination or certification in optometry in any jurisdiction of the United States that is approximately comparable to the Virginia examination at the time of initial licensure.

2. The applicant has been engaged in active clinical practice for at least 36 months out of the last 60 months immediately preceding application.

3. The applicant is not a respondent in a pending or unresolved malpractice claim.

4. Each jurisdiction in which the applicant is currently licensed has verified that:

a. The license is full and unrestricted, and all continuing education requirements have been completed, if applicable;

b. The applicant is not a respondent in any pending or unresolved board action;

c. The applicant has not committed any act which would constitute a violation of § 54.1-3204 or § 54.1-3215 of the Code of Virginia; and

d. The applicant has graduated from an accredited school or college of optometry.

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B. The applicant shall also provide proof of competency in the use of diagnostic pharmaceutical agents (DPAs) which shall consist of a report from the national board of passing scores on all sections of Parts I and II of the National Board Examination taken in May 1985 or thereafter. If the applicant does not qualify through examination, he shall provide other proof of meeting the requirements for the use of DPA as provided in §§ 54.1-3220 and 54.1-3221 of the Code of Virginia.

C. As part of the application for licensure, an applicant must sign a statement attesting that he has read, understands, and will comply with the statutes and regulations governing the practice of optometry in Virginia.

D. In the case of a federal service optometrist, the commanding officer shall also verify that the applicant is in good standing and provide proof of credentialing and quality assurance review to satisfy compliance with applicable requirements of subsection A of this section.

E. In the event the examinations for initial licensure are determined not comparable, the board may require the applicant to take and pass a regional or national practical examination.

F. An optometrist previously licensed in Virginia is not eligible for licensure by endorsement but may apply for reinstatement of licensure under 18 VAC 105-20-60.

## 18 VAC 105-20-16. Requirements for TPA certification.

A. An applicant for licensure shall meet the following requirements for TPA certification:

1. Complete a full-time, postgraduate or equivalent graduate-level optometric training program that is approved by the board and that shall include a minimum of 20 hours of clinical supervision by an ophthalmologist; and

2. Take and pass the TPA certification examination, which shall be Treatment and Management of Ocular Disease (TMOD) of the National Board of Optometric Examiners (NBOE) or, if TPA-certified by a state examination, provide evidence of comparability to the NBOE examination that is satisfactory to the board.

B. A candidate for certification by the board who fails the examination as required in subdivision A 2 of this section, following three attempts, shall complete additional postgraduate training as determined by the board to be eligible for TPA certification.

## 18 VAC 105-20-20. Fees.

A. Required fees.

Initial application and licensure (including TPA certification)	\$245
[ Application for TPA certification	\$300
Endorsement of certification to use diagnostic pharmaceutical agents	\$200 ]
Annual licensure renewal without TPA certification	\$100
Annual licensure renewal with tpa certification	\$150
Late renewal without TPA certification	\$200
Late renewal with TPA certification	\$50
	\$65

Returned check	\$25
Professional designation application	\$100
Annual professional designation renewal (per location)	\$50
Late renewal of professional designation	\$20
Reinstatement application fee (including renewal and late fees)	\$450
Reinstatement application after disciplinary action	\$500
Duplicate wall certificate	\$25
Duplicate license	\$10
Licensure verification	\$10

B. Unless otherwise specified, all fees are nonrefundable.

## 18 VAC 105-20-70. Requirements for continuing education.

A. Each license renewal shall be conditioned upon submission of evidence to the board of 16 hours of continuing education taken by the applicant during the previous license period.

1. Fourteen of the 16 hours shall pertain directly to the care of the patient. The 16 hours may include up to two hours of recordkeeping for patient care and up to two hours of training in cardiopulmonary resuscitation (CPR). [ ~~Optometrists with TPA certification shall complete at least two hours annually of continuing education directly related to the prescribing and administration of TPAs.~~ ]

2. For optometrists who are certified in the use of therapeutic pharmaceutical agents, at least two of the required continuing education hours shall be directly related to the prescribing and administration of such drugs.

3. Courses that are solely designed to promote the sale of specific instruments or products and courses offering instruction on augmenting income are excluded and will not receive credit by the board.

B. Each licensee shall attest to fulfillment of continuing education hours on the required annual renewal form. All continuing education shall be completed prior to December 31 unless an extension or waiver has been granted by the Continuing Education Committee.

C. All continuing education courses shall be offered by an approved sponsor listed in subsection G of this section. Courses that are not approved by a board-recognized sponsor in advance shall not be accepted for continuing education credit. For those courses that have a post-test requirement, credit will only be given if the optometrist receives a passing grade as indicated on the certificate.

D. Licensees shall maintain continuing education documentation for a period of not less than three years. A random audit of licensees may be conducted by the board which will require that the licensee provide evidence substantiating participation in required continuing education courses within 14 days of the renewal date.

E. Documentation of hours shall clearly indicate the name of the continuing education provider and its affiliation with an approved sponsor as listed in subsection G of this section. Documents that do not have the required

information shall not be accepted by the board for determining compliance. Correspondence courses shall be credited according to the date on which the post-test was graded as indicated on the continuing education certificate.

F. A licensee shall be exempt from the continuing competency requirements for the first renewal following the date of initial licensure by examination in Virginia.

G. An approved continuing education course or program, whether offered by correspondence, electronically or in person, shall be sponsored or approved by one of the following:

1. The American Optometric Association and its constituent organizations.
2. Regional optometric organizations.
3. State optometric associations and their affiliate local societies.
4. Accredited colleges and universities providing optometric or medical courses.
5. The American Academy of Optometry and its affiliate organizations.
6. The American Academy of Ophthalmology and its affiliate organizations.
7. The Virginia Academy of Optometry.
8. Council on Optometric Practitioner Education (C.O.P.E.).
9. State or federal governmental agencies.
10. College of Optometrists in Vision Development.
11. The Accreditation Council for Continuing Medical Education of the American Medical Association for Category 1 or Category 2 credit.
12. Providers of training in cardiopulmonary resuscitation (CPR).
13. Optometric Extension Program.

**NOTICE:** The forms used in administering 18 VAC 105-20, Regulations Governing the Practice of Optometry, are not being published due to the large number; however, the name of each form is listed below. The forms are available for public inspection at the Department of Health Professions, 6603 West Broad Street, Richmond, Virginia, or at the office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia.

[ **FORMS**

Application Instructions for Licensure/TPA Certification (rev. ~~12/04~~ 3/05).

~~Form A~~, Application for a License to Practice Optometry or TPA Certification (rev. ~~7/04~~ 3/05).

Diagnostic Pharmaceutical Agents Endorsement Application (rev. 11/02).

Professional Designation Application (rev. ~~11/02~~ 3/04).

Professional Designation Application Letter (rev. ~~12/02~~ 3/05).

Application for Reinstatement (rev. ~~11/02~~ 7/03).

*TPA Reinstatement Application* (rev. 12/04).

License Renewal Notice and Application, 0601, Optometrist (rev. 12/02).

License Renewal Notice and Application, 0603, Professional Designation (rev. 12/02).

~~Clearance from Other State Boards Form B, Licensure Verification~~ (eff. ~~11/02~~ 12/04).

Application for Registration for Volunteer Practice (eff. 12/02).

Sponsor Certification for Volunteer Registration (eff. 01/03).

~~Form C~~, Graduate Optometric Programs Approved and Postgraduate TPA Optometric Programs Approved (eff. 2/00).

Form D, Certificate of Training (rev. ~~11/02~~ 12/04). ]

VA.R. Doc. No. R05-60; Filed October 11, 2005, 10 a.m.



**TITLE 20. PUBLIC UTILITIES AND TELECOMMUNICATIONS**

**STATE CORPORATION COMMISSION**

**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.

The distribution list referenced as Appendix A in the following order is not being published. However, the list is available for public inspection at the State Corporation Commission, Document Control Center, Tyler Building, 1st Floor, 1300 East Main Street, Richmond, Virginia 23219, from 8:15 a.m. to 5 p.m., Monday through Friday; or may be viewed at the Virginia Code Commission, General Assembly Building, 2nd Floor, 910 Capitol Street, Richmond, Virginia 23219, during regular office hours.

Titles of Regulations: **20 VAC 5-400. Telecommunications (repealing 20 VAC 5-400-80).**

**20 VAC 5-427. Rules for Local Exchange Telecommunications Company Service Quality Standards (adding 20 VAC 5-427-10 through [ ~~20 VAC 5-427-190~~ 20 VAC 5-427-170 ]).**

Statutory Authority: § 12.1-13 of the Code of Virginia.

Effective Date: November 1, 2005.

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Agency Contact: Steven C. Bradley, Deputy Director, Division of Communications, State Corporation Commission, P.O. Box 1197, Richmond, VA 23218-1197, telephone (804) 371-9420, FAX (804) 371-9069, or e-mail [steve.bradley@scc.virginia.gov](mailto:steve.bradley@scc.virginia.gov).

## Summary:

*Rules for Local Exchange Telecommunications Company Service Quality Standards (Settlement Rules), 20 VAC 5-427, replace the existing Regulation Governing Service Standards for Local Exchange Telephone Companies; Penalty, 20 VAC 5-400-80 of the Telecommunications Regulation.*

*The regulations apply to all certificated local exchange carriers and prescribe a minimum acceptable level of quality of service under normal operating conditions. The regulations call for the design, construction, maintenance, and operation of network facilities in compliance with all applicable commission orders and interconnection requirements under federal and state law.*

*There are no changes to the revised proposed version of the regulations published on August 8, 2005, and as corrected by an errata in the Virginia Register of Regulations in the September 19, 2005, issue of the Virginia Register of Regulations.*

AT RICHMOND, SEPTEMBER 30, 2005

COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

CASE NO. PUC-2003-00110

Ex Parte: Establishment of Rules for Service Quality Standards for the Provision of Local Exchange Telecommunications Services

## FINAL ORDER APPROVING RULES FOR LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY SERVICE QUALITY STANDARDS

On August 1, 2003, the State Corporation Commission ("Commission") took under consideration the Staff's proposed Rules for Local Exchange Telecommunications Company Service Quality Standards (to be codified at 20 VAC 5-427-10 et seq.) ("Rules") for replacement of the Rules Governing Service Standards for Local Exchange Telephone Companies codified at 20 VAC 5-400-80 ("current rules").<sup>1</sup> Pursuant to the Order for Notice and Comment, interested parties were permitted to comment on, propose modifications or supplements to, or request a hearing on the Rules. Interested parties were further requested to comment on a proposed Bill of Rights and selected matters that may be addressed in a final rulemaking.<sup>2</sup>

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<sup>1</sup> Order Prescribing Notice and Granting Leave to Comment or Request Hearing, August 1, 2003, Case No.

PUC-2003-00110 ("Order for Notice and Comment").

<sup>2</sup> Order for Notice and Comment, pp. 2-3.

Comments were filed by the following industry participants: Verizon Virginia Inc. and Verizon South Inc. (collectively, "Verizon"); United Telephone - Southeast, Inc., Central Telephone Company of Virginia, and Sprint Communications Company of Virginia (collectively, "Sprint"); Cavalier Telephone, LLC ("Cavalier"); NTELOS Inc. ("NTELOS"); AT&T Communications of Virginia, LLC ("AT&T"); WorldCom, Inc. ("MCI"); Cox Virginia Telecom, Inc. ("Cox"); the Virginia Telecommunications Industry Association ("VTIA"); and the Virginia Cable Telecommunications Association ("VCTA"). The Division of Consumer Counsel, Office of the Attorney General ("Consumer Counsel"), the Virginia Citizens Consumer Council ("VCCC"), and several other members of the public also filed comments.

Sprint alone requested a hearing on the Rules in order to address issues raised in its comments. Other commenting parties requested revisions to the Rules and another opportunity to comment and/or request a hearing.<sup>3</sup> Finally, several commenting parties addressed the selected matters presented in the Order for Notice and Comment.<sup>4</sup>

The Staff then proposed in response to all filed comments a revision to the Rules and to the originally proposed Bill of Rights.

On October 13, 2004, the Commission took under consideration the Staff's proposed revised Rules for Local Exchange Company Service Quality Standards (to be codified at 20 VAC 5-427-10 et seq.) ("Revised Rules") for replacement of the current rules, and also the Staff's proposed revised Telecommunications Bill of Rights ("Revised Bill of Rights").<sup>5</sup> Pursuant to the Second Order for Notice and Comment, interested parties were permitted to comment on, propose modifications or supplements to, or request a hearing on the Revised Rules and Revised Bill of Rights. The Commission also took under advisement the

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<sup>3</sup> Comments by the following interested parties proposed specific revisions to the Rules: Verizon, Cavalier, NTELOS, MCI, Cox, VTIA, and VCTA. AT&T objected to the Rules in their entirety, while alternatively suggesting specific revisions.

<sup>4</sup> The selected matters announced in the Order for Notice and Comment that may be addressed in a final rulemaking include the following four questions:

1. Should there be further requirements for telephone directory information in addition to the proposed requirements of 20 VAC 5-427-130 Directories in Attachment A to the Order for Notice and Comment;
2. Should the directory be competitively neutral, and, if so, what are the requirements to ensure neutrality;
3. What standards, if any, should there be to ensure telephone billing accuracy, and what metrics should there be to gauge compliance with any such billing accuracy standards; and
4. What standards, if any, should there be to measure the overall intelligibility of the telephone bill, and what methodology should there be for measuring compliance with any such standards?

These four questions are resolved by our ultimate rulemaking as ordered herein below. The final rules adopted are pursuant to stipulation. Therefore, the comments addressing the four questions are deemed superseded by the ultimate stipulation reached by the Stipulating Parties, and the Commission will not address these questions further in this case.

<sup>5</sup> Second Order Prescribing Notice and Granting Leave to Comment or Request Hearing, October 13, 2004, Case No. PUC-2003-00110 ("Second Order for Notice and Comment").

comments previously filed.<sup>6</sup> Comments on the Revised Rules and Revised Bill of Rights were subsequently filed by members of the public and the following industry participants: VCTA; Cox; Verizon; Sprint; NTELOS; and MCImetro Access Transmission Services of Virginia, Inc. ("MCImetro"). Comments were also filed by the Consumer Counsel, and by Mrs. Irene E. Leech on behalf of the VCCC.

On July 18, 2005, the Staff filed a Stipulation and Motion to Approve Stipulation ("Motion"), which, for settlement purposes, presents for approval by the Commission certain stipulated Rules for Local Exchange Telecommunications Company Service Quality Standards (Chapter 427) ("Settlement Rules"), and a Telecommunications Bill of Rights ("stipulated Bill of Rights").<sup>7</sup> Pursuant to the Stipulation, the Stipulating Parties jointly present the Settlement Rules and urge their adoption for measuring the health of the telecommunications network and assuring a minimum level of service quality for all consumers. The Stipulating Parties further agree that the Settlement Rules constitute a negotiated resolution of this rulemaking proceeding that is consistent with the local exchange telephone service competition policy of § 56-235.5:1 of the Code of Virginia. The Stipulating Parties waive further comment and hearing on their recommended Settlement Rules. The Stipulating Parties further recommend the adoption of the stipulated Bill of Rights.

On July 19, 2005, the Commission determined that the Settlement Rules should now be considered for replacement of the Revised Rules previously taken under consideration by our Second Order for Notice and Comment, and that the Settlement Rules and stipulated Bill of Rights should be published in the Virginia Register of Regulations. Interested persons not participating in the Stipulation and wishing to comment on, propose modifications or supplements to, or request a hearing on the Settlement Rules or stipulated Bill of Rights were granted leave to file such comments, proposals, or requests for hearing with the Clerk of the Commission on or before September 8, 2005.<sup>8</sup>

We take judicial notice that the Settlement Rules and stipulated Bill of Rights were published in the Monday, August 8, 2005, edition of the Virginia Register of Regulations.<sup>9</sup>

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<sup>6</sup> Second Order for Notice and Comment, p. 3.

<sup>7</sup> The commenting parties executing the Stipulation include: VCTA; Cox; Verizon; Consumer Counsel; Sprint; NTELOS Inc., the parent company of NTELOS Telephone, Roanoke and Botetourt Telephone, NTELOS Network, and R&B Network; AT&T; Cavalier; MCImetro; and the VTIA ("Stipulating Parties"). The Staff further reports that the VCCC has been consulted and is in agreement with the Settlement Rules and the stipulated Bill of Rights.

<sup>8</sup> Third Order Prescribing Notice and Granting Leave to Comment or Request Hearing ("Third Order"), issued July 19, 2005.

<sup>9</sup> The Commission is informed by the Virginia Registrar of Regulations that corrections to the regulations published on August 8, 2005, will appear in Virginia Register of Regulations, as follows:

Page 3372, 20 VAC 5-427-10, definition of "Customer," line 4, after "provided by a LEC" reinsert "that are"

Page 3375 20 VAC 5-427-100 subdivision 1, line 1, after "immediate" insert "[direct]"

No further comments, proposed modifications, or requests for hearing were filed pursuant to the Third Order. Therefore, the Commission concludes that there are no objections to the Commission's adoption of the Settlement Rules and stipulated Bill of Rights in this rulemaking proceeding.

NOW THE COMMISSION, having considered the record in this matter, is of the opinion that the current rules codified at 20 VAC 5-400-80 should be repealed and the Settlement Rules (Chapter 427) should be adopted unchanged, effective November 1, 2005. The stipulated Bill of Rights, while not a part of the Commission's rulemaking, is also adopted for dissemination to the public. All local exchange companies are encouraged to include the stipulated Bill of Rights in directories published and the Division of Communications is directed also to disseminate the stipulated Bill of Rights.

Accordingly, IT IS ORDERED THAT:

(1) The current rules codified at 20 VAC 5-400-80 are hereby repealed, effective November 1, 2005.

(2) The Rules for Local Exchange Telecommunications Company Service Quality Standards (adding 20 VAC 5-427-10 through 20 VAC 5-427-170) are hereby approved, effective November 1, 2005.

(3) The stipulated Bill of Rights is hereby adopted, consistent with the findings above.

(4) The Commission's Division of Information Resources shall forward this Order and the attached rules and Bill of Rights to the Registrar of Regulations for publication in the Virginia Register of Regulations.

(5) There being nothing further to come before the Commission, this matter is hereby closed.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to: C. Meade Browder, Jr., Senior Assistant Attorney General, Division of Consumer Counsel, Office of Attorney General, 900 East Main Street, Second Floor, Richmond, Virginia 23219; Ms. Irene E. Leech, Virginia Citizens Consumer Counsel, 4220 North Fork Road, Elliston, Virginia 24087; Ms. Adria M. Woods, 2800-G Foxhunt Lane, N.W., Blacksburg, Virginia 24060; Hon. William Roscoe Reynolds, P.O. Box 404, Martinsville, Virginia 24114-0404; Mr. Stephen McClelland, #180075, Buckingham Correction Center, P.O. Box 430, Dillwyn, Virginia 23936-0430; all local exchange carriers certified in Virginia as set out in Appendix A; and the Commission's Office of General Counsel and the Division of Communications.

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Page 3376. 20 VAC 5-427-110, subdivision 1, line 1, after "changed" insert "[telephone]"; line 2, after "former" insert "[telephone]"; and line 4, after "current" insert "[printed]"

Page 3381, 20 VAC 5-427-130, subsection L, line 7, change "services" to "service"

Thus, the Commission finds that the Settlement Rules and stipulated Bill of Rights have been duly published.

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**20 VAC 5-400-80. ~~Regulation governing service standards for local exchange telephone companies; penalty. (Repealed.)~~**

~~Each local exchange telephone company shall provide the necessary equipment, plant facilities, and personnel within its certificated area(s) to deliver high quality customer service.~~

~~There are eight key indicators that shall be used to measure the quality of service being furnished by the local exchange companies. Where applicable, service results from these key indicators shall be banded as follows:~~

~~Satisfactory — Represents good service.~~

~~Weak spot — Requires management attention and corrective action.~~

~~Unsatisfactory — A level of service requiring immediate corrective action and management follow up.~~

~~The eight key indicators and their performance level bands are as follows:~~

~~SERVICE INDICATOR: Commission complaints per 1000 access lines per year.~~

~~DEFINITION: All customer complaints received by the Commission that, upon investigation, prove to be justified.~~

~~PERFORMANCE: Less than one per 1000 access lines per year~~

~~SERVICE INDICATOR: Trouble reports per 100 access lines per month.~~

~~DEFINITION: All customer trouble reports received, whether trouble was found or not found.~~

~~PERFORMANCE:~~

~~0 — 6.0 Sat.~~

~~6.1 — 8.0 Wkspt.~~

~~Over 8.0 Unsat.~~

~~SERVICE INDICATOR: Percent repeated trouble reports per month.~~

~~DEFINITION: The incidence of two or more trouble reports received from the same access lines within the same 30 day period, stated as a percent of total trouble reports.~~

~~PERFORMANCE:~~

~~0 — 16% Sat.~~

~~16.1 — 20% Wkspt.~~

~~Over 20% Unsat.~~

~~SERVICE INDICATOR: Network reports per 100 access lines per month.~~

~~DEFINITION: All customer trouble reports, whether found or not found, that are charged against the central office.~~

~~PERFORMANCE:~~

~~0 — .35 Sat.~~

~~0.36 — .45 Wkspt.~~

~~Over .45 Unsat.~~

~~SERVICE INDICATOR: Network switching performance, percent satisfactory per month.~~

~~DEFINITION: An index that measures the overall performance of central office equipment in providing dial tone, switching and connecting customers, and collecting call billing data.~~

~~PERFORMANCE BAND:~~

~~95.5 — 100% Sat.~~

~~92.0 — 95.4% Wkspt.~~

~~Under 92% Unsat.~~

~~SERVICE INDICATOR: Business office accessibility, percent per month~~

~~DEFINITION: The percent of all calls to the business office which are answered live within 20 seconds.~~

~~PERFORMANCE BAND:~~

~~85 — 100% Sat.~~

~~80 — 84.9% Wkspt.~~

~~Under 80% Unsat.~~

~~SERVICE INDICATOR: Repair service accessibility, percent per month.~~

~~DEFINITION: The percent of all calls to repair service which are answered live within 20 seconds.~~

~~PERFORMANCE BAND:~~

~~85 — 100% Sat.~~

~~80 — 84.9% Wkspt.~~

~~Under 80% Unsat.~~

~~SERVICE INDICATOR: Service orders completed within five working days, percent per month.~~

~~DEFINITION: The percent of all single line new service orders completed within five working days of service application or the customer requested completion date.~~

~~PERFORMANCE BAND:~~

~~90 — 100% Sat.~~

~~85 — 89.9% Wkspt.~~

~~Under 85% Unsat.~~

~~Local exchange companies which exceed 20,000 access lines shall report data to the Commission's Division of Communications each month on the above described eight key indicators.~~

~~Nothing in this section shall be deemed to excuse a local exchange company from submitting any additional information requested by the Commission's Division of Communications.~~

~~Violations of this section shall be punishable pursuant to either § 56-483 or § 12.1-33 of the Code of Virginia or both.~~

CHAPTER 427.  
RULES FOR LOCAL EXCHANGE  
TELECOMMUNICATIONS COMPANY SERVICE QUALITY  
STANDARDS.

**20 VAC 5-427-10. Applicability; definitions.**

A. The provisions of this chapter shall apply to local exchange telecommunications carriers (LECs) certificated to provide local exchange telecommunications services within the Commonwealth of Virginia.

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

[ "Automated answering system" means a system where customer calls are received and directed to a live agent or an automated transaction system.

"Automated transaction system" means a system where customer transactions can be completed without the assistance of a live agent. ]

"Bridged tap" means a multiple appearance of the same cable pair at several distribution points or a section of a cable pair not on the direct electrical path between the central office and the user's customer's premises.

"Business office" means any functional entity that accepts service orders, billing inquiries, and processes other related customer requests.

"Busy hour" means the hour of each month in which a telecommunications system carries the most traffic sliding 60-minute period during which the maximum total traffic load in a given 24-hour period occurs.

"Central office" means a LEC operated switching system, including remote switches and associated transmission equipment (e.g., digital circuit switches, packet switches, carrier systems).

"Central office serving area" means the geographic area in which local service is provided by a LEC's central office and associated network outside plant.

"Commission" means the Virginia State Corporation Commission.

"Competitive local exchange carrier (CLEC)" means an entity, other than a locality, certificated to provide local exchange telecommunications services in Virginia after January 1, 1996, pursuant to § 56-265.4:4 of the Code of Virginia. ~~An incumbent local exchange carrier shall be considered a CLEC in any territory that is outside the territory it was certificated to serve as of December 31, 1995, for which it obtains a certificate to provide local exchange telecommunications services on or after January 1, 1996 and 20 VAC 5-417.~~

"Customer" means any person, firm, partnership, corporation, municipality, cooperative, organization, or governmental agency using that is an end user of local

exchange telecommunications services provided by a LEC under the jurisdiction of the commission.

"Emergency" means a sudden or unexpected occurrence involving a clear and imminent danger [ 7 ] demanding immediate action to prevent or mitigate loss of, or damage to, life, health, property, or essential public services.

~~"Facilities-based LEC" means a LEC that provides local exchange telecommunications services in whole or in part by means of its own network facilities.~~

[ ~~"Federal Communications Commission (FCC) reportable outage" means a service outage that meets the FCC criteria for notification of service outage to the FCC as required by 47 CFR 63.100 et seq.~~

~~"Final trunk group" means a last-choice trunk group that receives overflow calls and may receive first-route calls for which there is no alternate route. ]~~

"In service trouble report" means a customer-reported network trouble that allows calls to be originated or received but affects other aspects of service such as static or hazardous conditions.

"Incumbent local exchange carrier" or "incumbent" or "ILEC" means a public service company providing local exchange telecommunications services in Virginia on December 31, 1995, pursuant to a certificate of public convenience and necessity, or the successors to any such company.

"Intercept" means a ~~redirected call by an operator or a suitable recorded announcement that provides sufficient information as to the reasons for the call diversion, as well as directions to assist in completing the call.~~

[ ~~"Justified commission complaint" means a complaint submitted to the commission or staff involving a telecommunications service under the jurisdiction of the commission where it was determined by the commission or the staff that the LEC, its employees, or agents either: (i) failed to comply with its tariffs, procedures, or policies; (ii) used poor judgment; (iii) or resolved the customer's problem in an untimely or unsatisfactory fashion; or (iv) acted in an unreasonable or unprofessional manner. ]~~

"Load coil" means an induction device employed in local loops exceeding 18,000 feet to minimize amplitude distortion.

"Local exchange carrier (LEC)" means a certificated provider of local exchange telecommunications services, whether an incumbent or a new entrant.

"Local exchange telecommunications services" means local exchange telephone service as defined by § 56-1 of the Code of Virginia.

"Locality" means a city, town, or county that operates an electric distribution system in Virginia.

"Major service outage" means any network condition that causes 1,000 or more customers to be out of service for 30 or more minutes; causes an unplanned outage of, or

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completely isolates, a central office for 30 or more minutes; or disrupts 911 emergency call processing for any period.

"Municipal local exchange carrier (MLEC)" means a locality certificated to provide local exchange telecommunications services pursuant to § 56-265.4:4 of the Code of Virginia.

"Network" means a system of central offices and associated outside plant.

"Network access line (NAL)" means a customer dial tone line, or its equivalent, that provides access to the public telecommunications network.

"New entrant" means a CLEC or an MLEC.

"Out of service" means a network service condition causing [ : ] (i) an inability to complete an incoming or outgoing call or (ii) ~~the presence of interference~~ any other condition that causes a connected call to be incomprehensible.

"Outside plant" means ~~all remaining~~ the network facilities not included in the definition of central office (~~e.g.~~ including, but not limited to, copper ~~cables~~ cable, fiber optic ~~cables~~ cable, coaxial ~~cables~~ cable, terminals, pedestals, load coils, or any other equipment normally associated with interoffice, feeder, and distribution facilities up to and including the rate demarcation point } .

"Rate demarcation point" means the point at which a LEC's network ends and a customer's wiring or facilities begin.

"Repeat report" means a customer-reported network trouble that is received by a LEC within 30 days of another network trouble report on the same NAL.

"Speed of answer interval (SAI)" means the period of time ~~measured in seconds~~ following ~~customer direction either at~~ the completion of direct dialing, or upon completion of [ ~~the~~ a customer's ] final selection [ or response ] within an automated answering system, and lasting until the call is answered by a live agent or is abandoned by the customer or the LEC. In the case of automated transactions where a customer opts to speak to a live agent, the SAI is the period of time following the customer opting to speak to a live agent until the call is answered by a live agent or is abandoned by the customer or the LEC.

"Staff" means the commission's Division of Communications and associated personnel.

"Standard load" means transmission loss has been reduced on a cable pair by means of configuring the twisted copper pair loop using a 6,000 foot H spacing loading scheme or 4,500 foot D spacing loading scheme, which may be expressed as 6,000 foot H88 mh load or 4,500 foot d66 mh load scheme.

[ "~~Subsequent report~~" means a customer-reported network trouble received by a LEC while the a related initial customer trouble report remains open. ]

"Telecommunications relay service" means a telephone transmission service that provides the ability for an individual with a hearing or speech disability to engage in communication with a hearing individual in a manner functionally equivalent to someone without such a disability.

"Transmission" means a process of [ ~~sending information~~ transmitting voice grade telecommunications ] from one network point to another.

"Trouble" means an impairment of a LEC's network.

"Trouble report" means an initial oral or written notice, including voice mail and e-mail, to any LEC employee or agent of a condition that affects or may affect network service ~~for which there is no pending network trouble report~~.

"Trunk blockage" means the unavailability of network transmission capacity at the time of a call that prevents call completion and results in the call originator receiving a [ fast ] busy signal or an indication of trunk blockage.

[ "~~Unbundled network elements (UNE)~~" means the physical and functional components of the network, as defined by the FCC, that may be used or leased by a CLEC or a MLEC from an ILEC. ]

"Virginia universal service plan (VUSP)" means the program under which eligible lower-income customers may obtain certain telecommunications services at reduced monthly charges and may also receive a discount on certain nonrecurring connection or service charges from participating LECs. This program is also referred to as lifeline or link up.

"Voice grade service" means the transmission of communication signals in the range of 0 to 4000 Hertz.

## **20 VAC 5-427-20. General provisions.**

A. The provisions of this chapter prescribe the minimum acceptable level of quality of service under normal operating conditions.

B. The commission may, after investigation, suspend application of any provision of this chapter during periods of emergency, catastrophe, natural disaster, severe storm, or other events affecting large numbers of customers. The commission may also suspend application of the provisions of this chapter for other extraordinary or abnormal conditions, including work stoppage, civil unrest, major transportation disruptions, or other events beyond the control of a LEC.

## **20 VAC 5-427-30. Network facilities, construction, [ operation, ] maintenance, and [ ~~operation~~ repair ] .**

A. Network facilities shall be designed, constructed, [ operated, ] maintained, and [ ~~operated~~ repaired ] in compliance with [ ~~the~~ ] latest edition of the National Electric Safety Code of the Institute of Electrical and Electronics Engineers, ~~Inc.~~ applicable safety and electrical codes, [ regulations and statutes; ] applicable commission orders [ ; and rules; ] and all requirements for interconnection under applicable federal and state law.

B. Outside plant shall be designed, constructed, [ ~~and~~ operated, ] maintained [ and repaired ] so as to ~~prevent~~ minimize transmission interference from services provided by other public utilities.

C. A LEC shall participate in operational reviews held at the staff's discretion to ensure that construction, design, maintenance, disaster recovery plans, and any other applicable programs are adequate to meet the needs of a LEC's customers.

D. A LEC shall have the test equipment and technical ability to determine the operating and transmission characteristics of its own [ ~~circuit and switching equipment network facilities~~ ].

E. A LEC, whenever it disturbs [ private ] property during the course of construction or maintenance operations, shall [ , except when otherwise specified or governed by easement or agreement, make every reasonable effort to ] restore the [ private ] property to a condition that is at least as good as that which existed prior to the disturbance.

**[ 20 VAC 5-427-40. Reporting requirements.**

~~A. The reporting requirements as set forth in this section shall apply to a LEC with a total of 20,000 or more NALs.~~

~~B. A LEC subject to the reporting requirements of this section shall fulfill its reporting requirements in conformance with 20 VAC 5-427-140. Reports shall be electronically submitted to the staff on a quarterly basis no later than one month following the end of each calendar quarter reporting period. A LEC may use its own report format with the prior approval of the staff. Any reported data resulting in an unsatisfactory rating shall be addressed in an action plan as set forth in 20 VAC 5-427-170 and shall be included in the LEC's required report. and shall report its results by one of the following two methods:~~

~~1. General reporting shall include all of the measurements set forth in 20 VAC 5-427-140 and shall be submitted to the staff on a quarterly basis no later than one month following the end of each calendar quarter reporting period. A LEC may use its own report format with the prior approval of the staff.~~

~~2. Exception reporting shall include each of the measurements set forth in 20 VAC 5-427-140 where a LEC failed to meet a given performance standard and shall be submitted to the staff on a monthly basis no later than one month following the end of each calendar monthly reporting period. A LEC may use its own report format with the prior approval of the staff.~~

~~C. A CLEC or an MLEC LEC may request an exemption from any of the individual reporting requirements in this section if it demonstrates that its services are provided through the resale of an ILEC's tariffed services or through the use or lease of an ILEC's unbundled network elements, or the use or lease of any other network components over which it has no direct control. The commission or staff shall grant or deny a request for exemption on a case-by-case basis.~~

**20 VAC 5-427-50 20 VAC 5-427-40]. Availability and retention of records.**

A. A LEC shall make available to the commission or staff, upon request, all records, reports, and other information

~~required to determine compliance with this chapter and to permit the commission and staff to investigate and resolve quality of service complaints related to regulated telecommunications services.~~

~~B. A LEC shall retain records [ pursuant relevant ] to [ the requirements of 20 VAC 5-427-140 and 20 VAC 5-427-160 20 VAC 5-427-130 ], where applicable, for a minimum of three two years [ in a manner that permits audit by the commission or staff ].~~

C. A LEC shall retain customer billing records for a minimum of three years to permit the commission or staff to investigate and resolve billing complaints.

**[ 20 VAC 5-427-60 20 VAC 5-427-50]. Maintenance of facility maps and records.**

A LEC or its affiliates shall maintain maps and records that show the current location, description, and capacity fill data of its network.

**[ 20 VAC 5-427-70 20 VAC 5-427-60]. Rate and special charges information.**

A. [ ~~A LEC shall, upon~~ Upon the ] request [ ~~, disclose~~ ] verbally [ ~~to of~~ ] a current or prospective customer [ ~~, a LEC shall disclose~~ ] all rates, charges, and fees applicable to a customer's service request or inquiry including, but not limited to, the federal subscriber line charge or its equivalent, [ ~~,~~ ] or any other rates, charges, and fees that it collects and retains. In addition, [ ~~these the~~ ] rates, charges, and fees [ ~~that the LEC collects and retains~~ ] shall each be [ clearly, conspicuously, and in every instance, ] disclosed as line items on customer bills separately from governmental fees, taxes, and surcharges.

B. Upon the request of a current or prospective customer, a LEC shall describe and disclose the fees, taxes, and surcharges that it collects from a customer and distributes to governmental agencies.

C. Upon the request of a current or prospective customer, a LEC shall [ ~~refer~~ , with specificity, provide ] a customer [ ~~to~~ with ] an Internet website [ address or website link ] containing its [ current effective ] Virginia intrastate tariffs or, at the customer's request, provide a copy of the applicable tariff section or pages for the Virginia intrastate regulated telecommunications service or, ~~at the customer's option, may refer a customer to an Internet website containing its tariffs.~~

D. Upon the request of a current or prospective customer, a LEC shall provide reasonable access to information and provide assistance necessary to enable the current or prospective customer to obtain the most economical service available to meet the customer's needs, including VUSP or any other discount programs that may be available.

E. Before changing or installing a service, a LEC shall provide to the current or prospective customer an estimate of any special charges not specifically set forth in the LEC's applicable tariff. Special charges include, but are not limited to, any of the following: extraordinary construction, maintenance, and replacement costs; expenses for

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overtime work to be performed at the customer's request; or special installations, equipment, or assemblies needed to fulfill a customer's request.

**[ ~~20 VAC 5-427-80~~ 20 VAC 5-427-70]. Response to trouble reports.**

A. A LEC shall ~~take a process trouble report~~ reports from a customer customers at all times through [ ~~an~~ ] automated or live means [ ~~—A LEC and~~ ] shall take immediate action to clear trouble reports of an emergency nature.

B. A LEC shall make a full and prompt investigation of all trouble reports [ ~~and shall render reasonable customer assistance~~ ] to its customer, whether an end user or another LEC, [ ~~to identify a cause for~~ ] the [ ~~an outage that may be corrected by the customer~~ ].

[ C. A LEC shall render reasonable customer assistance to identify the cause or causes of an outage that may be corrected by the customer. ]

[ ~~C. D.~~ ] A LEC shall maintain an accurate record of trouble reports by telephone number or circuit number, as appropriate. The record shall include all of the following information:

1. The customer or service affected;
2. The time, date, and nature of the trouble report;
3. The action taken to clear the trouble or satisfy the complaint; and
4. The date and time the repair was completed or the trouble report was otherwise closed.

**[ ~~20 VAC 5-427-90~~ 20 VAC 5-427-80]. Service outage reporting requirements.**

[ ~~A. A service outage report shall be made to the staff according to the following guidelines:~~

~~1. A. The staff shall be advised of a ] major service outage [ shall be reported to the staff ] on the same business day or, if the outage occurs [ ~~after normal business hours or during a state holiday~~ outside of the commission's normal business hours ], at the beginning of the next business day [ ~~;~~ ]~~

[ ~~2. An FCC reportable service outage shall be reported by a LEC to the staff at the same time it is reported to the FCC; and~~

~~3. A central office that experiences two or more unplanned outages within any 30-day period shall be reported by a LEC to the staff at the end of the calendar month in which the second unplanned ] stoppage [ outage occurred. ]~~

~~B. A facilities-based LEC shall notify any affected LEC dependent upon its network, in whole or in part, within 90 minutes of becoming aware of a major or FCC reportable service outage, unless interconnection agreements specify otherwise. ]~~

~~C. Service outages first shall be reported by a LEC to the staff via telephone and followed up with an e-mail or facsimile message and contain the following~~

B. [ ~~The service outage report made to the staff shall include~~ A major service outage report shall be submitted to the staff by the end of the next business day following the outage and shall include the following information ] :

1. The central office, remote switch, or other network facility involved;
2. The date and estimated time of commencement of the outage;
3. The geographic area affected;
4. The estimated number of customers affected;
5. The types of services affected;
6. The duration of the outage (e.g., time elapsed from the commencement of the outage until estimated restoration of full service); and
7. The apparent or known cause [ or causes ] of the ~~incident~~ outage, including the name and type of equipment involved and the specific part of the network affected, and methods used to restore service.

**[ ~~20 VAC 5-427-100~~ 20 VAC 5-427-90]. Emergency operation.**

[ A. ] A LEC shall make reasonable preparations to continue operations and restore service outages resulting from fire, major electric power failures, other emergencies, and acts of divine providence.

[ B. ] A LEC's employees or agents shall be instructed to follow [ ~~predetermined~~ ] emergency procedures to prevent or minimize interruption or degradation of service.

[ C. ] A [ LEC's ] central [ ~~office~~ offices ] shall have access to adequate facilities to provide emergency electric power [ ~~—A, and the~~ ] LEC shall determine the necessary reserve power capacity requirement based on its operating experience with its energy provider.

[ D. A. LEC shall ] if a central office does not have power generation equipment installed, [ ~~a LEC shall~~ ] design and maintain sufficient battery reserve, within the appropriate ampere hour rating, to allow ~~time for~~ timely delivery and setup of portable generators.

**[ ~~20 VAC 5-427-110~~ 20 VAC 5-427-100]. Customer complaint handling.**

A LEC shall establish customer complaint processing procedures in compliance with § 56-247.1 C of the Code of Virginia by:

1. Providing the staff a means for immediate telephone access to company complaint resolution personnel during normal business hours;
2. Providing the staff an escalation list of at least three company contacts responsible for resolving customer complaints received by the commission or staff. This list shall include the names, titles, addresses, telephone

numbers, fax numbers, and e-mail addresses of each individual contact. Any changes to the escalation list shall be provided to the staff within 30 days of the change;

3. Making a full and prompt investigation of all customer complaints;

4. Assisting customers who report obscene, threatening, or harassing calls;

5. Providing customers ~~with~~ who call from within their local serving area toll-free ~~numbers~~ access to report complaints;

6. Making its customer complaint procedure and its record of the number and type of complaints available to the staff whenever requested;

7. Noting and retaining customer contact records when an inquiry or complaint is resolved. Customer contact records shall be retained for a minimum of ~~three~~ two years; and

8. Conducting an investigation upon notification by the staff [~~or~~ regarding] a customer inquiry or complaint. Out-of-service complaints shall be ~~resolved immediately~~ given immediate attention with a written response provided to the staff within [~~24 hours~~ one business day of notification by the staff]. For other complaints, the LEC shall provide a written ~~or e-mail~~ response to the staff detailing its resolution of the complaint within 10 business days following the initial notification by the staff. Upon extraordinary circumstances when the matter cannot be resolved within ~~the~~ [ a ] 10 business-day period, the LEC shall provide written updates ~~to~~ on a schedule [ ~~agreed to~~ established ] by the staff ~~every fifth business day, or sooner~~, until the matter is finally resolved.

**[ ~~20 VAC 5-427-120~~ 20 VAC 5-427-110 ]. Intercept.**

When a customer's telephone number is changed or disconnected, the LEC shall offer to intercept all calls to the former telephone number in accordance with the following:

1. Intercept service shall be provided for changed numbers until the former number is reassigned due to equipment or telephone numbering resource shortages or until it is no longer listed in the current directory; and

2. Intercept service shall be updated daily to reflect the most current service order activity affecting a LEC's customers.

**[ ~~20 VAC 5-427-130~~ 20 VAC 5-427-120 ]. Printed directories.**

A. A LEC responsible for publishing a directory shall make every reasonable effort to [ ~~resolve correct~~ ] directory [ ~~error~~ errors and to resolve directory ] disputes in a timely and efficient manner. A LEC responsible for directory publication may be required by the commission [ ~~or directed by the staff~~ ] to postpone publication depending upon the nature and severity of a complaint. A LEC responsible for publishing a directory includes, but is not limited to, a LEC that publishes directories, causes directories to be

published, or provides customer information for inclusion in directories.

B. A LEC shall publish directories or cause its customers' listing information to be published in directories at yearly intervals. Exceptions to the yearly publication schedule shall be reviewed with the staff.

C. A LEC shall distribute, or cause to be distributed at no charge to each customer, at least one directory for each residential premises and at least one directory for each business NAL that includes listings contained in a customer's local and extended calling areas. Where a residential customer has more than one NAL, a LEC shall, upon request of that customer, provide, at no charge, additional directories not to exceed the total number of NALs. In cases where one directory does not include the listings contained in a customer's local and extended calling areas, then a LEC shall provide, upon request of that customer, at no charge, any additional directories or supplements that may be required to provide such listings.

D. A LEC shall provide the staff one copy of each directory it publishes or causes to be published.

E. If an error occurs in the listed telephone number of a customer, then the LEC shall, at no charge, offer to intercept ~~or cause to be intercepted~~ [ or remote forward ] calls ~~to the listed number~~ [ , at the option of the LEC, ] for the remaining life of the directory, or change the customer's telephone number to the listed telephone number provided that it is technically feasible and that the telephone number is not in service for another customer.

F. If an error or omission in the name, address, or telephone number of a customer occurs, a LEC shall, if applicable, include, or cause to be included, the customer's correct name, address, or telephone number in the files of the directory assistance database.

G. If additions or changes to the network or any other operations require changing a telephone number assigned to a customer, then the serving LEC shall give reasonable notice to the customer affected even though the change in telephone number may coincide with the issuance of a directory.

H. A ~~LEC responsible for publishing a~~ directory shall, in the opening information pages, include:

1. Information pertaining to accessing emergency services such as fire and police;

2. Information giving the commission's address, telephone number, website information, and regulatory authority;

3. An explanation of the services for which local exchange telecommunications services may be terminated for failure to pay;

4. Information pertaining to accessing the Telecommunications Relay Service. This service is also referred to as Virginia Relay;

5. Information describing illegal telephone use;

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6. Information describing procedures for the prevention of damage to underground facilities;

7. Information describing procedures on handling harassing, obscene, abusive, or threatening calls;

8. Information pertaining to consumer rights to privacy including procedures on how to opt out or block services that may lead to the disclosure of personal information; and

9. Information pertaining to procedures on how to prevent solicitation calls.

~~I. All LECs providing service in an area represented by a directory shall, in the opening pages, include or cause to be included:~~

~~1. The LEC's complaint procedure established in compliance with § 56-247.1 C of the Code of Virginia;~~

~~2. Contact information necessary to reach directory assistance, repair service, and the appropriate business office;~~

~~3. An Internet address directing access to its tariffs. If tariffs are not accessible via the Internet, a LEC shall provide a toll free telephone number from which a customer can receive assistance in obtaining tariffs directly from the LEC;~~

~~4. Instructions for obtaining information on billing and annoyance call procedures; and~~

~~5. Information describing the availability of VUSP services.~~

I. All LECs appearing in the opening information pages of a directory shall include or cause to be included contact information necessary to call the repair service and the appropriate business office.

**[ 20 VAC 5-427-140 20 VAC 5-427-130 ]. Service quality performance standards.**

A. ~~The rate of trunk blockage is a measure of the effectiveness of a LEC's engineering, forecasting, and maintenance of its circuit-switched inter- and intra-exchange trunk paths. The threshold for satisfactory performance is less than or equal to 1.0. This measurement shall be calculated for a given month, per central office, as illustrated by the following formula:~~

$$\frac{\text{Busy hour calls blocked}}{\text{Busy hour calls attempted}} \times 100 = \text{Trunk blockage}$$

1. Include in this report the following:

- a. Final trunk groups that carry local traffic;
- b. Final trunk groups that carry two-way local and long distance traffic between a central office and an access tandem switch; and
- c. Umbilicals or links that carry local traffic between central offices, including remotes.

2. Exclude from this report the following:

~~a. Trunk groups that alternately route calls to another trunk group in handling public message calls; and~~

~~b. Trunk groups that are dedicated to private or virtual private line use and trunk groups associated with mass calling networks or both.~~

~~B. A. Central office related trouble reports [ per 100 NALs ] is [ a measure an indicator ] of the quality of the switching systems and associated component's system performance in processing calls. The threshold standard for satisfactory performance [ for any given central office ] is [ , without exception other than as permitted in this chapter, ] less than or equal to 0.35 [ central office trouble reports per 100 NALs, per calendar month ]. [ This measurement , as shown by the following formula, shall be calculated for a given month, per central office, as illustrated by the following formula: each central office on a monthly basis and shall be reported to the staff if the LEC fails to meet the performance standard for three consecutive months.~~

$$\frac{\text{Central office ]-related [ Central office ]}}{\text{[ reports ]}} \times 100 = \frac{\text{related[ trouble reports ]}}{\text{reports}}$$

~~NALs at end of month~~

~~Exclude from this report the following:~~

- ~~1. Reports of trouble from an employee or agent of a LEC discovered through diagnostic ] or other [ work ] done [ or during routine maintenance ] of equipment [ ;~~
- ~~2. Reports of trouble cleared to the connecting company's network; and~~
- ~~3. ] A subsequent report [ Subsequent reports. ]~~

~~G. B. Outside plant trouble reports [ per 100 NALs ] is [ a measure an indicator ] of [ the ] quality of [ the ] design, construction, and maintenance of the outside plant portion of the network associated with a central office a LEC's outside plant. The threshold standard for satisfactory performance is [ , without exception other than as permitted in this chapter, ] less than or equal to 3.0 [ outside plant trouble reports per 100 NALs, per calendar month ]. [ This measurement as shown by the following formula, shall be calculated for ] a given month, per central office serving area, as illustrated by the following formula: [ each central office serving area, or by some other relevant designation as determined by the staff on a case-by-case basis, on a monthly basis and shall be reported to the staff if the LEC fails to meet the performance standard for three consecutive months.~~

$$\frac{\text{Outside plant trouble reports}}{\text{NALs at end of month}} \times 100 = \text{Outside plant trouble reports ]}$$

~~Excluded [ Exclude from this report ] are [ the following:~~

- ~~1. Reports of trouble from an employee or agent of a LEC discovered through diagnostic ] or other [ work ] done [ or during routine maintenance ] of equipment [ ;~~

~~2. Reports of trouble cleared to the connecting company's network;~~

~~3. Reports of trouble ] on [ in which the employee or agent of a LEC, upon arriving at the customer location, is unable to gain access to the rate demarcation point within the scheduled time frame, and access is necessary for trouble analysis ] and clearance [ repair; and~~

~~4. ] A subsequent report [ Subsequent reports. ]~~

~~D. C. Repeat report reports is a measure of a LEC's failure to resolve a network trouble on the initial attempt. Beginning January 1, 2004, through December 31, 2004, the performance threshold for repeat reports shall be no greater than 16%. As of January 1, 2005, the performance threshold for repeat reports shall be no greater than 14%. As of January 1, 2006, the performance threshold for repeat reports shall be no greater than 12%. As of January 1, 2007, the performance threshold for repeat reports shall be no greater than 10%. customer-reported network troubles received by a LEC within 30 days of another network trouble report on the same NAL. The standard for satisfactory performance [ for repeat reports shall be no greater than shall not exceed, without exception other than as permitted in this chapter, a repeat report rate of ] 16% [ in any given 30-day period]. [ This measurement, as shown by the following formula, shall be calculated for ] a given month, per central office serving area, as illustrated by the following formula: [ each central office serving area, or by some other relevant designation as determined by the staff on a case-by-case basis, on a monthly basis and shall be reported to the staff if the LEC fails to meet the performance standard for three consecutive months.~~

$$\frac{\text{Repeat reports}}{\text{Trouble reports cleared}} \times 100 = \text{Percent repeat reports}$$

~~Excluded [ Exclude from this report ] are [ the following:~~

~~1. Reports of trouble from an employee or agent of a LEC discovered through diagnostic ] or other [ work ] done [ or during routine maintenance ] of equipment [ ;~~

~~2. Reports of trouble in which the employee or agent of a LEC, upon arriving at the customer location, is unable to gain access to the rate demarcation point within the scheduled time frame, and access is necessary for trouble analysis and repair; and~~

~~3. ] A subsequent report [ Subsequent reports. ]~~

~~E. D. Out-of-service trouble reports repaired within 24 [ or and ] 48 hours [ are measures is a measure ] of a LEC's ability to provide timely and effective restoration of a customer's service after receiving a trouble report that calls cannot be received or originated restore network service in a timely manner.~~

~~[ 4. ] A LEC shall maintain a performance threshold of 80% or greater cleared within 24 hours. [ Out-of-service trouble reports should generally be cleared within 24 hours. ] The standard for satisfactory performance shall be that [ , without exception other than as permitted in~~

~~this chapter, ] no less than 80% of out-of-service trouble reports are cleared within 24 hours, [ and that, without exception other than as permitted in this chapter, no less than 95% are cleared within 48 hours, per calendar month, ] excluding Sundays and [ LEC-recognized ] holidays. [ This measurement, as shown by the following formula, shall be calculated for ] a given month, per central office serving area, as illustrated by the following formula: [ each central office serving area, or by some other relevant designation as determined by the staff on a case-by-case basis, on a monthly basis and shall be reported to the staff if the LEC fails to meet the performance standard for three consecutive months.~~

$$\frac{\text{Out-of-service trouble reports cleared within 24 hours}}{\text{Out-of-service trouble reports}} \times 100 = \text{Percentage of out-of-service trouble reports cleared within 24 hours}$$

~~2. ] A LEC shall maintain a performance threshold of 99% or greater cleared within 48 hours. [ The standard for satisfactory performance shall be that no less than 99% of out-of-service trouble reports are cleared within 48 hours, excluding Sundays and holidays. This measurement, as shown by the following formula, shall be calculated for ] a given month, per central office serving area, as illustrated by the following formula: [ each central office serving area, or by some other relevant designation as determined by the staff on a case-by-case basis, on a monthly basis and shall be reported to the staff if the LEC fails to meet the performance standard for three consecutive months.~~

$$\frac{\text{Out-of-service trouble reports cleared within 48 hours}}{\text{Out-of-service trouble reports}} \times 100 = \text{Percentage of out-of-service trouble reports cleared within 48 hours}$$

~~[ 3. ] Excluded [ Exclude from these reports ] are [ the following:~~

~~a. Customer requested extended interval appointments;~~

~~b. Reports of trouble from an employee or agent of a LEC discovered through diagnostic ] or other [ work ] done [ or during routine maintenance ] of equipment;~~

~~[ c. ] An out-of-service trouble report on [ Reports of trouble in which ] an [ the employee or agent of a LEC, upon arriving at the customer location, is unable to gain access to the rate demarcation point within the scheduled time frame, and access is necessary for trouble analysis and repair; and~~

~~d. ] A subsequent report [ Subsequent reports. ]~~

~~F. E. In-service trouble reports cleared within 72 [ or and ] 96 hours [ are measures is a measure ] of a LEC's ability to provide timely and effective correction of a customer's service after receiving a trouble report repair network service in a timely manner. [ In-service trouble reports should generally be cleared within 72 hours. ]~~

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~~[ 4. ] A LEC shall maintain a performance threshold of 90% or greater cleared within 72 hours. The standard for satisfactory performance shall be that [ , without exception other than as permitted in this chapter, ] no less than 90% of in-service trouble reports are cleared within 72 hours, [ and that, without exception other than as permitted in this chapter, no less than 95% are cleared within 96 hours, per calendar month, ] excluding Sundays and [ LEC-recognized ] holidays. [ This measurement, as shown by the following formula, shall be calculated for ] a given month, per central office serving area, as illustrated by the following formula: [ each central office serving area, or by some other relevant designation as determined by the staff on a case-by-case basis, on a monthly basis and shall be reported to the staff if the LEC fails to meet the performance standard for three consecutive months.~~

$$\frac{\text{In-service trouble reports cleared within 72 hours}}{\text{In-service trouble reports}} \times 100 = \text{Percentage of in-service trouble reports cleared within 72 hours}$$

~~2.] A LEC shall maintain a performance threshold of 90% or greater cleared within 96 hours. [ The standard for satisfactory performance shall be that no less than 90% of in-service trouble reports are cleared within 96 hours, excluding Sundays and holidays. This measurement, as shown by the following formula, shall be calculated for ] a given month, per central office serving area, as illustrated by the following formula: [ each central office serving area, or by some other relevant designation as determined by the staff on a case-by-case basis, on a monthly basis and shall be reported to the staff if the LEC fails to meet the performance standard for three consecutive months.~~

$$\frac{\text{In-service trouble reports cleared within 96 hours}}{\text{In-service trouble reports}} \times 100 = \text{Percentage of in-service trouble reports cleared within 96 hours}$$

~~3.] Excluded [ Exclude from these reports ] are [ the following:~~

~~a. Customer requested extended interval appointments;~~

~~b. Reports of trouble from an employee or agent of a LEC discovered through diagnostic ] or other work done [ or during maintenance ] of telecommunications equipment; and:~~

~~[ c. ] An in-service trouble report on which an [ Reports of trouble in which the employee or agent of a LEC, upon arriving at the customer location, is unable to gain access to the rate demarcation point within the scheduled time frame, and access is necessary for trouble analysis and ] clearance. [ repair; and~~

~~d. Subsequent reports; ]~~

~~G. F. Business office access is a measure of a LEC's ability to provide a sufficient [ number of lines or trunks customer access ] to reach its business office. A LEC shall maintain a performance threshold of 90% or greater of calls~~

~~not blocked from entering its automated answering system or reaching The standard for satisfactory performance shall be that [ , without exception other than as permitted in this chapter, ] no less than 90% of business office calls [ enter a LEC's automated answering system or reach a live agent for a LEC not utilizing an automated answering system are answered, per calendar month. A call is considered to have been answered when a live agent or an automated transaction system is ready to render assistance or accept the information necessary to process the call. In automated transaction systems, a customer shall be given the option to reach a live agent before the completion of the automated transaction. ] [ This measurement, as shown by the following formula, shall be calculated ] for a given month [ on a monthly basis, based on the busy hour, ] on a statewide basis, as illustrated by the following formula: [ and shall be reported to the staff if the LEC fails to meet the performance standard on a statewide basis for three consecutive months.~~

$$\frac{\text{Busy hour calls not blocked}}{\text{Busy hour call attempts}} \times 100 = \text{Business office access percentage ]}$$

~~H. G. Business office answer time is a measure of workforce performance in answering a LEC's ability to provide a sufficient workforce to render timely assistance to customers calling its business office calls in a timely manner. The standard for satisfactory performance threshold for business office answer time shall be [ , without exception other than as permitted in this chapter, ] an average speed of answer interval ("SAI") SAI of no greater than 30 60 seconds, during normal hours of operation [ , per calendar month ]. A call is considered to have been answered when a live agent is ready to render assistance [ or accept the information necessary to process the call ]. In automated transaction systems [ where a customer transaction can be completed without the assistance of a live agent ], a customer shall be given the option to reach a live agent [ at any time during before the completion of ] the automated transaction. Information including other than that necessary to direct customers to a live agent, for example, marketing or promotional material provided by an automated answering system, other than that necessary to direct customers to a live agent, during normal hours of operation, shall be included in the [ cumulative ] SAI. [ This measurement as shown by the following formula, shall be calculated ] for a given month, on a statewide basis, as illustrated by the following formula: [ on a monthly basis and shall be reported to the staff if the LEC fails to meet the performance standard on a statewide basis for three consecutive months.~~

$$\frac{\text{Cumulative SAI in seconds}}{\text{Calls answered by a live agent}} = \text{Business office answer time}$$

~~Exclude from this report ] the following: [ automated transactions where the customer did not opt to speak to a live agent. ]~~

~~1. Customer initiated web transactions; and~~

~~2. Customer initiated automated transactions:~~

~~I. Business office hold time is a measure of workforce efficiency in processing customer requests. The performance threshold shall be an average hold time of no greater than 60 seconds. Business office hold time is any period after the call has been answered when the live agent is not actively engaged with the customer. This measurement shall be calculated for a given month, on a statewide basis, as illustrated by the following formula:~~

$$\frac{\text{Total hold time in seconds}}{\text{Total calls placed on hold by a live agent}} = \text{Business office hold time}$$

~~J. H. Repair center access is a measure of a LEC's ability to provide [ a ] sufficient [ number of lines or trunks customer access ] to [ reach ] its repair center. A LEC shall maintain a performance threshold of 99% or greater of calls not blocked from entering its automated answering system or reaching The standard for satisfactory performance shall be [ , without exception other than as permitted in this chapter, ] that no less than 90% of repair center calls [ enter a LEC's automated answering system or reach a live agent for a LEC not utilizing an automated answering system are answered, per calendar month. A call is considered to have been answered when a live agent or an automated transaction system is ready to render assistance or accept the information necessary to process the call. In automated transaction systems, a customer shall be given the option to reach a live agent before the completion of the automated transaction ] . [ This measurement, as shown by the following formula, shall be calculated ] for a given month [ on a monthly basis, based on the busy hour, ] on a statewide basis, as illustrated by the following formula: [ and shall be reported to the staff if the LEC fails to meet the performance standard on a statewide basis for three consecutive months.~~

$$\frac{\text{Busy hour calls not blocked}}{\text{Busy hour call attempts}} \times 100 = \text{Repair center access percentage}$$

~~K. I. Repair center answer time is a measure of workforce performance in answering business office calls in a timely manner a LEC's ability to provide a sufficient workforce to render timely assistance to customers calling its repair center. The performance threshold standard for satisfactory performance for repair center answer time shall be [ , without exception other than as permitted in this chapter, ] an average SAI of no greater than 30 60 seconds [ , per calendar month ] . A call is considered to have been answered when a live agent is ready to render assistance [ or accept the information necessary to process the call ] . In automated transaction systems [ where a customer transaction can be completed without the assistance of a live agent ] , a customer shall be given the option to reach a live agent [ at any time during before the completion of ] the automated transaction. Information including, other than that necessary to direct customers to a live agent, for example, marketing or promotional material provided by an automated answering system, other than that necessary to~~

~~direct customers to a live agent, shall be included in the [ cumulative ] SAI. [ This measurement as shown by the following formula, shall be calculated ] for a given month, on a statewide basis, as illustrated by the following formula: [ on a monthly basis and shall be reported to the staff if the LEC fails to meet the performance standard on a statewide basis for three consecutive months.~~

$$\frac{\text{Cumulative SAI in seconds}}{\text{Calls answered by a live agent}} = \text{Repair center answer time}$$

~~Exclude from this report ] the following: [ automated transactions where the customer did not opt to speak to a live agent. ]~~

- ~~1. Customer-initiated web transactions; and~~
- ~~2. Customer-initiated automated transactions.~~

~~L. Repair center hold time is a measure of workforce efficiency in processing customer trouble reports. The performance threshold shall be an average customer hold time of no greater than 60 seconds. Repair center hold time is any period after the call has been answered when the live agent is not actively engaged with the customer. This measurement shall be calculated for a given month, on a statewide basis, as illustrated by the following formula:~~

$$\frac{\text{Total hold time in seconds}}{\text{Total calls placed on hold by a live agent}} = \text{Repair center hold time}$$

~~M. J. Operator access is a measure of a LEC's ability to provide [ a ] sufficient [ number of lines or trunks customer access ] to [ reach ] operator services at all times. A LEC shall maintain a performance threshold of 99% or greater of calls not blocked from entering its automated answering system or reaching The standard for satisfactory performance shall be [ , without exception other than as permitted in this chapter, ] that no less than 95% of operator calls [ enter a LEC's automated answering system or reach a live agent for a LEC not utilizing an automated answering system are answered, per calendar month. A call is considered to have been answered when a live agent or automated transaction system is ready to render assistance or accept the information necessary to process the call. In automated transaction systems, a customer shall be given the option to reach a live agent before the completion of the automated transaction ] . [ This measurement, as shown by the following formula, shall be calculated ] for a given month [ on a monthly basis, based on the busy hour, ] on a statewide basis, as illustrated by the following formula: [ and shall be reported to the staff if the LEC fails to meet the performance standard on a statewide basis for three consecutive months.~~

$$\frac{\text{Busy hour calls not blocked}}{\text{Busy hour call attempts}} \times 100 = \text{Operator access}$$

~~N. K. Operator answer time is a measure of workforce performance in answering a LEC's ability to provide a sufficient workforce to render timely assistance to~~

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customers placing directory assistance, collect, third-party billed, person-to-person, emergency, and other calls in a timely manner. The standard for satisfactory performance threshold for operator answer time shall be [ , without exception other than as permitted in this chapter, ] an average SAI of no greater than 45 20 seconds [ , per calendar month]. A call is considered to have been answered when a live agent is ready to render assistance [ or accept the information necessary to process the call ]. In automated transaction systems [ where a customer transaction can be completed without the- , ] assistance [ of by ] a live agent [ , a customer ] shall be [ given the option to reach a live agent at any time during the automated transaction offered or provided ]. Information including other than that necessary to [ determine the customer's request or ] direct customers to a live agent [ or other services ], for example, marketing or promotional material provided by an automated answering system, other than that necessary to direct customers to a live agent, shall be included in the [ cumulative ] SAI. [ This measurement, as shown by the following formula, shall be calculated ] for a given month as illustrated by the following formula: [ on a monthly basis and shall be reported to the staff if the LEC fails to meet the performance standard on a statewide basis for three consecutive months.

$$\frac{\text{Cumulative SAI in seconds}}{\text{Calls answered by a live agent}} = \text{Operator answer time}$$

Exclude from this report ] customer-initiated [ automated transactions where the customer did not opt to speak to a live agent. ]

~~O. Nondispatchable service orders completed within two business days are a measure of a LEC's ability to complete installation and disconnection work requests, not requiring a dispatch of outside plant personnel, in a timely manner. A LEC shall complete no less than 90% of installations for one to five NALs within two business days. Nondispatchable service orders include requests for new service, transfers to new locations, additions to existing service, and requests for disconnection.~~

This measurement shall be calculated for a given month as illustrated by the following formula:

$$\frac{\text{Nondispatchable service orders completed within two business days}}{\text{Total nondispatchable service orders}} \times 100 = \text{Percentage of nondispatchable service orders completed within two business days}$$

Exclude from this report the following:

1. Customer requested extended interval installation orders; and
2. Orders completed late due to customer caused delay.

~~P. Dispatchable service orders completed within five business days are a measure of a LEC's ability to complete installation and disconnection work requests, requiring a dispatch of outside plant personnel, in a timely manner. A~~

~~LEC shall complete no less than 90% of installations for one to five NALs within five business days. Dispatchable service orders include requests for new service, transfers to new locations, additions to existing service, and requests for disconnection.~~

This measurement shall be calculated for a given month as illustrated by the following formula:

$$\frac{\text{Dispatchable service orders completed within five business days}}{\text{Total dispatchable orders}} \times 100 = \text{Percentage of dispatchable service orders completed within five business days}$$

Exclude from this report the following:

1. Customer requested extended interval installation orders;
2. Orders completed late due to customer caused delay; and
3. Scheduled installations on which the employee or agent, upon arriving at a customer location during the agreed upon time, was unable to gain access to customer equipment necessary to perform the work.

L. Service orders completed within five business days is a measure of a LEC's ability to complete installation and disconnection work requests in a timely manner. The standard for satisfactory performance shall be [ , without exception other than as permitted in this chapter, ] that no less than 90% of installations for [ one to two NALs for residential services and ] one to five NALs [ for business service, per premises, ] are completed within five business days [ , on a calendar month basis ]. Service orders include requests for new service, transfers to new locations, additions to existing service, and requests for disconnection. [ This measurement, as shown by the following formula, shall be calculated on a monthly basis and shall be reported to the staff if the LEC fails to meet the performance standard on a statewide basis for three consecutive months.

$$\frac{\text{Service orders completed within five business days}}{\text{Total orders}} \times 100 = \text{Percentage of service orders completed within five business days}$$

Exclude from this report the following:

1. Customer requested extended interval installation orders;
2. Orders completed late due to customer caused delay; and
3. Scheduled installations in which the employee or agent of a LEC upon arriving at the customer location is unable to gain access to the rate demarcation point within the scheduled time frame, and access is necessary to perform the work. ]

~~Q. M. Service orders completed within 30 calendar days are is a measure of a LEC's ability to forecast [ and complete ] installation work requests in a manner~~

[ sufficient ] to meet customer demand. ~~A LEC shall complete~~ The standard for satisfactory performance shall be [ , without exception other than as permitted in this chapter, ] that no less than 99% of installations for [ one to two NALs for residential service and ] one to five NALs [ for business service, per premises ] are completed within 30 calendar days [ , on a calendar month basis ]. Installation orders include requests for new service or transfers to new locations.

~~[ This measurement, as shown by the following formula, shall be calculated ] for [ on a ] given month as illustrated by the following formula: [ monthly basis and shall be reported to the staff if the LEC fails to meet the performance standard on a statewide basis for three consecutive months.~~

<del>Service order orders completed within 30 calendar days</del>	<del>×</del> 100 =	<del>Percentage of service orders completed within 30 calendar days</del>
<del>Total installation orders</del>		

~~Exclude from this report the following:~~

- ~~1. Customer requested extended interval installation orders;~~
- ~~2. Orders completed late due to customer caused delay; and~~
- ~~3. Scheduled installations ] on [ in which the employee or agent of a LEC, upon arriving at ] a [ the customer location ] during the agreed upon time, was [ , is unable to gain access to ] customer equipment [ the rate demarcation point within the scheduled time frame, and access is necessary to perform the work. ]~~

~~R. Customer N. Commitments met are~~ is a measure of a LEC's ability to ~~complete~~ meet customer installation and repair requests on time appointment times. ~~A LEC shall meet~~ The standard for satisfactory performance shall be [ , without exception other than as permitted in this chapter, ] that no less than 90% of customer commitments are met [ , per calendar month ]. ~~[ This measurement, as shown by the following formula, shall be calculated for ] a given month, per [ each central office serving area, ] as illustrated by the following formula: [ or by some other relevant designation as determined by the staff on a case-by-case basis, on a monthly basis and shall be reported to the staff if the LEC fails to meet the performance standard for three consecutive months: ]~~

<del>Total [ Commitments met ]</del>	<del>[ × ]</del> 100 =	<del>[ Percentage of customer commitments met ]</del>
<del>Total [ Commitments made ]</del>		

~~[ Exclude from this report commitments missed ] due to inability to gain access to [ in which the employee or agent of a LEC, upon arriving at the customer ] equipment [ location, is unable to gain access to the rate demarcation point within the scheduled time frame, and access is necessary to perform the work.~~

O. The rate of trunk blockage is a measure of the quality of a LEC's engineering, forecasting, and maintenance of its circuit-switched inter- and intra-exchange trunk paths. The standard for satisfactory performance for any given trunk group shall be, without exception other than as permitted in this chapter, less than or equal to 2.0% call blockage, during the busy hour, per calendar month. ]

**[ 20 VAC 5-427-150 20 VAC 5-427-140 ]. [ Transmission and auditing Retail transmission ] standards.**

A. The copper twisted loop transmission standards are as follows:

- ~~1. Properly Fully load all voice grade loops greater than 18,000 feet;~~
- ~~2. No load coils on loops 18,000 feet or less;~~
- ~~3. Central office end section shall be Loop length from central office to first load coil approximately 1/2 of one standard load section for loaded loops;~~
- ~~4. The customer end section should be no more than Loop length from last load coil to rate demarcation point approximately 1-1/2 standard load sections;~~
- ~~5. No bridged taps between load coils;~~
- ~~6. Tip Ground, Ring Ground, or Tip Ring leakage should be equal to or greater than 100K ohms;~~
- ~~7. Longitudinal noise less than or equal to 80 dBmC;~~
- ~~8. Metallic noise less than 20 dBmC; and~~
- ~~9. 100% cable shield integrity between office frame ground and customer terminal.~~

B. In conducting a copper twisted pair transmission [ audit test ], the following shall be considered major faults:

1. Missing coil or coils on loops exceeding 18,000 feet;
2. Customer located less than 1/2 load section distance from last coil;
3. Customer end section located more than 40,000 feet 1-1/2 load sections from last coil;
4. Deviation greater than 10% from standard load spacing;
5. Double loads;
6. Wrong type load coils;
7. Load coils varying more than 25% from threshold load coil;
8. Load coils on a loop 18,000 feet or less;
9. More than a 12% deviation on the standard spacing on the office end section;
10. Bridged taps between load coils;
11. Tip Ground, Ring Ground, or Tip Ring leakage less than 100K ohms;
12. Voltage greater than 15 volts AC;

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# Final Regulations

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13. Voltage greater than 10 volts DC;
14. Longitudinal noise greater than 90 dBmC; and
15. Metallic noise greater than 20 dBmC.

C. In conducting a copper twisted pair transmission [ ~~audit test~~ ], the following shall be considered minor faults:

1. Longitudinal noise greater than 80 but less than or equal to 90 dBmC; and
2. Failure to maintain shield continuity.

D. A rate exceeding 6.0% in the major fault category or a rate exceeding 16% in the minor fault category will constitute a failed [ ~~inspection test~~ ]. A failed [ ~~inspection test~~ ] shall require a corrective action plan when appropriate as determined by the staff, as set forth in ~~20 VAC 5-427-170~~ [ ~~20 VAC 5-427-180~~ ~~20 VAC 5-427-150~~ ].

[ ~~E. The staff may audit the design, construction, and maintenance of network facilities. A LEC shall participate in such audits as requested by the staff. ]~~

## ~~20 VAC 5-427-160. Commission complaint threshold.~~

~~The commission complaint threshold is a measure of the number of justified commission complaints filed with the commission or staff against a LEC in a calendar year. Justified commission complaints in excess of one per 1,000 NALs, annualized, is unsatisfactory.~~

## ~~[ 20 VAC 5-427-160. Trunk group blockage.~~

~~The rate of trunk group blockage is a measure of the quality of a LEC's engineering, forecasting, and maintenance of its circuit-switched inter- and intra-exchange trunk paths. The standard for satisfactory performance shall be less than or equal to 2.0 % call blockage, during the busy hour, per month. The commission or the staff may conduct an investigation of trunk group blockage based solely on customer complaints. This measurement, when requested by the commission or staff as part of an investigation, shall be calculated for the trunk groups in question, as shown by the following formula:~~

$$\frac{\text{Busy hour calls blocked}}{\text{Busy hour calls attempted}} \times 100 = \text{Trunk blockage}$$

1. ~~Include in this report the following:~~
  - a. ~~Final trunk groups that carry local traffic;~~
  - b. ~~Final trunk groups that carry two-way local and long distance traffic between a central office and an access tandem switch; and~~
  - c. ~~Umbilicals or links that carry local traffic between central offices, including remotes.~~
2. ~~Exclude from this report the following:~~
  - a. ~~Trunk groups that alternately route calls to another trunk group in handling public message calls; and~~

~~b. Trunk groups that are dedicated to private or virtual private line use and trunk groups associated with mass calling networks or both. ]~~

## ~~20 VAC 5-427-170. Action plan to remedy noncompliance.~~

~~A. A LEC subject to the reporting requirements of 20 VAC 5-427-140 shall submit a written action plan to remedy noncompliance if a LEC has:~~

1. ~~Failed to meet a service quality performance standard established in 20 VAC 5-427-140 for at least three consecutive months;~~
2. ~~Failed an audit pursuant to 20 VAC 5-427-150; or~~
3. ~~Exceeded the commission complaint threshold pursuant to 20 VAC 5-427-160.~~

~~B. An action plan to remedy noncompliance shall be submitted to the staff within 30 days following the reported noncompliance or as otherwise requested by the staff. An action plan shall at a minimum contain:~~

1. ~~A complete identification of the cause of noncompliance;~~
2. ~~An explicit remedy or corrective action and a schedule of implementation of the remedial or corrective action to be taken by a LEC; and~~
3. ~~A date by which a LEC will complete the remedial or corrective action identified.~~

~~C. Compliance by a LEC with the provisions of this section does not preclude the commission from further enforcement under its regulatory authority.~~

## ~~[ 20 VAC 5-427-170. Commission complaints.~~

~~Commission complaints are a measure of a LEC's ability to resolve customer complaints adequately and independently. The standard for satisfactory performance shall be less than one justified commission complaint per 1,000 NALs per year. Commission complaints within the satisfactory range may still be indicative of problems not otherwise addressed by this chapter. Accordingly, the commission or staff may investigate commission complaints without regard to a LEC's performance in this standard.~~

## ~~20 VAC 5-427-180. Remedies. 20 VAC 5-427-150. Corrective action. ]~~

~~A. A LEC subject to the provisions of this chapter shall, upon request of the [ commission or the ] staff, take [ timely and effective diagnostic or ] corrective action to [ remedy address ] any area of [ unsatisfactory demonstrable concern for service quality ] performance or to address commission complaints.~~

~~B. A LEC subject to the provisions of this chapter shall, upon request of the [ commission or the ] staff, submit a corrective action plan to address any area of [ noncompliance or demonstrable and continuing concern for service quality performance or to address recurring ] commission complaints. Such action plan shall be submitted to the staff within 30 days unless otherwise~~

requested by the staff. An action plan shall at a minimum contain:

1. A complete identification of the cause of unsatisfactory performance or commission complaints;
2. An explicit remedy or corrective action and a schedule of implementation of the remedial or corrective action to be taken by a LEC; and
3. A date by which a LEC will complete the remedial or corrective action identified.

[ ~~C. Failure by a LEC to meet any of the provisions of this chapter may result in enforcement and sanctions by the commission pursuant to its regulatory authority and applicable statutes.~~ ]

**[ 20 VAC 5-427-160. Enforcement and sanctions.**

*Failure by a LEC to meet any of the provisions of this chapter may result in enforcement and sanctions by the commission pursuant to its regulatory authority and applicable statutes notwithstanding the submission of a corrective action plan as provided in 20 VAC 5-427-150. ]*

~~20 VAC 5-427-180 [ 20 VAC 5-427-190 20 VAC 5-427-170 ]. Waiver.~~

*The commission may, at its discretion, waive or grant exceptions to any provision of this chapter.*

## ATTACHMENT

### Virginia Local Telephone Companies Telecommunications "Bill of Rights"\*

#### You have a right to:

- Affordable and quality local telecommunications services
- Seamless levels of service when migrating between local telecommunications service providers
- Select and keep the telecommunications service provider of your choice
- Keep your telephone number when changing local telecommunications service providers [ *while at the same location* ]
- Maintain local telephone service when there is a valid billing dispute under investigation or when payments are current for basic local telecommunications services
- Identity protection to preclude the unauthorized use of records and personal information
- Safety and security of persons and property not to be intentionally jeopardized by telecommunications service providers
- Honest and accurate sales and service information
- Timely, accurate, and understandable billing
- Participate in the formation of Virginia telecommunications policies
- Dispute resolution up to and including a full hearing before the Virginia State Corporation Commission

\*This "Bill of Rights" is a summary overview of your rights under various state and federal laws and regulations and does not independently create or vest enforceable

substantive rights. Enforcement of your rights will depend upon the application of specific legal authorities to the circumstances of your particular dispute with the telephone company. If you believe that your legal rights have been violated and you cannot adequately resolve your dispute with your phone company, you may contact the SCC at 1-800-552-7945 or, if in the Richmond local calling area, 804-371-9420.

VA.R. Doc. No. R03-309; Filed October 3, 2005, 1:28 p.m.

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# FAST-TRACK REGULATIONS

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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.

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## TITLE 9. ENVIRONMENT

### STATE AIR POLLUTION CONTROL BOARD

#### Notice of Withdrawal of Regulatory Action

Titles of Regulations: 9 VAC 5-50. New and Modified Stationary Sources (amending 9 VAC 5-50-260).

9 VAC 5-60. Hazardous Air Pollutant Sources (adding 9 VAC 5-60-92).

9 VAC 5-80. Permits for Stationary Sources (amending 9 VAC 5-80-1100, 9 VAC 5-80-1110, 9 VAC 5-80-1120, 9 VAC 5-80-1140, 9 VAC 5-80-1160, 9 VAC 5-80-1170, 9 VAC 5-80-1280, 9 VAC 5-80-1290, 9 VAC 5-80-1300, and 9 VAC 5-80-1320).

Fast-Track Publication Date: 21:19 VA.R. 2573-2590 May 30, 2005.

The Department of Environmental Quality, on behalf of the State Air Pollution Control Board, is withdrawing the regulatory action for 9 VAC 5-50, 9 VAC 5-60 and 9 VAC 5-80 related to converting the permit applicability approach for the minor new source review program (Rev. K04). This action was published as a fast-track regulation in 21:19 VA.R. 2573-2590 May 30, 2005, and the amendments were to become effective August 29, 2005. This action was suspended by the board in 21:26 VA.R. 3705 September 5, 2005.

On September 26, 2005, the board voted to withdraw the action and will initiate a new regulatory action (Rev. H05) in the near future.

Agency Contact: Robert A. Mann, Director, Office of Air Regulatory Development, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4419, FAX (804) 698-4510, or e-mail ramann@deq.virginia.gov.

VA.R. Doc. No. R05-191; Filed October 5, 2005, 9:45 a.m.

## TITLE 12. HEALTH

### STATE BOARD OF HEALTH

#### Notice of Objection to Fast-Track Rulemaking and Withdrawal of Regulatory Action

Title of Regulation: 12 VAC 5-410. Regulations for the Licensure of Hospitals in Virginia (amending 12 VAC 5-410-420 and 12 VAC 5-410-1190).

Fast-Track Publication Date: 21:25 VA.R. 3549-3550 August 22, 2005.

The State Board of Health has WITHDRAWN the fast-track regulatory action for 12 VAC 5-410, Regulations for the Licensure of Hospitals in Virginia, relating to the issue of the training and experience of perioperative nurses because it has received the requisite number of 10 objections to the regulatory action. This action was published as a fast-track regulation in 21:25 VA.R. 3549-3550 August 22, 2005, and the amendments were to become effective November 7, 2005.

Rather than continue this regulatory action, the issue of the training and experience of perioperative nurses will be considered by the board during its deliberations to revise the entire hospital regulation planned to begin in 2006.

Agency Contact: Carrie Eddy, Senior Policy Analyst, Department of Health, Center for Quality Health Care Services, 3600 West Broad Street, Suite 216, Richmond, VA 23230, telephone (804) 367-2157, FAX (804) 367-2149 or e-mail carrie.eddy@vdh.virginia.gov.

VA.R. Doc. No. R04-164; Filed October 6, 2005, 9:33 a.m.

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# EMERGENCY REGULATIONS

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## TITLE 4. CONSERVATION AND NATURAL RESOURCES

### MARINE RESOURCES COMMISSION

**Title of Regulation:** 4 VAC 20-252. Pertaining to the Taking of Striped Bass (amending 4 VAC 20-252-30).

**Statutory Authority:** §§ 28.2-201, 28.2-204.1 and 28.2-210 of the Code of Virginia.

**Effective Dates:** September 29, 2005, through October 28, 2005.

**Agency Contact:** Deborah Cawthon, Agency Regulatory Coordinator, Marine Resources Commission, 2600 Washington Avenue, 3rd Floor, Newport News, VA 23607, telephone (757) 247-2248, FAX (757) 247-2002 or e-mail debbie.cawthon@mrc.virginia.gov.

**Summary:**

*The amendments stipulate (i) that anyone who is legally eligible to fish may possess any striped bass when tagged with a Virginia Institute of Marine Science (VIMS) numbered fluorescent green tag, without that tagged fish counting against that person's recreational possession limit or commercial harvest; and (ii) that it shall be unlawful to retain any of VIMS fluorescent green numbered tagged fish longer than necessary before surrendering them to a VIMS representative. In addition, no VIMS fluorescent green tagged fish may be stored for future sale or use.*

**4 VAC 20-252-30. General prohibitions and requirements.**

A. It shall be unlawful for any person to possess any striped bass taken from the tidal waters of Virginia, including Virginia's portion of the Territorial Sea, except in accord with the provisions of Title 28.2 of the Code of Virginia and in accord with the provisions of this chapter.

B. It shall be unlawful for any person to possess any striped bass taken from the tidal waters of Virginia, including Virginia's portion of the Territorial Sea, during a time, from an area, and with a gear type when there is no open season set forth in this chapter for such time, area, and gear type.

C. Except for those persons permitted in accordance with 4 VAC 20-252-170, it shall be unlawful for any person to possess any striped bass less than 18 inches total length at any time.

D. It shall be unlawful for any person to possess any striped bass that measures less than the minimum size or more than the maximum size applicable to the open season when fishing occurs.

E. Total length measurement of striped bass shall be in a straight line from tip of nose to tip of tail.

F. It shall be unlawful for any person while aboard any boat or vessel or while fishing from shore or pier to alter any striped bass or to possess any altered striped bass such that its total length cannot be determined.

G. It shall be unlawful for any person to spear or gaff, or attempt to spear or gaff any striped bass at any time.

H. It shall be unlawful for any person to use a commercial hook and line within 300 feet of any bridge, bridge-tunnel, jetty, or pier during Thanksgiving Day and the following day or during any open recreational striped bass season in the Chesapeake Bay and its tributaries, except during the period midnight Sunday through 6 a.m. Friday.

I. Unless specified differently in other regulations, it shall be unlawful to place, set, or fish any gill net within 300 feet of any bridge, bridge-tunnel, jetty, or pier during any open recreational striped bass season in the Chesapeake Bay and its tributaries, except during the period midnight Sunday through midnight Wednesday.

J. During the period April 1 through May 31, inclusive, it shall be unlawful for any person to set or fish any anchored gill net or staked gill net, for any purpose, within the spawning reaches of the James, Pamunkey, Mattaponi, and Rappahannock Rivers. Drift or float gill nets may be set and fished within the spawning reaches of these rivers during this period, provided that the person setting and fishing the net remains with the net during the time it is fishing and all striped bass that are caught shall be returned to the water immediately.

K. Holding any permit issued by the commission to fish for striped bass, recreationally or commercially, shall authorize any commission personnel or their designees to inspect, measure, weigh, or take biological samples from any striped bass in possession of the permit holder.

*L. Nothing in this chapter shall preclude any person, who is legally eligible to fish, from possessing any striped bass tagged with a Virginia Institute of Marine Science (VIMS) fluorescent green tag. Possession of these VIMS-tagged striped bass shall not count towards the personal recreational possession limit, and permitted commercial striped bass ITQ holders shall not be required to apply a tamper evident, numbered tag provided by the commission, in order to possess any striped bass tagged with a VIMS-inscribed green fluorescent tag. It shall be unlawful for any person to retain any of these VIMS-tagged striped bass for a period of time that is longer than necessary to provide the VIMS-tagged striped bass to a VIMS representative. Under no circumstance shall any VIMS-tagged striped bass be stored for future use or sale or delivered to any person who is not a VIMS representative.*

VA.R. Doc. No. R06-60; Filed September 29, 2005, 2:46 p.m.

\* \* \* \* \*

**Title of Regulation:** 4 VAC 20-650. Establishment of Oyster Management Areas (amending 4 VAC 20-650-10 through 4 VAC 20-650-40).

**Statutory Authority:** §§ 28.2-201, 28.2-210 and 28.2-507 of the Code of Virginia.

**Effective Dates:** October 1, 2005, through October 30, 2005.

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# Emergency Regulations

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Agency Contact: Deborah R. Cawthon, Agency Regulatory Coordinator, Marine Resources Commission, 2600 Washington Avenue, 3rd Floor, Newport News, VA 23607, telephone (757) 247-2248, FAX (757) 247-2002, or e-mail debbie.cawthon@mrc.virginia.gov.

Summary:

*This amendment changes the boundaries of the Wreck Shoal-James River Oyster Management Area.*

#### 4 VAC 20-650-10. Purpose.

The purpose of this *Emergency* chapter is to protect and promote the oyster resources within the designated areas and to protect oyster replenishment efforts on all public oyster grounds.

#### 4 VAC 20-650-20. Oyster replenishment management areas.

A. The following Oyster Management Area is established: the Wreck Shoals-James River Bridge Oyster Management Area shall consist of all public oyster grounds ~~located from Wreck Shoals; thence to a downriver line drawn from the south side of the river at Rainbow Farm Point to the channel buoy green #5; and thence to Blunt Point on the north side of the river.~~ The upriver boundary for the Oyster Management Area shall be from Jail Point southwest to the southernmost corner of the Jail Island clean cull area then westerly to Channel Buoy 16 then southeasterly to the Channel Buoy 12, then southerly to Megarts Beach within the boundaries as defined by: beginning at Corner 1 of Public Ground No.1 - Warwick County (Lat 37° 04.520'N, Lon 76° 33.7333'W- NAD 1983), thence southeasterly to Deep Creek Channel Marker "2" (Lat 37° 03.609'N, Lon 76° 32.102'W), thence south-southwesterly to James River Channel Marker "5" (Lat 37° 02.345'N, Lon 76° 32.769'W), thence southwesterly to the chimney of a beach house east of the Luter airstrip (Lat 37° 01.666'N, Lon 76° 35.136'W), thence northerly to James River Channel Marker "12" (Lat 37° 03.323'N, Lon 76° 35.169'W), thence northeasterly to Corner 190 of Plat File 16734 (Lat 37° 04.904'N, Lon 76° 34.254'W), thence southeasterly to Corner 1 of Public Ground 1- Warwick County, the point of beginning.

B. Constructed oyster reefs include all reefs constructed and marked by "no harvesting" signs provided by the Conservation and Replenishment Department.

#### 4 VAC 20-650-30. Closure of management areas.

A. All Oyster Management Areas shall be closed to the harvest of oysters except that Seaside of the Eastern Shore Oyster Management Areas shall be closed to the harvest of all shellfish. Any person harvesting oysters or shellfish from the specified areas shall be guilty of a violation of this *Emergency* chapter.

B. It shall be unlawful for any person to possess any gear that could be used to harvest shellfish within 300 feet of public or unassigned oyster grounds in the area surrounding any oyster management area, and such possession shall be considered as prima facie evidence of a violation of this *Emergency* chapter.

#### 4 VAC 20-650-40. Penalty.

A. As set forth in § 28.2-903 of the Code of Virginia, any person violating any provision of this *Emergency* chapter shall be guilty of a Class 3 misdemeanor, and a second or subsequent violation of any provision of this chapter committed by the same person within 12 months of a prior violation is a Class 1 misdemeanor.

B. In addition to the penalty prescribed by § 28.2-903 of the Code of Virginia, any persons violating any provision of this *Emergency* chapter shall forfeit all harvested oysters, have their gear license revoked immediately and shall be subject to seizure of all harvesting apparatus for the remainder of the season.

VA.R. Doc. No. R06-62; Filed September 30, 2005, 8:46 a.m.

\* \* \* \* \*

Title of Regulation: **4 VAC 20-950. Pertaining to Black Sea Bass (amending 4 VAC 20-950-46, 4 VAC 20-950-48, and 4 VAC 20-950-49; adding 4 VAC 20-950-48.2).**

Statutory Authority: §§ 28.2-201, 28.2-204.1 and 28.2-210 of the Code of Virginia.

Effective Dates: October 1, 2005, through October 30, 2005.

Agency Contact: Deborah Cawthon, Agency Regulatory Coordinator, Marine Resources Commission, 2600 Washington Avenue, 3rd Floor, Newport News, VA 23607, telephone (757) 247-2248, FAX (757) 247-2002 or e-mail debbie.cawthon@mrc.virginia.gov.

Summary:

*The emergency amendments (i) establish additional criteria to allow a vessel to land black sea bass in Virginia; (ii) allow a person to possess more than one black sea bass permit; (iii) allow someone other than the permittee to possess that permittee's permit for harvesting, possessing or selling black sea bass; (iv) allow a directed fishery permit holder to authorize an alternate vessel to land black sea bass on their quota, contingent upon meeting requirements that make the authorization lawful; and (v) update the reporting requirements to include vessels that will obtain an alternate vessel authorization.*

#### 4 VAC 20-950-46. Directed fishery and bycatch fishery permits.

A. It shall be unlawful for any person to participate in the commercial black sea bass fishery, or to possess, harvest, or sell black sea bass, without first qualifying for and obtaining either a directed fishery permit or a bycatch fishery permit from the commission, as described, respectively, in subsections B and C of this section, *unless that person meets the requirements described in 4 VAC 20-950-48.2.*

B. A person shall be considered eligible for a directed commercial black sea bass fishery permit by satisfying all of the following eligibility criteria:

1. That person shall hold either a Commercial Fisherman Registration License or a Seafood Landing License in addition to a federal Black Sea Bass Moratorium Permit;

2. That person shall have landed and sold in Virginia at least 10,000 pounds of black sea bass from July 1, 1997 through December 31, 2001.

C. A person shall be considered eligible for a bycatch commercial black sea bass fishery permit by satisfying all of the following eligibility criteria:

1. That person shall hold either a Commercial Fisherman Registration License or a Seafood Landing License, in addition to a federal Black Sea Bass Moratorium Permit;

2. That person shall have landed and sold in Virginia at least one pound of black sea bass from July 1, 1997 through December 31, 2001.

~~D. No person shall possess more than one black sea bass permit.~~

~~E. Any permit described in this section must be in the possession of the permittee who is harvesting, possessing, or selling black sea bass. Failure of the permittee to have the appropriate permit in possession shall be a violation of this chapter.~~

#### **4 VAC 20-950-48. Individual fishery quotas; bycatch limit; at sea harvesters; exceptions.**

A. Each person possessing a directed fishery permit shall be assigned an individual fishery quota, in pounds, for each calendar year. A person's individual fishery quota shall be equal to that person's percentage of the total landings of black sea bass in Virginia from July 1, 1997, through December 31, 2001, multiplied by the directed commercial fishery black sea bass quota for the calendar year. Any directed fishery permittee shall be limited to landings in the amount of his individual fishery quota, in pounds, in any calendar year and it shall be unlawful for any permittee to exceed his individual fishery quota. In addition to the penalties prescribed by law, any overages of an individual's fishery quota shall be deducted from that permittee's individual fishery quota for the following year.

B. In the determination of a person's percentage of total landings, the commission shall use the greater amount of landings from either the National Marine Fisheries Service Dealer Weigh-out Reports or National Marine Fisheries Service Vessel Trip Reports that have been reported and filed as of November 26, 2002. If a person's percentage of the total landings of black sea bass is determined by using the Vessel Trip Reports as the greater amount, then the person shall provide documentation to the Marine Resources Commission to verify the Vessel Trip Reports as accurate. This documentation may include dealer receipts of sales or other pertinent documentation, and such documentation shall be submitted to the commission by December 1, 2004. In the event the commission is not able to verify the full amount of the person's Vessel Trip Reports for the qualifying period, the commission shall use the greater amount of landings, from either the Dealer Weigh-Out Reports or the verified portion of the Vessel Trip Reports to establish that person's share of the quota.

C. From January 1, 2005, to December 31, 2005, it shall be unlawful for any person permitted for the bycatch fishery to possess aboard a vessel, or to land in Virginia, in any one

day, more than 200 pounds of black sea bass, except that any person permitted in the bycatch fishery may possess aboard a vessel, or land in Virginia, more than 200 pounds of black sea bass, in any one day, provided the total weight of black sea bass on board the vessel does not exceed 10%, by weight, of the total weight of summer flounder, scup, Loligo squid and Atlantic mackerel on board the vessel. When it is projected and announced that 85% of the bycatch fishery quota has been taken, it shall be unlawful for any person permitted for the bycatch fishery to possess aboard a vessel, or to land in Virginia, more than 200 pounds of black sea bass, except that any person permitted in the bycatch fishery may possess aboard a vessel, or land in Virginia, more than 200 pounds of black sea bass, in any one day, but not more than 1,000 pounds, provided the total weight of black sea bass aboard the vessel does not exceed 10%, by weight, of the total weight of summer flounder, scup, Loligo squid and Atlantic mackerel on board the vessel.

D. It shall be unlawful for any person to transfer black sea bass from one vessel to another while at sea.

~~E. Any person who is the owner of more than one vessel on December 17, 2002, that qualifies for a directed commercial fishery black sea bass permit, may combine the vessels' individual fishery quotas onto one of the vessels. Such declaration to combine quotas shall be made prior to the start of the fishing season.~~

~~F. E.~~ The commission sets aside 17,000 pounds of the annual commercial fishery black sea bass quota for distribution to all qualified applicants granted an exception by the commission from the requirements of 4 VAC 20-950-46 B based upon medical conditions, or other hardship, which limited the applicant's ability to fish for black sea bass during the qualifying period. In granting an exception, the commission will give preference to those applicants who can demonstrate the greater levels of participation in the black sea bass fishery during and after the qualifying period or document an apprenticeship or helper status in the black sea bass fishery. Any applicant who is granted an exception by the commission shall receive a portion of the 17,000 pounds; however, no portion shall exceed the lowest individual fishery quota, in pounds, at the beginning of the season. There shall be no transfer of quota received by applicants to the exception process for a period of five years after receipt of that quota. Any portion of the 17,000 pounds not allotted by the commission to the qualified applicants as of November 1 shall be added to the annual bycatch quota described in 4 VAC 20-950-47 B.

#### **4 VAC 20-950-48.2. Alternate vessel authorization requirements.**

A. Any person possessing a directed fishery permit may authorize an alternate vessel to harvest, possess and land any portion of his individual fishery quota, provided the following conditions are met:

1. The directed fishery permit holder has submitted a completed and notarized alternate vessel authorization form to the commission.

2. The alternate vessel named on the authorization form holds a federal Black Sea Bass Moratorium Permit and

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either a Virginia Seafood Landing License or the alternate vessel's owner and operator holds a Commercial Fisherman Registration License.

3. The alternate vessel authorization has been accepted and approved by the commissioner.

4. The alternate vessel maintains copies of the alternate vessel authorization form and the permit of the directed fishery quota owner, at all times, while serving as the alternate vessel.

B. No authorization for an alternate vessel to land black sea bass shall extend for more than 30 days from the date the commissioner approves the authorization. After 30 days, any unused portion of quota authorized for the alternate vessel shall revert to its directed fishery permit holder.

#### 4 VAC 20-950-49. Reporting requirements.

A. It shall be unlawful for any person permitted for the directed fishery, the bycatch fishery, or for an authorized alternate vessel to fail to contact, within one hour of landing, the Marine Resources Commission's Law Enforcement Operations Division to report his name and the name of the vessel, his permit number, the location where catch will be offloaded, and the estimated weight of the landing of black sea bass.

B. It shall be unlawful for any person permitted for the directed fishery or, the bycatch fishery, or for an authorized alternate vessel to fail to contact, within 24 hours of landing, the Marine Resources Commission's Interactive Voice Recording System to report his the name of the permit holder and the name of the vessel that landed the black sea bass, date of landing, his the permit number and the weight of black sea bass landed.

C. Any buyer of black sea bass from a directed fishery permittee or, a bycatch fishery permittee, or an authorized alternate vessel shall maintain records of all purchases for the current year and prior year and make those records available to the Marine Resources Commission upon request.

VA.R. Doc. No. R06-64; Filed September 30, 2005, 9:01 a.m.

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## TITLE 13. HOUSING

### BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

Title of Regulation: 13 VAC 5-112. Enterprise Zone Grant Program Regulation (adding 13 VAC 5-112-10 through 13 VAC 5-112-560).

Statutory Authority: § 59.1-541 of the Code of Virginia.

Effective Dates: September 30, 2005, through September 29, 2006.

Agency Contact: Steve Calhoun, Regulatory Coordinator, Department of Housing and Community Development, 501 North Second Street, Richmond, VA 23219, telephone (804) 371-7015, FAX (804) 371-7090, or e-mail [steve.calhoun@dhcd.virginia.gov](mailto:steve.calhoun@dhcd.virginia.gov).

#### Preamble:

The third enactment clause of Chapters 863 and 884 of the 2005 Acts of Assembly direct the Board of the Department of Housing and Community Development to promulgate regulations to implement the provisions of the Act to be effective within 280 days of its enactment on July 1, 2005.

The emergency regulations will ensure that the new program can be implemented beginning on July 1, 2005, without a gap in the provision of incentives to qualifying participants.

The emergency regulations establish the processes and procedures for the provision of the new Real Property Investment Grants and the new Job Creation Grants and establish new enterprise zone administration processes and procedures as provided for in Chapter 47 (§ 59.1-530 et seq.) of Title 59.1 of the Code of Virginia.

The emergency regulations also establish the process and procedures for providing the Enterprise Zone Business Tax Credit, Enterprise Zone Real Property Investment Tax Credit and the Job Grants as provided in §§ 59.1-279, 59.1-280, 59.1-280.1, 59.1-282.1 and 59.1-282.2 of the Code of Virginia.

The new program will accomplish several important policy objectives. It will more directly target zone designations to localities with the greatest need and with potential for effectively putting a zone to productive use. It will increase fiscal accountability associated with state incentives and hone in on economic situations that can best benefit from financial incentives.

#### CHAPTER 112.

#### ENTERPRISE ZONE GRANT PROGRAM REGULATION.

#### PART I.

#### DEFINITIONS AND PURPOSE.

#### 13 VAC 5-112-10. Definitions.

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

"Agreed-upon procedures engagement" means an engagement between an independent certified public accountant licensed by the Commonwealth and the business or zone investor seeking to qualify for Enterprise Zone incentive grants whereby the independent certified public accountant, using procedures specified by the Department, will test and report on the assertion of the business or zone investor as to their qualification to receive the Enterprise Zone incentive.

"Assumption or acquisition" means, in connection with a trade or business, that the inventory, accounts receivable, liabilities, customer list and good will of an existing Virginia company has been assumed or acquired by another taxpayer, regardless of a change in federal identification number or employees.

"Average number of permanent full-time employees" means the number of permanent full-time employees during each payroll period of a business firm's taxable year divided by the

number of payroll periods. This definition applies only for the purpose of qualifying for Enterprise Zone incentives pursuant to 13 VAC 5-112-20:

1. In calculating the average number of permanent full-time employees, a business firm may count only those permanent full-time employees who worked at least half of their normal workdays during the payroll period. Paid leave time may be counted as work time.

2. For a business firm that uses different payroll periods for different classes of employees, the average number of permanent full-time employees of the firm shall be defined as the sum of the average number of permanent full-time employees for each class of employee.

"Base taxable year" means either of two taxable years immediately preceding the first year of qualification, at the choice of the business firm. This definition applies only for the purpose of qualifying for Enterprise Zone incentives pursuant to 13 VAC 5-112-20.

"Base year" means either of the two calendar years immediately preceding a qualified business firm's first year of grant eligibility, at the choice of the business firm.

"Business firm" means any corporation, partnership, electing small business (subchapter S) corporation, limited liability company, or sole proprietorship authorized to do business in the Commonwealth of Virginia as well as business and professional organizations and associations whose classification falls under sectors 813910 and 813920 of the North American Industry Classification Systems (NAICS).

"Building" means a structure built on a single foundation and under one roof regardless of address, ownership or tax assessment configurations or separation of sections by fire walls.

"Capital lease" means a lease that meets one or more of the following criteria and as such is classified as a purchase by the lessee: the lease term is greater than 75 percent of the property's estimated economic life; the lease contains an option to purchase the property for less than fair market value; ownership of the property is transferred to the lessee at the end of the lease term; or the present value of the lease payments exceed 90 percent of the fair market value of the property.

"Common control" means those firms as defined by Internal Revenue Code § 52(b).

"Department" means the Department of Housing and Community Development.

"Employee of a zone establishment" means a person employed by a business firm who is on the payroll of the firm's establishment or establishments within the zone. In the case of an employee who is on the payroll of two or more establishments of the firm, both inside and outside the zone, the term "employee of a zone establishment" refers only to such an employee assigned to the firm's zone establishment or establishments for at least one-half of his normally scheduled work days. This definition applies only for the purpose of qualifying for Enterprise Zone incentives pursuant to 13 VAC 5-112-20.

"Enterprise zone incentive grant" or "grant" means a grant provided for creating permanent full-time positions pursuant to § 59.1-282.1 of the Code of Virginia. This definition applies only for the purpose of qualifying for Enterprise Zone incentives pursuant to 13 VAC 5-112-200.

"Establishment" means a single physical location where business is conducted or where services or industrial operations are performed.

1. A central administrative office is an establishment primarily engaged in management and general administrative functions performed centrally for other establishments of the same firm.

2. An auxiliary unit is an establishment primarily engaged in performing supporting services to other establishments of the same firm. This definition applies only for the purpose of qualifying for Enterprise Zone incentives pursuant to 13 VAC 5-112-110.

"Existing business firm" means one that was actively engaged in the conduct of trade or business in an area prior to such an area being designated as an enterprise zone or that was engaged in the conduct of trade or business in the Commonwealth and relocates to begin operation of a trade or business within an enterprise zone. An existing business firm is also one that was not previously conducted in the Commonwealth by such taxpayer who acquires or assumes a trade or business and continues its operations. This definition applies only for the purpose of qualifying for Enterprise Zone incentives pursuant to 13 VAC 5-112-20.

"Expansion" means an increase in square footage or the footprint of an existing nonresidential building via a shared wall, or enlargement of an existing room or floor plan. Pursuant to real property investment grants this shall include mixed use buildings.

"Facility" means a complex of buildings, co-located at a single physical location within an enterprise zone, all of which are necessary to facilitate the conduct of the same trade or business. This definition applies to new construction, as well as to the rehabilitation and expansion of existing structures.

"Federal minimum wage" means the minimum wage standard as currently defined by the United States Department of Labor in the Fair Labor Standards Act, 29 U.S.C. 201 et seq. Such definition applies to permanent full-time employees paid on an hourly or wage basis.

"Food and beverage service" means a business whose classification falls under subsector 722 Food Services and Drinking Places of North American Industry Classification System (NAICS).

"Full month" means the number of days that a permanent full-time position must be filled in order to count in the calculation of the grant amount under 13 VAC 5-112-200 and 13 VAC 5-112-260. A full month is calculated by dividing the total number of days in a calendar year by 12. A full month for the purpose of calculating job creation grants is equivalent to 30.416666 days.

"Grant eligible position" means a new permanent full-time position created above the threshold number at an eligible

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business firm. Positions in retail, local service or food and beverage service shall not be considered grant eligible positions.

"Grant year" means the calendar year for which a business firm applies for an enterprise zone incentive grant pursuant to § 59.1-282.1 of the Code of Virginia. This definition applies only for the purpose of qualifying for Enterprise Zone incentives pursuant to 13 VAC 5-112-200.

"Health benefits" means that at a minimum medical insurance is offered to employees by and partially paid for by the employer.

"Household" means all the persons who occupy a single housing unit. Occupants may be a single family, one person living alone, two or more families living together, or any group of related or unrelated persons who share living arrangements. This definition applies only for the purpose of qualifying for Enterprise Zone incentives pursuant to 13 VAC 5-112-20.

"Housing unit" means a house, apartment, group of rooms, or single room that is occupied or intended for occupancy as separate living quarters. This definition applies only for the purpose of qualifying for Enterprise Zone incentives pursuant to 13 VAC 5-112-20.

"Household income" means all income actually received by all household members over the age of 16 from the following sources. This definition applies only for the purpose of qualifying for Enterprise Zone incentives pursuant to 13 VAC 5-112-20:

1. Gross wages, salaries, tips, commissions, etc. (before deductions);
2. Net self-employment income (gross receipts minus operating expenses);
3. Interest and dividend earnings; and
4. Other money income received from net rents, Old Age and Survivors Insurance (OASI), social security benefits, pensions, alimony, child support, and periodic income from insurance policy annuities and other sources.

The following types of income are excluded from household income:

1. Noncash benefits such as food stamps and housing assistance;
2. Public assistance payments;
3. Disability payments;
4. Unemployment and employment training benefits;
5. Capital gains and losses; and
6. One-time unearned income.

When computing household income, income of a household member shall be counted for the portion of the income determination period that the person was actually a part of the household.

"Household size" means the largest number of household members during the income determination period. This definition applies only for the purpose of qualifying for Enterprise Zone incentives pursuant to 13 VAC 5-112-20.

"Income determination period" means the 12 months immediately preceding the month in which the person was hired. This definition applies only for the purpose of qualifying for Enterprise Zone incentives pursuant to 13 VAC 5-112-20.

"Independent certified public accountant" means a public accountant certified and licensed by the Commonwealth of Virginia who is not an employee of the business firm seeking to qualify for state tax incentives and grants under this program.

"Job creation grant" means a grant provided under § 59.1-547 of the Code of Virginia.

"Jurisdiction" means the city or county which made the application to have an enterprise zone. In the case of a joint application, it means all parties making the application. Pursuant to enterprise zone designations made prior to July 1, 2005, this shall include towns.

"Large qualified business firm" means a qualified business firm making qualified zone investments in excess of \$15 million when such zone investments result in the creation of at least fifty permanent full-time positions. This definition applies only for the purpose of qualifying for Enterprise Zone incentives pursuant to 13 VAC 5-112-20.

"Large qualified zone resident" means a qualified zone resident making qualified zone investments in excess of \$100 million when such qualified zone investments result in the creation of at least 200 permanent full-time positions. This definition applies only for the purpose of qualifying for Enterprise Zone incentives pursuant to 13 VAC 5-112-110.

"Local service" means a business which provides services primarily within the Commonwealth of Virginia. A service business where the majority of sales come from outside the Commonwealth would not be considered a local service business.

"Local zone administrator" means the chief executive of the city or county, in which an enterprise zone is located, or his or her designee. Pursuant to enterprise zone designations made prior to July 1, 2005, this shall include towns.

"Low-income" means household income was less than or equal to 80 percent of area median household income during the income determination period. Persons who meet the definition of both low-income and zone resident may not be counted as both for purposes of meeting employment requirements for the general tax credit. Instead, qualifying business firms must claim these persons as either low-income or zone resident. This definition applies only for the purpose of qualifying for Enterprise Zone incentives pursuant to 13 VAC 5-112-20.

"Median household income" means the dollar amount, adjusted for household size, as determined annually by the Department for the city or county in which the zone is located. This definition applies only for the purpose of qualifying for Enterprise Zone incentives pursuant to 13 VAC 5-112-20.

"Mixed use" means a building incorporating residential uses in which a minimum of 30 percent of the useable floor space will be devoted to commercial, office or industrial use. Buildings where less than 30 percent of the useable floor space is devoted to commercial, office or industrial use shall be considered primarily residential in nature and shall not be eligible for a grant under 13 VAC 5-112-110. This definition applies only for the purpose of qualifying for Enterprise Zone incentives pursuant to 13 VAC 5-112-330.

"Net loss" applies to firms that relocate or expand operations and means (i) after relocating into a zone, a business firm's gross permanent employment is less than it was before locating into the zone, or (ii) after a business firm locates or expands within a zone, its gross employment at its non-zone location or locations is less than it was before the zone location occurred.

"New construction" means a single, nonresidential facility built on previously undeveloped land of a nonresidential structure built on the site/parcel of a previously razed structure with no remnants of the prior structure or physical connection to existing structures or outbuildings on the property. Pursuant to real property investment grants this shall include mixed use buildings.

"New business" means a business not previously conducted in the Commonwealth by such taxpayer and that begins operation in an enterprise zone after the zone was designated. A new business is also one created by the establishment of a new facility and new permanent full-time employment by an existing business firm in an enterprise zone and does not result in a net loss of permanent full-time employment outside the zone. This definition applies only for the purpose of qualifying for Enterprise Zone incentives pursuant to 13 VAC 5-112-20.

"Number of eligible permanent full-time positions" means the amount by which the number of permanent full-time positions at a business firm in a grant year exceeds the threshold number. This definition applies only for the purpose of qualifying for Enterprise Zone incentives pursuant to 13 VAC 5-112-200 and 13 VAC 5-112-260.

"Payroll period" means the period of time for which a business firm normally pays its employees.

"Permanent full-time employee" means a person employed by a business firm who is normally scheduled to work either (i) a minimum of 35 hours per week for the entire normal year of the business firm's operations, which normal year must consist of at least 48 weeks, (ii) a minimum of 35 hours per week for a portion of the taxable year in which the employee was initially hired for, or transferred to the business firm or, (iii) a minimum of 1,680 hours per year if the standard fringe benefits are paid by the business firm for the employee. Permanent full-time employee also means two or more individuals who together share the same job position and together work the normal number of hours a week as required by the business firm for that one position. Seasonal, temporary, leased or contract labor employees or employees shifted from an existing location in the Commonwealth to a business firm location within an enterprise zone shall not qualify as permanent full-time employees. This definition only

applies to business firms for the purpose of qualifying for enterprise zone incentives pursuant to 13 VAC 5-112-20.

"Permanent full-time position" (for purposes of qualifying for grants pursuant to § 59.1-282.1 of the Code of Virginia) means a job of indefinite duration at a business firm located in an enterprise zone, requiring the employee to report to work within the enterprise zone, and requiring either (i) a minimum of 35 hours of an employee's time a week for the entire normal year of the business firm's operations, which normal year must consist of at least 48 weeks, (ii) a minimum of 35 hours of an employee's time a week for a portion of the taxable year in which the employee was initially hired for, or transferred to the business firm or (iii) a minimum of 1,680 hours per year if the standard fringe benefits are paid by the business firm for the employee. Seasonal, temporary, leased or contract labor positions, or a position created when a job function is shifted from an existing location in this Commonwealth to a business firm located within an enterprise zone shall not qualify as permanent full-time positions. This definition only applies to for the purpose of qualifying for job grants pursuant to 13 VAC 5-112-200.

"Permanent full-time position" (for the purpose of qualifying for grants pursuant § 59.1-547 of the Code of Virginia) means a job of indefinite duration at a business firm located within an enterprise zone requiring the employee to report to work within the enterprise zone; and requiring (i) a minimum of 35 hours of an employee's time per week for the entire normal year of the business firm's operation, which "normal year" must consist of at least 48 weeks, (ii) a minimum of 35 hours of an employee's time per week for the portion of the calendar year in which the employee was initially hired for or transferred to the business firm, or (iii) a minimum of 1,680 hours per year. Such position shall not include (i) seasonal, temporary or contract positions, (ii) a position created when a job function is shifted from an existing location in the Commonwealth to a business firm located within an enterprise zone, (iii) any position that previously existed in the Commonwealth, or (iv) positions created by a business that is simultaneously closing facilities in other areas of the Commonwealth.

"Placed in service" means (i) the final certificate of occupancy has been issued by the local jurisdiction for real property improvements or real property investments; or (ii) the first moment that machinery becomes operational and is used in the manufacturing of a product for consumption; or (iii) in the case of tools and equipment it means the first moment they are used in the performance of duty or service.

"Qualification year" means the calendar year for which a qualified business firm or qualified zone investor is applying for a grant pursuant to 13 VAC 5-112-260.

"Qualified business firm" means a business firm meeting the business firm requirements in 13 VAC 5-112-20 or 13 VAC 5-112-260 and designated a qualified business firm by the Department.

"Qualified real property investment" (for purposes of qualifying for a real property investment grant) means the amount properly chargeable to a capital account for improvements to rehabilitate, expand or construct depreciable real property

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placed in service during the calendar year within an enterprise zone provided that the total amount of such improvements equals or exceeds (i) \$50,000 with respect to a single building or a facility in the case of rehabilitation or expansion or (ii) \$250,000 with respect to a single building or a facility in the case of new construction. Qualified real property investments include expenditures associated with (a) any exterior, interior, structural, mechanical or electrical improvements necessary to construct, expand or rehabilitate a building for commercial, industrial or mixed use; (b) excavations; (c) grading and paving; (d) installing driveways; and (e) landscaping or land improvements. Qualified real property investments shall include, but not be limited to, costs associated with demolition, carpentry, sheetrock, plaster, painting, ceilings, fixtures, doors, windows, fire suppression systems, roofing, flashing, exterior repair, cleaning and cleanup.

Qualified real property investment shall not include:

1. The cost of acquiring any real property or building.
2. Other acquisition costs including: (i) the cost of furnishings; (ii) any expenditure associated with appraisal, architectural, engineering, surveying, and interior design fees; (iii) loan fees, points, or capitalized interest; (iv) legal, accounting, realtor, sales and marketing, or other professional fees; (v) closing costs, permits, user fees, zoning fees, impact fees, and inspection fees; (vi) bids, insurance, signage, utilities, bonding, copying, rent loss, or temporary facilities incurred during construction; (vii) utility connection or access fees; (viii) outbuildings; (ix) the cost of any well or septic or sewer system; and (x) roads.
3. The basis of any property: (i) for which a grant under this section was previously provided; (ii) for which a tax credit under § 59.1-280.1 of the Code of Virginia was previously granted; (iii) which was previously placed in service in Virginia by the qualified zone investor, a related party as defined by Internal Revenue Code § 267 (b), or a trade or business under common control as defined by Internal Revenue Code § 52 (b); or (iv) which was previously in service in Virginia and has a basis in the hands of the person acquiring it, determined in whole or in part by reference to the basis of such property in the hands of the person from whom it was acquired or Internal Revenue Code § 1014 (a).

"Qualified zone improvements" (for purposes of qualifying for an Investment Tax Credit) means the amount properly chargeable to a capital account for improvements to rehabilitate or expand depreciable nonresidential real property placed in service during the taxable year within an enterprise zone, provided that the total amount of such improvements equals or exceeds (i) \$50,000 and (ii) the assessed value of the original facility immediately prior to the rehabilitation or expansion. Qualified zone improvements include expenditures associated with any exterior, structural, mechanical, or electrical improvements necessary to construct, expand or rehabilitate a building for commercial or industrial use.

1. Qualified zone improvements include, but are not limited to, the costs associated with excavation, grading, paving, driveways, roads, sidewalks, landscaping or other land improvements, demolition, carpentry, sheetrock, plaster,

painting, ceilings, fixtures, doors, windows, fire suppression systems, roofing and flashing, exterior repair, cleaning and clean-up.

2. Qualified zone improvements do not include (i) the cost of furnishings; (ii) any expenditure associated with appraisal, architectural, engineering and interior design fees, (iii) loan fees; points or capitalized interest; (iv) legal, accounting, realtor, sales and marketing or other professional fees; (v) closing costs, permits, user fees, zoning fees, impact fees, inspection fees; (vi) bids insurance, signage, utilities, bonding, copying, rent loss, or temporary facilities incurred during construction; (vii) utility hook-up or access fees; (viii) outbuildings; (ix) the cost of any well, septic, or sewer system; or (x) cost of acquiring land or an existing building.

3. In the case of new nonresidential construction, qualified zone improvements also do not include land, land improvements, paving, grading, driveway, and interest. This definition applies only for the purposes of qualifying for Enterprise Zone incentives pursuant to 13 VAC 5-112-110.

"Qualified zone investment" means the sum of qualified zone improvements and the cost of machinery, tools and equipment used in manufacturing tangible personal property and placed in service on or after July 1, 1995. Machinery, equipment, tools, and real property that are leased through a capital lease and that are being depreciated by the lessee or that are transferred from out-of-state to a zone location by a business firm may be included as qualified zone investment. Such leased or transferred machinery, equipment, tools, and real property shall be valued using the depreciable basis for federal income tax purposes. Machinery, tools and equipment shall not include the basis of any property: (i) for which a credit was previously granted under § 59.1-280.1 of the Code of Virginia; (ii) which was previously placed in service in Virginia by the taxpayer, a related party, as defined by Internal Revenue Code § 267 (b), or a trade or business under common control, as defined by Internal Revenue Code § 52 (b); or (iii) which was previously in service in Virginia and has a basis in the hands of the person acquiring it, determined in whole or in part by reference to the basis of such property in the hands of the person whom acquired it, or Internal Revenue Code § 1014 (a). This definition applies only for the purposes of qualifying for Enterprise Zone incentives pursuant to 13 VAC 5-112-110.

"Qualified zone resident" means an owner or tenant of nonresidential real property located in an enterprise zone who expands or rehabilitates such real property to facilitate the conduct of a trade or business by such owner or tenant within the enterprise zone. In the case of a partnership, limited liability company or S corporation, the term "qualified zone resident" means the partnership, limited liability company or S corporation. This definition applies only for the purposes of qualifying for Enterprise Zone incentives pursuant to 13 VAC 5-112-110.

"Qualified zone investor" means an owner or tenant of real property located within an enterprise zone who expands, rehabilitates or constructs such real property for commercial, industrial or mixed use. In the case of a tenant, the amounts of qualified zone investment specified in this section shall relate to the proportion of the property for which the tenant holds a

valid lease. Units of local, state and federal government or political subdivisions shall not be considered qualified zone investors.

"Real property investment grant" means a grant made under § 59.1-548 of the Code of Virginia. This definition applies only for the purposes of qualifying for Enterprise Zone incentives pursuant to 13 VAC 5-112-330.

"Rehabilitation" means the alteration or renovation of all or part of an existing nonresidential building without an increase in square footage. Pursuant to real property investment grants this shall include mixed use buildings

"Redetermined base year" means the base year for calculation of the number of eligible permanent full-time positions in a second or subsequent three-year grant period. If a second or subsequent three-year grant period is requested within two years after the previous three-year period, the redetermined base year will be the last grant year. The calculation of the redetermined base year employment will be determined by the number of positions in the preceding base year, plus the number of threshold positions, plus the number of permanent full-time positions receiving grants in the final year of the previous grant period. If a business firm applies for subsequent three-year periods beyond the two years immediately following the completion of a three-year grant period, the firm shall use one of the two preceding calendar years as the base year, at the choice of the business firm. This definition applies only for the purposes of qualifying for Enterprise Zone incentives pursuant to 13 VAC 5-112-200.

"Regular basis" means at least once a month. This definition applies only for the purposes of qualifying for Enterprise Zone incentives pursuant to 13 VAC 5-112-260.

"Related party" means those as defined by Internal Revenue Code § 267(b).

"Report to work" means that the employee filling a permanent full-time position reports to the business' zone establishment on a regular basis.

"Retail" means a business whose classification falls under sectors 44-45 Retail Trade of North American Industry Classification System (NAICS).

"Seasonal employee" means any employee who normally works on a full-time basis and whose customary annual employment is less than nine months. For example, individuals hired by a CPA firm during the tax return season in order to process returns and who work full-time over a three month period are seasonal employees.

"Small qualified business firm" means any qualified business firm other than a large qualified business firm. This definition applies only for the purpose of qualifying for Enterprise Zone incentives pursuant to 13 VAC 5-112-20.

"Small qualified zone resident" means any qualified zone resident other than a large qualified zone resident. This definition applies only for the purpose of qualifying for Enterprise Zone incentives pursuant to 13 VAC 5-112-350 C.

"Subsequent base year" means the base year for calculating the number of grant eligible positions in a second or

subsequent five consecutive calendar year grant period. If a second or subsequent five-year grant period is requested within two years after the previous five-year grant period, the subsequent base year will be the last grant year. The calculation of this subsequent base year employment will be determined by the number of permanent full-time positions in the preceding base year, plus the number of threshold positions, plus the number of grant eligible positions in the final year of the previous grant period. If a business firm applies for subsequent five consecutive calendar year grant periods beyond the two years immediately following the completion of the previous five-year grant period, the business firm shall use one of the two preceding calendar years as subsequent base year, at the choice of the business firm.

"Tax due" means the amount of tax liability as determined by the Department of Taxation or the State Corporation Commission. This definition applies only for the purpose of qualifying for Enterprise Zone incentives pursuant to 13 VAC 5-112-20 and 13 VAC 5-112-110.

"Tax year" means the year in which the assessment is made. This definition applies only for the purpose of qualifying for Enterprise Zone incentives pursuant to 13 VAC 5-112-110.

"Taxable year" means the year in which the tax due on state taxable income, state taxable gross receipts or state taxable net capital is accrued. This definition applies only for the purpose of qualifying for Enterprise Zone incentives pursuant to 13 VAC 5-112-20 and 13 VAC 5-112-110.

"Threshold number" means 110 percent of the number of permanent full-time positions in the base year for the first three-year period in which a business firm is eligible for an enterprise zone incentive grant. For a second and any subsequent three-year period of eligibility, the threshold means 120 percent of the number of permanent full-time positions in the applicable base year as redetermined for the subsequent three-year period. If such number would include a fraction, the threshold number shall be the next highest integer. Where there are no permanent full-time positions in the base year, the threshold will be zero. This definition applies only for the purpose of qualifying for Enterprise Zone incentives pursuant to 13 VAC 5-112-200.

"Threshold number" means an increase of four permanent full-time positions over the number of permanent full-time positions in the base year or subsequent base year.

"Transferred employee" means an employee of a firm in the Commonwealth that is relocated to an enterprise zone facility owned or operated by that firm.

"Wage rate" means the hourly wage paid to an employee inclusive of shift premiums and commissions. In the case of salaried employees, the hourly wage rate shall be determined by dividing the annual salary, inclusive of shift premiums and commissions, by 1,680 hours. Bonuses, overtime and tips are not to be included in the determination of wage rate.

"Zone" means an enterprise zone declared by the Governor to be eligible for the benefits of this program.

"Zone real property investment tax credit" means a credit provided to a large qualified zone resident pursuant to § 59.1-280.1 J of the Code of Virginia. This definition applies only for

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qualifying for Enterprise Zone incentives pursuant to 13 VAC 5-112-110.

"Zone resident" means a person whose principal place of residency is within the boundaries of any enterprise zone. Persons who meet the definition of both low-income and zone resident may not be counted as both for purposes of meeting employment requirements for the general tax credit. Instead, qualifying business firms must claim these persons as either low-income or zone resident. Zone residency must be verified annually. This definition applies only for qualifying for Enterprise Zone incentives pursuant to 13 VAC 5-112-20 and 13 VAC 5-112-200.

## PART II.

### BUSINESS FIRM PROCEDURES FOR BUSINESSES QUALIFYING FOR GENERAL TAX CREDIT.

#### 13 VAC 5-112-20. Effective dates.

Beginning on July 1, 2005, small qualified and large qualified business firms shall be allowed a credit against taxes imposed by Articles 2 (Individuals; § 58.1-320 et seq.) and 10 (Corporations; § 58.1-400 et seq.) of Chapter 3; Chapter 12 (Bank Franchise; § 58.1-1200 et seq.) Article 1 (Insurance Companies; § 58.1-2500 et seq.) of Chapter 25, or Article 2 (Telegraph, Telephone, Water, Heat, Light, Power and Pipeline Companies; (§ 58.1-2620 et seq.) of Chapter 26 of Title 58.1 of the Code of Virginia as provided in this regulation for up to ten consecutive years in an amount equaling up to 80 percent of the tax due the first tax year, and up to 60 percent of the tax due for the second through tenth tax years.

The provisions of this section shall apply only as follows:

1. To those qualified business firms that have initiated use of enterprise zone tax credits pursuant to § 59.1-280 of the Code of Virginia on or before July 1, 2005;
2. To those small qualified business firms and large qualified business firms that have signed agreements with the Commonwealth regarding the use of enterprise zone tax credits in accordance with § 59.1-280 of the Code of Virginia on or before July 1, 2005; provided that in the case of small qualified business firms, the signed agreements must be based on proposals developed by the Commonwealth prior to November 1, 2004.

#### 13 VAC 5-112-30. Computation of credit.

A. The amount of credit allowed shall be subject to the limitations provided by 13 VAC 5-112-20. An unused tax credit may not be applied to future years. Any credit not useable for the taxable year the credit was allowed shall not be carried back to a preceding taxable year. The credit is not refundable.

B. If, due to adjustments, the amount of actual tax liability as reported on the application changes, the amount of credit that the qualified business firm will be eligible to receive will not exceed the amount of credit authorized by the Department. However, if, as a result of adjustments, the tax liability decreases from the amount stated on the application, the qualified business firm will receive a lower credit amount based on the new tax liability in accordance with the percentage amounts specified in 13 VAC 5-112-20.

C. For large qualified business firms, the percentage amounts of the income tax credits available to such qualified business firms under this section will have been determined by agreement between the Department and the qualified business firm. The negotiated percentage amount shall not exceed the percentages specified by 13 VAC 5-112-30.

D. Tax credits provided for in this section shall only apply to taxable income of a qualified business firm attributable to the conduct of business within the enterprise zone. Any qualified business firm having taxable income from business activity both within and without the enterprise zone, shall allocate and apportion its Virginia taxable income attributable to the conduct of business as follows:

1. The portion of a qualified business firm's Virginia taxable income allocated and apportioned to business activities within an enterprise zone shall be determined by multiplying its Virginia taxable income by a fraction, the numerator of which is the sum of the property factor and the payroll factor, and the denominator of which is two.

a. The property factor is a fraction. The numerator is the average value of real and tangible personal property of the business firm that is used in the enterprise zone. The denominator is the average value of real and tangible personal property of the business firm used everywhere in the Commonwealth.

b. The payroll factor is a fraction. The numerator is the total amount paid or accrued within the enterprise zone during the taxable period by the business firm for compensation. The denominator is the total compensation paid or accrued everywhere in the Commonwealth during the taxable period by the business firm for compensation.

2. The property factor and the payroll factor shall be determined in accordance with the procedures established in §§ 58.1-409 through 58.1-413 of the Code of Virginia for determining the Virginia taxable income of a corporation having income from business activities which is taxable both within and without the Commonwealth, *mutatis mutandis*.

3. If a qualified business firm believes that the method of allocation and apportionment hereinbefore prescribed as administered has operated or will operate to allocate or apportion to an enterprise zone a lesser portion of its Virginia taxable income that is reasonably attributable to a business conducted within the enterprise zone, it shall be entitled to file with the Department of Taxation a statement of its objections and of such alternative method of allocation or apportionment as it believes to be appropriate under the circumstances with such detail and proof and within such time as the Department of Taxation may reasonable prescribe. If the Department of Taxation concludes that the method of allocation or apportionment employed is in fact inequitable or inapplicable, it shall redetermine the taxable income by such other method of allocation or apportionment as best seems calculated to assign to an enterprise zone the portion of the qualified business firm's Virginia taxable income reasonably attributable to business conducted within the enterprise zone.

E. In the event that taxpayer requests exceed the Commonwealth's annual fiscal limitation, each taxpayer shall be granted a pro rata amount as determined by the Department. The amount of such prorated credit shall be determined by applying a fraction, the numerator of which shall be the gross credits requested by the taxpayer for such year, and the denominator of which shall be the total gross credits requested by all taxpayers for such year, to the Commonwealth's annual financial limitation. The credit which may be requested each year shall be subject to the limitations provided by 13 VAC 5-112-40 and 13 VAC 5-112-130.

### **13 VAC 5-112-40. Annual fiscal limitations.**

A. The total amount of tax credits awarded to small and large qualified business firms under this section and qualified large zone residents in 13 VAC 5-112-110 shall not exceed \$7.5 million annually until the end of fiscal year 2019 as provided for in §§ 59.1-280 and 59.1-280.1 of the Code of Virginia.

B. Upon receiving applications for tax credits under this section and 13 VAC 5-112-110, the Department shall determine the amount of the tax credit to be allocated to each eligible business firm. In the event that the amount of tax credits to which all applicants qualifying under this section and 13 VAC 5-112-110 are eligible, exceeds \$7.5 million annually, the tax credits shall be apportioned among eligible applicants pro rata, based upon the amount of the tax credits to which an applicant is eligible and the amount of tax credits available for allocation.

### **13 VAC 5-112-50. Qualified business.**

Qualification for the credit can occur by satisfying the criteria in subdivisions 1 through 3 of this section. Any business firm may be designated a qualified business for the purpose of this credit if:

1. A business firm establishes within an enterprise zone a trade or business not previously conducted in the Commonwealth of Virginia by such taxpayer, and at least 25 percent or more (except for businesses qualifying prior to July 1, 1997, when it shall be at least 40 percent or more) of the permanent full-time employees employed at the business firm's establishment or establishments located within the enterprise zone must either have incomes below 80 percent of the median income for the jurisdiction prior to employment or be zone residents. Zone residency will be subject to annual verification, while low-income status verification is only required upon initial employment. A new business is also one created by the establishment of a new facility and new permanent full-time employment by an existing business firm in an enterprise zone and does not result in a net loss of permanent full-time employment outside the zone.

2. A business firm is actively engaged in the conduct of a trade or business in the Commonwealth of Virginia, and increases the average number of permanent full-time employees employed at the business firm's establishment or establishments located within the enterprise zone by at least 10 percent over base taxable years' employment with no less than 25 percent (except for businesses qualifying prior to July 1, 1997, when it shall be no less than 40 percent) of such increase being employees who have

incomes below 80 percent of the median income for the jurisdiction prior to employment or are zone residents. In the event that a company has activities both inside and outside the enterprise zone, the business firm may not aggregate activity from outside the zone for calculation of employment increase. Other employment positions that shall not be used in the calculation of the 10 percent employment increase are referred to in subdivision 3 of this section and 13 VAC 5-112-90.

3. A business firm is actively engaged in the conduct of a trade or business in the Commonwealth and relocates to begin operation of a trade or business within an enterprise zone and increases the average number of permanent full-time employees by at least 10 percent over the base taxable years' employment with no less than 25 percent or more (except for businesses qualifying prior to July 1, 1997, when it shall be at least 40 percent or more) of such increase being employees who have incomes below 80 percent of the median income for the jurisdiction prior to employment or are zone residents. Current employees of the business firm that are transferred directly to the enterprise zone facility from another site within the state resulting in a net loss of employment at that site shall not be included in calculating the increase in the average number of permanent full-time employees by the business firm within the enterprise zone.

4. If a business firm is actively engaged in the conduct of a trade or business in the Commonwealth and its operations continue following its assumption or acquisition by another entity, the resulting entity must meet the requirements for qualification described in subdivision 3 of this section and 13 VAC 5-112-90.

5. A business firm located within a locality's enterprise zone or zones that moves to another location within that locality's enterprise zone or zones must meet the requirements for qualification described in subdivisions 1, 2, or 3 of this section and 13 VAC 5-112-90.

6. A business firm moving from one locality's enterprise zone to another locality's enterprise zone prior to being qualified shall be subject to the requirements described in subdivision 3 of this section and 13 VAC 5-112-90.

7. A business firm that has already qualified for enterprise zone incentives and moves from one locality's enterprise zone into another locality's enterprise zone shall no longer be qualified unless the firm increases its permanent full-time employment by an additional 10 percent over the last year of qualification.

8. Large qualified business firms must meet the terms of their documented negotiation agreement with the Department pursuant to 13 VAC 5-112-20 (2) prior to seeking initial qualification under this section.

9. The business firm must certify annually to the Department on prescribed form or forms, and other documentation as required by the Department, that the firm has met the criteria for qualification prescribed in subdivisions 1 through 7 of this section. The form or forms referred to in this subdivision must be prepared by an independent certified public accountant licensed by the

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Commonwealth and shall serve as prima facie evidence that the business firm met the definition of a qualified business but the evidence of eligibility shall be subject to rebuttal. The Department or the Department of Taxation or State Corporation Commission, as applicable, may at its discretion require any business firm to provide supplemental information regarding the firm's eligibility (i) as a qualified business firm or (ii) for a tax credit claimed pursuant to 13 VAC 5-112-20.

## **13 VAC 5-112-60. Qualification in zones whose designation period is ending.**

A. Small qualified business firms located in a zone whose designation period is ending that have qualified under 13 VAC 5-112-20 by or before the zone expiration date may receive the remainder of their incentive period provided they continue to qualify under 13 VAC 5-112-20. Tax credits are not authorized beyond the end of fiscal year 2019 as specified in § 59.1-280 I of the Code of Virginia.

B. Large qualified business firms located in a zone whose designation period is ending that have qualified under 13 VAC 5-112-20 by or before the zone expiration date may receive the remainder of their incentive period provided they continue to qualify under 13 VAC 5-112-20. The incentive period shall be for ten consecutive years or until the negotiated credit amount is reached, which ever is sooner. Tax credits are not authorized beyond the end of fiscal year 2019 as specified in § 59.1-280 I of the Code of Virginia.

## **13 VAC 5-112-70. Application submittal and processing.**

A. For tax years that end on or before December 31, or for businesses with tax years in accordance with § 441(f) of the Internal Revenue Code on or before January 7 of the subsequent year, applications requesting a general tax credit shall be submitted to the Department by no later than May 1 of the subsequent calendar year. At a minimum, these applications must be signed by independent certified public accountant licensed by the Commonwealth.

B. Beginning with tax years ending in 2005, any business firm that is eligible to qualify for tax credits under this section pursuant to 13 VAC 5-112-20 may amend past tax returns in order to qualify for and receive general tax credits. Such business firms shall submit an application requesting general tax credits to the Department by no later than May 1 of any of three subsequent calendar years immediately following the year the business firm is requesting the credit provided that there is an outstanding credit balance remaining for that particular tax year. These requests will be handled on a first-come, first-serve basis. Business firms may not amend past tax returns in order to become initially eligible for tax credits under this section pursuant to 13 VAC 5-112-20.

C. The Department shall review all applications for completeness and notify business firms of any errors no later than June 1. Business firms must respond to any unresolved issues by no later than June 15. If the Department does not meet its June 1 date for notification, then businesses must respond to any unresolved issues within 10 calendar days of the actual notification.

D. The Department shall notify all applicants by June 30 as to the amount of applicable general credit it may claim for the taxable year the request was made.

E. Applications must be made on forms prescribed by the Department, and either hand delivered by the date specified in this section or sent by certified mail with a return receipt requested and post marked no later than the date specified in this section.

F. Applicants may only apply for credits which they are otherwise eligible to claim for such taxable year, subject to the limitations provided by 13 VAC 5-112-40 and 13 VAC 5-112-130.

## **13 VAC 5-112-80. Certification to Tax Commissioner in accordance with § 59.1-280 A of the Code of Virginia.**

A. The Department shall certify to the Commissioner of the Virginia Department of Taxation, or in the case of public service companies to the Director of Public Service Taxation for the State Corporation Commission, the applicability of the tax credits requested by the firm; and forward the certification to the firm. A copy should be retained for the firm's records. The firm shall file the original with the applicable state tax return or returns. If the firm is not eligible for qualification, the Department shall notify the firm that it fails to qualify for state tax incentives under this part.

B. Submission of state tax returns. A business firm, upon receipt from the Department of the certificate of its qualification to receive state tax incentives, may file the applicable state tax returns. In order for the Virginia Department of Taxation or the State Corporation Commission to grant the incentive or incentives requested, the appropriate copy of the certificate of qualification must be attached to the firm's tax return.

When a partnership or small business corporation electing to be taxed under Subchapter S of the federal Internal Revenue Code requests a credit or credits against state individual income tax on behalf of its partners or shareholders, each partner or shareholder must attach to its state individual income tax return a photocopy of the appropriate certificate of qualification received by the firm.

C. Denial of tax credit. Any certification by the Department pursuant to this section shall not impair the authority of the Department of Taxation or State Corporation Commission to deny in whole or in part any claimed tax credit if the Department of Taxation or State Corporation Commission determines that the qualified business firm is not entitled to such tax credit.

## **13 VAC 5-112-90. Anti-churning.**

A. A permanent full-time employee shall not include any employee:

1. For which a credit under this chapter was previously earned by a related party, as defined by the Internal Revenue Code § 267 (b) or a trade or business under common control;

2. Who was previously employed in the same job function in Virginia by a related party, or a trade or business under common control;

3. Whose job function was previously performed at a different location in Virginia by an employee of the taxpayer, a related party, or a trade or business under common control;

4. Whose previous job function previously qualified for a credit in connection with a different enterprise zone location on behalf of the taxpayer, a related party, or a trade or business under common control;

5. Whose job function counted for purposes of determining a 10 percent increase by an existing business firm and credited in an earlier taxable year on behalf of the taxpayer, a related party, or a trade or business under common control; or

6. Whose job function was filled in the Commonwealth and the trade or business where this job function was located was acquired or assumed by another taxpayer.

B. A new permanent full-time position which otherwise qualifies for the credit will not be disqualified for purposes of the credit where the employer chooses to use more than one individual to fill the position. This exception is limited to those situations where no more than two employees are used to fill a position, such employees are eligible for essentially the same benefits as full-time employees, and each employee works at least 20 hours per week for at least 48 weeks per year.

### **13 VAC 5-112-100. Pass through entities.**

The amount of any credit attributable to a partnership, S corporation, or limited liability company shall be allocated to the individual partners, shareholders, or members, respectively. The credit will be allocated in the manner in which income is allocated for federal income tax purposes.

### **PART III.**

### **PROCEDURES FOR QUALIFYING FOR ZONE REAL PROPERTY INVESTMENT TAX CREDIT.**

### **13 VAC 5-112-110. Effective dates.**

Beginning on July 1, 2005, a qualified large zone resident shall be allowed a real property investment tax credit against taxes imposed by Articles 2 (Individuals; § 58.1-320 et seq.) and 10 (Corporations; § 58.1-400 et seq.) of Chapter 3; Chapter 12 (Bank Franchise; § 58.1-1200 et seq.); Article 1 (Insurance Companies; § 58.1-2500 et seq.) of Chapter 25, or Article 2 (Telegraph, Telephone, Water, Heat, Light, Power and Pipeline Companies; § 58.1-2620 et seq.) of Chapter 26 of Title 58.1 of the Code of Virginia, as provided in this chapter.

The provisions of this section shall apply only as follows:

1. To those large qualified zone residents that have initiated use of enterprise zone tax credits pursuant to § 59.1-280.1 of the Code of Virginia on or before July 1, 2005;

2. To those large qualified zone residents that have signed agreements with the Commonwealth regarding the use of

enterprise zone tax credits in accordance with § 59.1-280.1 of the Code of Virginia on or before July 1, 2005.

### **13 VAC 5-112-120. Computation of credit.**

A. A large qualified zone resident shall be eligible for a credit in an amount of up to five percent of the qualified zone investments. The zone real property investment tax credit provided by this subsection shall not exceed the tax imposed for such taxable year, but any tax credit not usable for the taxable year generated may be carried over until the full amount of such credit has been utilized. However, this incentive period shall not last beyond 2019 as specified in § 59.1-280 I of the Code of Virginia.

B. The percentage amount of the zone real property investment tax credit granted to a large qualified zone resident must have been determined by agreement between the Department and the large qualified zone resident, provided such percentage amount does not exceed five percent.

C. The percentage amounts of the business income tax credit provided in 13 VAC 5-112-30 C which may be granted to a large qualified business firm are also subject to agreement between the Department in the event that a large qualified zone resident is also a large qualified business firm, provided such percentage amounts shall not exceed the percentage amounts otherwise provided in 13 VAC 5-112-30 C.

D. Qualified zone improvements shall not include the basis of any property: (i) for which a credit under this section was previously granted; (ii) which was previously placed in service in Virginia by the taxpayer, a related party, or a trade or business under common control; or (iii) which was previously in service in Virginia and has a basis in the hands of the person acquiring it, determined in whole or in part by reference to the basis of such property in the hands of the person from whom acquired, or Internal Revenue Code § 1014 (a).

### **13 VAC 5-112-130. Annual fiscal limitations.**

A. The total amount of tax credits awarded to small and large qualified business firms in 13 VAC 5-112-20 and qualified large zone residents under this section shall not exceed \$7.5 million annually until the end of fiscal year 2019 as provided for in §§ 59.1-280 and 59.1-280.1 of the Code of Virginia.

B. Upon receiving applications for tax credits under this section and section 13 VAC-5-112-20, the Department shall determine the amount of the tax credit to be allocated to each eligible business firm. In the event that the amount of tax credits to which all applicants qualifying under §§ 59.1-280 and 59.1-280.1 of the Code of Virginia are eligible, exceeds \$7.5 million annually, the tax credits shall be apportioned among eligible applicants pro rata, based upon the amount of the tax credits to which an applicant is eligible and the amount of tax credits available for allocation.

### **13 VAC 5-112-140. Eligibility.**

A. The use of zone real property investment tax credits may be initiated in accordance with 13 VAC 5-112-120 C once the job creation and investment identified in the negotiation have been completed.

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B. The business firm must certify to the Department on the prescribed form or forms, and other documents as prescribed by the Department, that the firm has met the criteria for qualification prescribed in this section. The form or forms referred to in this subsection must be prepared by an independent certified public accountant licensed by the Commonwealth and shall serve as prima facie evidence that the business firm met the qualifications, but the evidence of eligibility shall be subject to rebuttal. The Department or the Department of Taxation or State Corporation Commission, as applicable, may at its discretion require any business firm to provide supplemental information regarding the firm's eligibility (i) as a qualified business firm or (ii) for a tax credit claimed pursuant to 13 VAC 5-112-120 A.

### **13 VAC 5-112-150. Qualification in zones whose designation period is ending.**

Large qualified zone residents located in a zone whose designation period is ending that have a documented negotiation agreement with the Department and that have qualified by or before that the zone expiration date may continue receive the tax credits until the negotiated tax credit amount is reached, provided they continue to qualify under 13 VAC 5-112-110. This incentive period shall not last beyond 2019 as specified in § 59.1-280 I of the Code of Virginia.

### **13 VAC 5-112-160. Anti-churning.**

The following shall not be included in the calculation of permanent full-time positions:

1. An employee for whom a credit under this chapter was previously earned by a related party, as defined by the Internal Revenue Code § 267 (b) or a trade or business under common control;
2. A position in which an employee filling that position was previously employed in the same job function in Virginia by a related party, or a trade or business under common control;
3. A job function that was previously performed at a different location in Virginia by an employee of the taxpayer, a related party, or a trade or business under common control;
4. A position that previously qualified for a credit in connection with a different enterprise zone location on behalf of the taxpayer, a related party, or a trade or business under common control; or
5. A position that was filled in the Commonwealth of Virginia and the trade or business where that position was located was purchased by another taxpayer.

### **13 VAC 5-112-170. Pass through entities.**

The amount of any credit attributable to a partnership, S corporation, or limited liability company shall be allocated to the individual partners, shareholders, or members, respectively. The credit will be allocated in the manner in which income is allocated for federal income tax purposes.

### **13 VAC 5-112-180. Application submittal and processing.**

A. For tax years that end on or before December 31, or for businesses with tax years in accordance with § 441(f) of the

Internal Revenue Code on or before January 7 of the subsequent year, applications requesting zone real property investment tax credits shall be submitted to the Department by no later than May 1 of the subsequent calendar year. At a minimum, these applications must be signed by independent certified public accountant licensed by the Commonwealth.

B. The Department shall review all applications for completeness and notify business firms of any errors by no later than June 1. Business firms must respond to any unresolved issues by no later than June 15. If the Department does not meet its June 1 date for notification, then businesses must respond to any unresolved issues within 10 calendar days of the actual notification.

C. The Department shall notify all applicants by June 30 as to the amount of applicable credit or refund it is eligible for in the taxable year the request was made.

D. Applications must be made on forms prescribed by the Department, and either hand delivered by the date specified in this section or sent by certified mail with a return receipt requested and post marked no later than the date specified in this section.

E. Applicants may only apply for credits which they are otherwise eligible to claim for such taxable year, subject to the limitations provided by 13 VAC 5-112-40 and 13 VAC 5-112-130.

### **13 VAC 5-112-190. Certification to Tax Commissioner in accordance with § 59.1-208 B of the Code of Virginia.**

A. The Department shall certify to the Commissioner of the Virginia Department of Taxation, or in the case of public service companies to the Director of Public Service Taxation for the State Corporation Commission, the applicability of the tax credits requested by the firm; and forward the certification to the firm, which should make a copy for its records and file original with the applicable state tax return or returns or notify the firm that it fails to qualify for state tax incentives under Part II (13 VAC 5 112-20 et seq.).

B. Submission of state tax returns - A business firm, upon receipt from the Department of the certificate of its qualification to receive state tax incentives, may file the applicable state tax returns. In order for the Virginia Department of Taxation or the State Corporation Commission to grant the incentive or incentives requested, the appropriate copy of the certificate of qualification must be attached to the firm's tax return.

When a partnership or small business corporation electing to be taxed under Subchapter S of the federal Internal Revenue Code requests a credit or credits against state individual income tax on behalf of its partners or shareholders, each partner or shareholder must attach to its state individual income tax return a photocopy of the appropriate certificate of qualification received by the firm.

C. Any certification by the Department pursuant to this section shall not impair the authority of the Department of Taxation or State Corporation Commission to deny in whole or in part any claimed tax credit if the Department of Taxation or State Corporation Commission determines that the qualified business firm is not entitled to such tax credit. The

Department of Taxation or the State Corporation Commission shall notify the Department in writing upon determining that a business firm is ineligible for such a tax credit.

**PART IV.  
PROCEDURES FOR QUALIFYING FOR ZONE INCENTIVE  
GRANTS.**

**13 VAC 5-112-200. Effective dates.**

Beginning on July 1, 2005, a business firm shall be eligible to receive enterprise zone incentive grants for the creation of new permanent full-time positions. This section shall apply only to those businesses that have initiated use of three-year grant period for creating permanent full-time positions pursuant to §§ 59.1-282.1 and 59.1-282.2 of the Code of Virginia on or before July 1, 2005. This part shall govern those businesses only for the duration of such three-year grant period. Businesses may not begin any three-year grant periods after July 1, 2005.

**13 VAC 5-112-210. Computation of grant amount.**

A. For any eligible business firm, the amount of any grant earned shall be equal to (i) \$1,000 multiplied by the number of eligible permanent full-time positions filled by employees whose permanent place of residence is within the enterprise zone, and (ii) \$500 multiplied by the number of eligible permanent full-time positions filled by employees whose permanent place of residence is outside the enterprise zone.

1. The number of eligible permanent full-time positions filled by employees whose permanent place of residence is within the enterprise zone shall be determined for any grant year by multiplying the number of eligible permanent full-time positions by a fraction, the numerator of which shall be the number of employees hired for permanent full-time positions from January 1 of the applicable base year through December 31 of the grant year whose permanent place of residence is within the enterprise zone, and the denominator of which shall be the total number of employees hired for permanent full-time positions by the business firm during the same period. Zone residency is subject to annual verification and if an employee moves outside the zone his permanent place of residence cannot be considered within the enterprise zone for the remaining grant period.

2. The number of eligible permanent full-time positions filled by employees whose permanent place of residence is outside the enterprise zone shall be determined for any grant year by subtracting the number of eligible positions filled by employees whose permanent place of residence is within the enterprise zone, as determined in subdivision 1 of this subsection, from the number of eligible positions.

B. The amount of the grant for which a business firm is eligible with respect to any employee who is employed in an eligible position for less than 12 full months during the grant year will be determined by multiplying the grant amount by a fraction, the numerator of which is the number of full months that the employee worked for the business firm during the grant year, and the denominator of which is 12.

C. The maximum grant that may be earned by a business firm in one grant year is limited to \$100,000. Each member of an

affiliated group of corporations shall be eligible to receive up to a maximum grant of \$100,000 in a single grant year.

**13 VAC 5-112-220. Eligibility.**

A. A business firm shall be eligible to receive job grants for three consecutive calendar years beginning with the first year of grant eligibility. Business firms in their first three-year period shall demonstrate that they have increased the business firm's enterprise zone permanent full-time positions by 10 percent over the base year. Permanent full-time positions created during the second or third year of the grant period are eligible for additional grant funding over the previous year level at the option of the business firm, but only during the three year grant period.

B. Business firms in their second or any subsequent three-year period of grant eligibility must demonstrate that it has increased employment by 20 percent over a redetermined base year.

**13 VAC 5-112-230. Application submittal and processing.**

A. The amount of the grant for which a business firm is eligible in any year shall not include amounts for the number of eligible positions in any year other than the preceding calendar year, except as provided for in § 59.1-282.2 of the Code of Virginia.

B. In order to claim the grant an application must be submitted to the local zone administrator by March 31 of the year following the grant year. Applications for grants shall be made on form or forms as prescribed by the Department and may include other documentation as requested by the local zone administrator or Department. The form or forms referred to in this subsection must be prepared by an independent certified public accountant licensed by the Commonwealth and shall serve as prima facie evidence that the business firm met the eligibility requirements. At a minimum, these applications must be signed by independent certified public accountant licensed by the Commonwealth.

C. The local zone administrator shall review applications and determine the completeness of each application and the requested documentation, and forward applications for grants to the Department by no later than April 30 of the year following the grant year. Applications forwarded to the Department by the local zone administrator must be either hand delivered by the date specified in this section or sent by certified mail with a return receipt requested and post marked no later than the date specified in this section.

D. The Department shall review all applications for completeness and notify business firms of any errors no later than June 1 of the year following the grant year. Business firms must respond to any unresolved issues by no later than June 15 of the year following the grant year. If the Department does not meet its June 1 date for notification, then businesses must respond to any unresolved issues within 10 calendar days of the actual notification.

E. The Department shall notify all businesses by June 30 as to the amount of applicable zone incentive grant it is eligible for in the calendar year the request was made.

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F. Any business firm receiving an enterprise zone incentive grant under § 59.1-282.1 of the Code of Virginia shall not be eligible for a major business facility job tax credit pursuant to § 58.1-439 of the Code of Virginia with respect to any enterprise zone location which is receiving an enterprise zone incentive grant.

**13 VAC 5-112-240. Qualification in zones whose designation period is ending.**

Business firms located in a zone whose designation period is ending that have qualified by or before the zone expiration date may receive the balance of their three consecutive year incentive period provided they continue to qualify under 13 VAC 5-112-200. Business firms may not begin a three-year grant period after the zone expiration date.

**13 VAC 5-112-250. Anti-churning.**

No grant shall be allowed for any permanent full-time position:

1. Which a grant under this chapter was previously earned by a related party, as defined by the Internal Revenue Code § 267 (b), or a trade or business under common control;
2. Where an employee filling that positions was previously employed in the same job function in Virginia by a related party, or a trade or business under common control;
3. Which was previously performed at a different location in Virginia by an employee of the taxpayer, a related party, or a trade or business under common control;
4. Which previously qualified for a grant in connection with a different enterprise zone location on behalf of the taxpayer, a related party, or a trade or business under common control; or
5. That was filled in the Commonwealth of Virginia and the trade or business where that position was located was purchased by another taxpayer.

**PART V.**

**PROCEDURES FOR QUALIFYING FOR ENTERPRISE ZONE JOB CREATION GRANTS.**

**13 VAC 5-112-260. Effective dates.**

Beginning on July 1, 2005, a business firm shall be eligible to receive enterprise zone job creation grants for the creation of new permanent full-time positions.

**13 VAC 5-112-270. Computation of grant amount.**

A. For any qualified business the grant amount is calculated as follows:

1. \$800 per year for up to five consecutive years for each grant eligible position that is paid a wage rate during the qualification year that is at least of 200 percent of the federal minimum wage in place during the qualification year, and that is provided with health benefits, or
2. \$500 per year for up to five years for each grant eligible position that is paid a wage rate during such year that is less than 200 percent of the federal minimum wage, but at least 175 percent of the federal minimum wage, and that is provided with health benefits.

B. A business firm may receive grants for up to a maximum of 350 grant eligible jobs annually.

C. Job creation grants are based on a calendar year. The grant amount for any permanent full-time position that is filled for less than a full calendar year must be prorated based on the number of full months worked.

1. In cases where a position is grant eligible for only a portion of a qualification year the grant amount will be prorated based on the number of full months the position was grant eligible. This shall include cases where changes in wage rate; health care benefits; or the federal minimum wage rate change a position's grant eligibility

2. In cases where a change in a grant eligible position's wage rate or the federal minimum wage rate during a qualification year changes the per position maximum grant amount available for that position, the grant amount shall be prorated based on the period the position was paid a minimum of 200 percent of the federal minimum wage rate and the period the position was paid a minimum of 175 percent of the federal minimum wage but less than 200 percent.

D. The amount of the job creation grant for which a qualified business firm is eligible in any year shall not include amounts for grant eligible positions in any year other than the preceding calendar year. Job creation grants shall not be available for any calendar year prior to 2005.

E. Permanent full-time positions that have been used to qualify for any other enterprise zone incentive pursuant to former §§ 59.1-270 through 59.1-284.01 of the Code of Virginia shall not be eligible for job creation grants and shall not be counted as a part of the minimum threshold of four new positions.

**13 VAC 5-112-280. Eligibility.**

A. A business firm shall be eligible to receive job creation grants for five consecutive years beginning with the first year of grant eligibility. Business firms in their first five-year period shall demonstrate that they have increased employment by four permanent full-time positions over the base year. Additional permanent full-time positions created during the remainder of years in the grant period are eligible for additional grant funding over the previous year's level or such positions may be used instead to begin a subsequent grant period pursuant to 13 VAC 5-112-280 B.

B. A business firm may be eligible for subsequent five consecutive calendar year grant periods if it creates new grant eligible positions above the threshold number for its subsequent base year.

1. If a second or subsequent five-year grant period is requested within two years after the previous five-year grant period, the subsequent base year will be the last grant year. The calculation of this subsequent base year employment will be determined by the number of permanent full-time positions in the preceding base year, plus the number of threshold positions, plus the number of grant eligible positions in the final year of the previous grant period.

2. If a business firm applies for subsequent five consecutive calendar year grant periods beyond the two years immediately following the completion of the previous five-year grant period, the business firm shall use one of the two preceding calendar years as the subsequent base year, at the choice of the business firm.

C. A business firm is eligible to receive enterprise zone job creation grants for any and all years in which the business firm qualifies in the five consecutive calendar years period commencing with the first year of grant eligibility.

D. Job creation grants shall be available beginning with calendar year 2005.

E. Any qualified business firm receiving an enterprise job creation grant under this section is not be eligible for a major business facility job tax credit pursuant to § 58.1-439 of the Code of Virginia.

F. The following positions are not grant eligible:

1. Those in retail, local service or food and beverage service.
2. Those paying less than 175 percent of the federal minimum wage or that are not provided with health benefits.
3. Seasonal, temporary or contract positions.

### **13 VAC 5-112-290. Application submittal and processing.**

A. In order to claim the grant an application must be submitted to the Department on prescribed form or forms. Applicants shall provide other documents as prescribed by the Department.

B. Local zone administrators must verify that the location of the business is in the enterprise zone in a manner prescribed by the Department.

C. The accuracy and validity of information provided in such applications, including that related to permanent full-time positions, wage rates and provision of health benefits are to be attested to by an independent certified public accountant licensed in Virginia through an agreed-upon procedures engagement conducted in accordance with current attestation standards established by the American Institute of Certified Public Accountants, using procedures provided by the Department as assurance that the firm has met the criteria for qualification prescribed in this section.

D. The Department will not accept nor process any applications submitted without the required attestation information.

E. Applications requesting job creation grants shall be submitted to the Department by no later than April 1 of the calendar year subsequent to the qualification year.

F. The Department shall review all applications for completeness and notify business firms of any errors by no later than May 15. Business firms must respond to any unresolved issues by no later than June 1. If the Department does not meet its May 15 date for notification, then businesses must respond to any unresolved issues within 10 calendar days of the actual notification.

G. The Department shall award job creation grants and notify all applicants by June 30 as to the amount of the grant they shall receive.

H. Applications must either be hand delivered by the date specified in this section or sent by certified mail with a return receipt requested and post marked no later than the date specified in this section.

### **13 VAC 5-112-300. Accuracy and validity of information.**

A. The Department may at any time review qualified zone businesses records related to qualification under this section to assure that information provided in the application process is accurate.

B. Qualified zone businesses shall maintain all documentation regarding qualification for enterprise zone job creation grants for at least one year after the final year of their five-year grant period.

C. Job creation grants that do not have adequate documentation regarding permanent full-time positions, wage rates and provision of health benefits may be subject to repayment by the qualified zone business.

### **13 VAC 5-112-310. Anti-churning.**

No grant shall be allowed for any permanent full-time position:

1. Which a grant under this chapter was previously earned by a related party, as defined by the Internal Revenue Code § 267 (b), or a trade or business under common control;
2. Where an employee filling that positions was previously employed in the same job function in Virginia by a related party, or a trade or business under common control;
3. Which was previously performed at a different location in Virginia by an employee of the taxpayer, a related party, or a trade or business under common control;
4. Which previously qualified for a grant in connection with a different enterprise zone location on behalf of the taxpayer, a related party, or a trade or business under common control; or
5. That was filled in the Commonwealth of Virginia and the trade or business where that position was located was purchased by another taxpayer.

### **13 VAC 5-112-320. Qualification in zones whose designation period is ending.**

Business firms located in a zone whose designation period is ending that have qualified by or before the zone expiration date may receive the balance of their five consecutive year incentive period provided they continue to qualify under 13 VAC 5-112-270 and 13 VAC 5-112-280. Business firms may not begin additional five-year incentive period after the zone expiration date.

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# Emergency Regulations

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PART VI.  
PROCEDURES FOR QUALIFYING FOR REAL PROPERTY  
INVESTMENT GRANT.

**13 VAC 5-112-330. Effective dates.**

Beginning on July 1, 2005, a qualified zone investor shall be allowed a real property investment grant. Units of local, state and federal government or political subdivisions shall not be considered qualified zone investors.

**13 VAC 5-112-340. Computation of grant amount.**

A. For any qualified zone investor, the amount of the grant shall be equal to 30 percent of the qualified zone investments, as defined below:

1. Qualified zone investments include expenditures associated with (a) any exterior, interior, structural, mechanical or electrical improvements necessary to construct, expand or rehabilitate a building for commercial, industrial or mixed use; (b) excavations; (c) grading and paving; (d) installing driveways; and (e) landscaping or land improvements. These can include, but not be limited to, costs associated with demolition, carpentry, sheetrock, plaster, painting, ceilings, fixtures, doors, windows, fire suppression systems, roofing, flashing, exterior repair, cleaning and cleanup.

2. Qualified real property investments do not include:

a. The cost of acquiring any real property or building.

b. Other acquisition costs including: (i) the cost of furnishings; (ii) any expenditure associated with appraisal, architectural, engineering, surveying, and interior design fees; (iii) loan fees, points, or capitalized interest; (iv) legal, accounting, realtor, sales and marketing, or other professional fees; (v) closing costs, permits, user fees, zoning fees, impact fees, and inspection fees; (vi) bids, insurance, signage, utilities, bonding, copying, rent loss, or temporary facilities incurred during construction; (vii) utility connection or access fees; (viii) outbuildings; (ix) the cost of any well or septic or sewer system; and (x) roads.

c. The basis of any property: (i) for which a grant under this section was previously provided; (ii) for which a tax credit under § 59.1-280.1 of the Code of Virginia was previously granted; (iii) which was previously placed in service in Virginia by the qualified zone investor, a related party as defined by Internal Revenue Code § 267 (b), or a trade or business under common control as defined by Internal Revenue Code § 52 (b); or (iv) which was previously in service in Virginia and has a basis in the hands of the person acquiring it, determined in whole or in part by reference to the basis of such property in the hands of the person from whom it was acquired or Internal Revenue Code § 1014 (a).

B. For any qualified zone investor making less than \$2,000,000 in qualified real property investment, the cumulative grant will not exceed \$125,000 within any five-year period for any building or facility.

1. In such cases where subsequent qualified real property investment within the five-year period results in the total qualified real property investment equaling \$2 million or more, then the qualified zone investor shall be eligible to receive an additional grant(s) provided that the total of all grants received within the five-year period does not exceed a maximum of \$250,000.

C. For any qualified zone investor making \$2 million or more in qualified real property investments, the cumulative grant will not exceed \$250,000 within any five-year period for any building or facility.

D. The total grant amount per building or facility within a five year period shall not exceed \$250,000.

**13 VAC 5-112-350. Eligibility.**

A. Only office, commercial or industrial or mixed-use real property is eligible. A mixed-use building where the office, commercial or industrial use is less than 30 percent shall not be eligible for this grant.

B. A qualified zone investor is eligible to apply for a real property investment grant in the calendar year following the year in which the property was placed in service provided that:

1. The total amount of the rehabilitation or expansion of depreciable office, commercial or industrial or mixed-use real property placed in service during the calendar year within the enterprise zone equals or exceeds \$50,000 with respect to a building or facility.

2. The cost of any newly constructed depreciable office, commercial or industrial or mixed-use real property (as opposed to rehabilitation or expansion) is at least \$250,000 with respect to a building or facility.

C. Real property investments that were placed in service in calendar year 2004 that were not eligible to submit a tax credit request as a small qualified zone resident pursuant to former § 59.1-280.1 of the Code of Virginia because of the timing of their tax year may apply for a real property investment grant in 2006.

D. In the case of a tenant, the amounts of qualified zone investment specified in this section shall relate to the proportion of the property for which the tenant holds a valid lease.

E. In the case of buildings with multiple tenants and/or owners, such tenants or owners shall coordinate qualification under this section.

F. Units of local, state and federal government or political subdivisions are not eligible to apply for this grant.

**13 VAC 5-112-360. Qualification in zones whose designation period is ending.**

Zone investors located in a zone whose designation period is ending must qualify for investments made prior the zone expiration date to receive a real property investment grant. Zone investors may not qualify for investments made after the zone expiration date.

### **13 VAC 5-112-370. Intrastate Anti-Piracy Rule.**

Real property investment grants will not be available to assist a Virginia business firm to relocate from one area of Virginia to another unless there is an increase in employment or building square footage for the firm.

### **13 VAC 5-112-380. Application submittal and processing.**

A. In order to claim the grant an application must be submitted to the Department on prescribed form or forms. Applicants shall provide other documents as prescribed by the Department.

B. Local zone administrators must verify that the location of the business is in the enterprise zone in a manner prescribed by the Department.

C. The accuracy and validity of information provided in such applications, including that related to qualified real property investments are to be attested to by an independent certified public accountant licensed in Virginia through an agreed-upon procedures engagement conducted in accordance with current attestation standards established by the American Institute of Certified Public Accountants, using procedures provided by the Department as assurance that the firm has met the criteria for qualification prescribed in this section.

D. The Department will not accept nor process any applications submitted without the required attestation information.

E. Applications requesting real property investment grants shall be submitted to the Department by no later than April 1 of the calendar year subsequent to the qualification year.

F. The Department shall review all applications for completeness and notify business firms of any errors by no later than May 15. Business firms must respond to any unresolved issues by no later than June 1. If the Department does not meet its May 15 date for notification, then businesses must respond to any unresolved issues within 10 calendar days of the actual notification.

G. The Department shall award real property investment grants and notify all applicants by June 30 as to the amount of the grant they shall receive.

H. Applications must either be hand delivered by the date specified in this section or sent by certified mail with a return receipt requested and post marked no later than the date specified in this section.

I. Applicants may only apply for grants which they are otherwise eligible to claim for such calendar year, subject to the limitations provided by 13 VAC 5-112-400.

### **13 VAC 5-112-390. Accuracy and validity of information.**

A. The Department may at any time review qualified zone investors records related to qualification to assure that information provided in the application process is accurate.

B. Qualified zone investors shall maintain all documentation regarding qualification for enterprise zone incentive grants for a minimum of three years following the receipt of any grant.

C. Real property investment grants that do not have adequate documentation regarding qualified real property investments may be subject to repayment by the qualified zone investor.

## PART VII.

### POLICIES AND PROCEDURES FOR ENTERPRISE ZONE GRANTS.

### **13 VAC 5-112-400. Allocating enterprise zone grants.**

A. Qualified business firms and qualified zone investors shall be eligible to receive enterprise zone grants provided for in 13 VAC 5-112-200, 13 VAC 5-112-260 and 13 VAC 5-112-330 to the extent that they apply for and are approved for grant allocations through the Department.

B. Upon receiving applications for grants provided for under 13 VAC 5-112-200, 13 VAC 5-112-260, and 13 VAC 5-112-330, the Department shall determine the amount of the grant to be allocated to each eligible business firm and zone investor.

C. If the total amount of grants for which qualified business firm are eligible under 13 VAC 5-112-200 and 13 VAC 5-112-260 and for which qualified zone investors are eligible under 13 VAC 5-112-330 exceeds the annual appropriation for such grants, then the amount of grant that each qualified business firm and qualified zone investor will receive for shall be prorated in a proportional manner.

### **13 VAC 5-112-410. Actions of the Department.**

Actions of the Department relating to the approval or denial of applications for enterprise zone grants under this section shall be exempt from the provisions of the Administrative Process Act pursuant to subdivision B 4 of § 2.2-4002 of the Code of Virginia.

## PART VIII.

### ENTERPRISE ZONE DESIGNATION.

### **13 VAC 5-112-420. Status of enterprise zones designated prior to July 1, 2005.**

All enterprise zones designated pursuant to §§ 59.1-274, 59.1-274.1, and 59.1-274.2 of the Code of Virginia as those were in effect prior to July 1, 2005 shall continue in effect until the end of their 20-year designation period. Such zones shall be governed by the provisions of Chapter 47 exclusive of § 59.1-542 E of the Code of Virginia.

### **13 VAC 5-112-430. Eligible applicants for zone designation.**

A. Eligible applicants include the governing body of any county or city.

B. Towns are not eligible applicants. However, county applicants may include acreage in an incorporated town as part of the county's proposed enterprise zone provided that the town is located within the applicant county. In such situations, towns may provide local incentives in addition to the county incentives.

C. Two or more adjacent localities may file a joint application for an enterprise zone.

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D. Jurisdictions may apply for more than one enterprise zone designation. This includes the submission of a joint application with other jurisdictions. Each jurisdiction is limited to a total of three enterprise zones.

## **13 VAC 5-112-440. Zone eligibility requirements.**

A. To be eligible for consideration, an application for an enterprise zone must meet the requirements set out in this section.

B. Enterprise zones may consist of no more than three noncontiguous areas. The size of the enterprise zone shall consist of the total of the acreage of all non-contiguous areas. The maximum combined land area cannot exceed maximum size guidelines set forth in subdivisions C 1, 2, 3 and 4 of this section.

C. All proposed zones shall conform to the following size guidelines:

1. Cities - Minimum: 1/4 square mile (160 acres); Maximum: 1 square mile (640 acres) or seven percent of the jurisdiction's land area or population, whichever is largest. Towns designated as enterprise zones pursuant to former §§ 59.1-274, 59.1-274.1 and 59.1-274.2 of the Code of Virginia shall conform to the size guidelines for cities.

2. Unincorporated areas of counties - Minimum: 1/2 square mile (320 acres); Maximum: 6 square miles (3,840 acres).

3. Consolidated cities - Zones in cities the boundaries of which were created through the consolidation of a city and county or the consolidation of two cities, shall conform substantially to the minimum and maximum size guidelines for unincorporated areas of counties as set forth in subdivision 3 of this subsection.

4. In no instance shall a zone consist only of a site for a single business firm.

## **13 VAC 5-112-450. Relationship to federal empowerment zone program.**

For enterprise zones designated by the Governor that have been enlarged to conform with the boundaries of a federal empowerment zone, the state enterprise zone designation shall continue until the expiration of the area's federal empowerment zone designation, unless earlier terminated as provided in this chapter.

### **PART IX. PROCEDURES AND REQUIREMENTS FOR ZONE DESIGNATIONS.**

## **13 VAC 5-112-460. Procedures for zone application and designation.**

A. Upon recommendation of the Director of the Department, the Governor may designate up to 30 enterprise zones in accordance with the provisions of this section. Such designations are to be done in coordination with the expiration of existing zones designated under earlier Enterprise Zone Program provisions or the termination of designations pursuant to 13 VAC 5-112-510, 13 VAC 5-112-520, and 13 VAC 5-112-530 D. The initial round of six zone designation applications and approval may be conducted prior to adoption

of final program regulations as provided under § 59.1-542 E of the Code of Virginia.

B. Applications for zone designation will be solicited by the Department on a competitive basis in accordance with the following procedures and requirements:

1. An application for zone designation must be submitted on Form EZ-1 to the Director, Virginia Department of Housing and Community Development, 501 North Second Street, Richmond, Virginia 23219, on or before the submission deadline established by the Department.

2. Each applicant jurisdiction(s) must hold at least one public hearing on the application for zone designation prior to submission of the application to the Department. Notification of the public hearing is to be in accordance with § 15.2-2204 of the Code of Virginia relating to advertising of public hearings. An actual copy of the advertisement must be included in the application.

3. In order to be considered in the competitive zone designation process an application from a jurisdiction(s) must include all the requested information, be accompanied by a resolution(s) of the local governing body(s) and be signed by the chief administrator(s) or the clerk(s) to county board of supervisors where there is no chief administrator. The chief administrator(s) or clerk (s), in signing the application, must certify that the applicant jurisdiction(s) held the public hearing required in subdivision 2 of this subsection.

C. Within 60 days following the application submission deadline, the Department shall review and the Director shall recommend to the Governor those applications that meet a minimum threshold standard as set by the Department and are competitively determined to have the greatest potential for accomplishing the purposes of the program.

D. Enterprise zones designated pursuant to § 59.1-542 of the Code of Virginia will be designated for an initial 10-year period except as provided for in 13 VAC 5-112-510 and 13 VAC 5-112-520. Upon recommendation of the Director of the Department, the Governor may renew zones for up to two five-year renewal periods.

E. A local governing body whose application for zone designation is denied shall be notified and provided with the reasons for denial.

## **13 VAC 5-112-470. Procedures and requirements for joint applications.**

A. Two or more adjacent localities may file a joint application for an enterprise zone as provided for in 13 VAC 5-112-430 and must meet the requirements set out in this section.

B. Localities applying for a joint zone must demonstrate a regional need for an enterprise zone and a regional impact that could not be achieved through a single jurisdiction zone.

C. Applicants for a joint zone shall also specify what mechanisms will be used to ensure that the economic benefits of such a zone are shared among the applicant localities.

D. A joint enterprise zone shall consist of no more than three noncontiguous zone areas for each participating locality.

E. Each jurisdiction comprising the proposed joint enterprise zone may have the maximum acreage as specified by the size guidelines in 13 VAC 5-112-440.

F. The applicants may designate one jurisdiction to act as program administrator. The jurisdiction so designated shall be responsible for filing annual reports as provided for in 13 VAC 5-112-560.

G. In order to submit a joint application, Form EZ-I must be completed and filed by the jurisdiction acting as program administrator in accordance with the procedures set forth in subdivision B 1 through 3 of 13 VAC 5-112-460. In addition, a copy of Form EZ-I-JA must be completed by each of the other participating jurisdictions to certify that they are in agreement in filing the joint application. A copy or copies of Form EZ-I-JA must be submitted to the Department with Form EZ-I.

H. The applicants must meet all other requirements of these regulations pertaining to applicants. In the case of joint applications, all references to "applicant" and "local governing body" contained in the text of these regulations shall mean the governing body of each participating jurisdiction.

### **13 VAC 5-112-480. Application considerations.**

A. Consideration for enterprise zone designations shall be based upon the locality-wide need and impact of such a designation.

B. Need shall be assessed in part by the following distress factors: (i) the average unemployment rate for the locality over the most recent three-year period, (ii) the average median adjusted gross income for the locality over the most recent three-year period, and (iii) the average percentage of public school students within the locality receiving free or reduced price lunches over the most recent three-year period. These distress factors shall account for at least 50 percent of the consideration given to local governments' for enterprise zone designation.

C. Local governments submitting applications for enterprise zone designation shall propose local incentives that address the economic conditions within their locality and that will help stimulate real property improvements and new job creation. Such local incentives include, but are not limited to: (i) reduction of permit fees; (ii) reduction of user fees; (iii) reduction of business, professional and occupational license tax; (iv) partial exemption from taxation of substantially rehabilitated real estate pursuant to § 58.1-3221; and (v) adoption of a local enterprise zone development taxation program pursuant to Article 4.2 (§ 58.1-3245.6 et seq.) of Chapter 32 of Title 58.1. The extent and duration of such incentives shall conform to the requirements of the Constitution of Virginia and the Constitution of the United States. In making application for designation as an enterprise zone, the application may also contain proposals for regulatory flexibility, including but not limited to: (a) special zoning districts, (b) permit process reform, (c) exemptions from local ordinances, and (d) other public incentives proposed in the locality's application which shall be binding upon the locality upon designation of the enterprise zone.

D. The likely impact of proposed local incentives in addressing the economic conditions within the locality, and in stimulating

real property investments and job creation together with the projected impact of state incentives, will be factors in evaluating applications.

E. A locality may establish eligibility criteria for local incentives that differ from the criteria required to qualify for the incentives provided in this chapter.

F. Proposed local incentives may be provided by the local governing body itself or by an assigned agent or agents such as a local redevelopment and housing authority, an industrial development authority, a private non-profit entity or a private for-profit entity. In the case of a county which includes acreage in an incorporated town (s), the county may designate the governing body of the town(s) to serve as its assigned agent for incentives to be provided by the town(s).

### **PART X.**

### **PROCEDURES FOR ZONE AMENDMENT.**

### **13 VAC-5-112-490. Amendment of approved applications.**

A. A local governing body will be permitted to request amendments to approved applications for zone designation in accordance with the procedures and requirements set out in this section. Each jurisdiction participating in a joint zone may amend their portion of the application, including boundaries and incentives, independently of the other participating jurisdictions.

B. The applicant jurisdiction must be current on the submission of annual reports as set forth in 13 VAC 5-112-550 in order to amend an approved application.

C. The applicant jurisdiction must hold at least one public hearing on the requested amendment prior to its submission to the Department. This public hearing may not have been held more than six months prior to the amendment submission. In the case of a boundary amendment that involves the elimination of area or areas, the applicant jurisdiction must separately notify each property owner and business located within the affected area of the proposed amendment prior to holding the public hearing.

D. A request for an amendment must be submitted to the Department on Form EZ-2. This form must be accompanied by a resolution of the local governing body and must certify that the applicant jurisdiction held the public hearing required in subsection C of this section prior to the adoption of the resolution. In the case of a joint application, Form EZ-2 must be completed by the jurisdiction requesting the amendment and must be accompanied by Form EZ-2-JA. This form certifies that the other participating jurisdictions are in agreement in filing the request for amendment.

E. An enterprise zone application may be amended annually, at least 12 months from the last amendment application by the jurisdiction. Amendments may be to the entire application or individual sections such as the boundary or incentives.

F. A zone boundary amendment may not consist of a site for a single business firm or be less than 10 acres.

G. A noncontiguous area(s) may be added to an enterprise zone through a boundary amendment. However, no

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enterprise zone shall have more than three noncontiguous areas.

H. The total zone acreage resulting from a boundary amendment must conform to the size guidelines set forth in 13 VAC 5-112-440.

I. Boundary amendments that involve the elimination of area or areas from a zone shall be reviewed on a case-by-case basis with the potential impact on affected businesses and property owners being given primary consideration. Such boundary changes cannot involve more than 15 percent of the total zone acreage.

J. A county may amend its zone boundaries to include as part of the county's total acreage, acreage in any town located within the county provided it meets sections A-I above. This shall not constitute a joint zone and does not provide the town with the ability to make any zone amendments, create sub zone(s) or give the town its own zone acreage allocation. In such situations, towns may provide local incentives in addition to the county incentives.

K. The Department will approve an amendment to local incentives only when the proposed incentive is equal to or superior to that in the original application or any previous amendment approved by the Department. The Department will approve an amendment of zone boundaries only if the proposed amendment is deemed to be consistent with the purposes of the program as determined by the Department.

L. A local governing body that is denied an application amendment shall be provided with the reasons for denial.

## PART XI.

### PROCEDURES FOR ANNUAL REVIEW.

#### **13 VAC 5-112-500. Annual review of enterprise zones.**

A. Annually, the Department will review the performance and effectiveness of each enterprise zone in creating new jobs, encouraging private investment and usage of state incentives based on information provided by the locality (s) in their annual report pursuant to 13 VAC 5-112-550 and during periodic on-site visit. The Department shall notify the locality(s) of any concerns and make recommendations for improvement where necessary.

B. The Department shall annually provide enterprise zone localities with a current listing of all qualified business firms, qualified large zone residents and qualified zone investors.

## PART XII.

### PROCEDURES FOR ZONE TERMINATION.

#### **13 VAC 5-112-510. Failure to provide local program incentives.**

A. If the local governing body or assigned agent(s) is unable or unwilling to provide the specified local incentives as proposed in its application for zone designation or as approved by the Department in an amendment the following procedures will apply. In the case of joint applications, these procedures will apply if either local governing body or its assigned agent or agents is unable or unwilling to provide approved local incentives.

B. A local governing body must notify the Department in writing within 30 days of any inability or unwillingness to provide an approved local program incentive.

C. A local governing body will have 60 days after submission of the notice required in subsection B of this section to request an amendment to its application. Such a request shall be filed in accordance with the procedures set forth in 13 VAC 5-112-490.

D. The Department will review requests for amendments in accordance with the requirements set forth in 13 VAC 5-112-490. Approval of an amendment will allow a zone to continue in operation. If a local governing body fails to provide notice as set forth in subsection B of this section, or has its request for an amendment denied, then the Department shall terminate that enterprise zone designation.

#### **13 VAC 5-112-520. Failure to qualify for state incentives.**

If no business firms, large zone residents or zone investors have qualified for incentives as provided for in 13 VAC 5-112-20, 13 VAC 5-112-110, 13 VAC 5-112-200, 13 VAC 5-112-260 and 13 VAC 5-112-330 within any five-year period, the Department shall terminate that enterprise zone designation.

## PART XIII.

### PROCEDURES FOR ENTERPRISE ZONE RENEWAL.

#### **13 VAC 5-112-530. Procedures for zone renewal.**

A. Enterprise zones designated pursuant to 13 VAC 5-112-460 are in effect for an initial 10-year period with up to two five-year renewal periods, except as provided for in 13 VAC 5-112-510 and 13 VAC 5-112-520. Recommendations for five-year renewals shall be based on the locality's performance of its enterprise zone responsibilities, the continued need for such a zone, and its effectiveness in creating jobs and capital investment. The following procedures shall be used in considering such an enterprise zone for renewal.

B. In anticipation of the tenth and fifteen anniversaries of an enterprise zone's designation, the locality(s) shall submit to the Department on the prescribed form information regarding, but not limited to: 1. the area conditions; 2. the continued need for the enterprise zone; 3. its long-term effectiveness in creating jobs and capital investment. The Department shall also consider the locality(s) long-term performance of enterprise zone responsibilities.

C. Localities that have shown satisfactory performance and effectiveness, or that are making steady improvement in performance and effectiveness or have a continued need for an enterprise zone will be recommended to the Governor by the Department for an additional five-year designation period. No enterprise zone designation shall be in effect more than twenty years.

D. Localities that have shown consistently poor performance and effectiveness or that no longer need an enterprise zone will not be recommended for renewal and will be notified of such in writing by the Department.

## PART XIV.

### ZONE TERMINATION AND INCENTIVE QUALIFICATION.

#### **13 VAC 5-112-540. Zone termination and incentive qualification.**

A. A zone shall be terminated in accordance with the procedures set forth in 13 VAC 5-112-510, 13 VAC 5-112-520 and 13 VAC 5-112-530 D upon written notice to a local governing body. The date of such notice is considered to be the date of zone termination.

B. Qualified business firms, qualified large zone residents and qualified zone investors located in a terminated zone may continue to request state enterprise zone incentives for any remaining years in the incentive period for which they are eligible as provided for in 13 VAC 5-112-20, 13 VAC 5-112-110, 13 VAC 5-112-200, 13 VAC 5-112-260 and 13 VAC 5-112-330.

C. In the case of business firms and large zone residents qualified under 13 VAC 5-112-20, 13 VAC 5-112-110 and 13 VAC 5-112-200, the incentive period shall not go beyond 2019.

## PART XV.

### ADMINISTRATIVE REQUIREMENTS.

#### **13 VAC 5-112-550. Annual reporting.**

A. A local governing body shall submit annual reports to the Department for the purpose of program monitoring and evaluation. Annual reports shall be submitted to the Department on Form EZ-3-AR no later than July 15 of the following year. Annual reports shall include information and data for the purpose of program evaluation as requested on Form EZ-3-AR.

B. The Department shall review the effectiveness in creating jobs and capital investment and activity occurring within designated enterprise zones and shall annually report its findings to the Senate Finance Committee, the Senate Committee on Commerce and Labor, the House Appropriations Committee, and the House Committee on Commerce and Labor. When the potential exists that the annual fiscal limitations on the enterprise zone incentives will be fully utilized, thus triggering their pro rata distribution, the Department shall include this information in the annual report.

#### **13 VAC 5-112-560. Confidentiality of information.**

Pursuant to § 59.1-3 of the Code of Virginia, except in accordance with proper judicial order or as otherwise provided by law, any employee or former employee of the Department shall not divulge any information acquired by him in the performance of his duties with respect to employment, property, or income of any business firm submitted to the Department pursuant to Chapter 59 of the Code of Virginia. Any person violating this section shall be guilty of a Class 2 misdemeanor. The provisions of this section shall not be applicable, however, to:

1. Acts performed or words spoken or published in the line of duty under law;
2. Inquiries and investigations to obtain information as to the implementation of this chapter by a duly constituted

committee of the General Assembly, or when such inquiry or investigation is relevant to its study, provided that any such information shall be privileged;

3. Disclosures of information to the Department of Taxation or the State Corporation Commission as may be required to implement the provisions of this chapter; or

4. The publication of statistics so classified as to prevent the identification of particular business firms.

/s/ Mark R. Warner

Governor

September 30, 2005

VA.R. Doc. No. R06-58; Filed September 30, 2005, 3:42 p.m.

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# GOVERNOR

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EXECUTIVE ORDER NUMBER 97 (2005)

## DECLARATION OF A STATE OF EMERGENCY IN SUPPORT OF THE EMERGENCY MANAGEMENT ASSISTANCE COMPACT TO RESPOND TO THE IMPACT OF HURRICANE KATRINA AND HURRICANE RITA

Revised September 23, 2005

On September 23, 2005, I am expanding the state of emergency declared on August 31, 2005 for Hurricane Katrina to include support for states impacted by Hurricane Rita. Through the Emergency Management Assistance Compact, of which the Commonwealth of Virginia is a member, and in accordance with § 44-146.28:1, the Commonwealth will provide resources and assistance to the fullest extent possible to the impacted states, and will directly assist evacuees who arrive in Virginia from the states that have suffered from either or both of these devastating storms.

Therefore, by virtue of the authority vested in me by § 44-146.17 of the Code of Virginia, as Governor and as Director of Emergency Management, and by virtue of the authority vested in me by Article V, Section 7 of the Constitution of Virginia and by § 44-75.1 of the Code of Virginia, as Governor and Commander-in-Chief of the armed forces of the Commonwealth, and subject always to my continuing and ultimate authority and responsibility to act in such matters, I hereby confirm, ratify, and memorialize in writing my verbal orders issued August 31, 2005, wherein I proclaimed that a state of emergency exists and directed that appropriate assistance be rendered by agencies of the state government to respond to needs in the impacted states to alleviate adverse conditions created by the hurricane. Pursuant to § 44-75.1.A 3 and A 4 of the Code of Virginia, I directed that the Virginia National Guard be called forth to state duty to assist in providing such aid. This shall include such functions as the State Coordinator of Emergency Management, the Adjutant General, and the Secretary of Public Safety may find necessary.

In order to marshal all public resources and appropriate preparedness, response and recovery measures to meet this potential threat and recover from its effects, and in accordance with my authority contained in § 44-146.17 of the Emergency Services and Disaster Laws, I hereby order the following measures:

A. The limited implementation by agencies of the state and local governments of Volume 1 (Basic Plan) and Volume 2 (Disaster Recovery Plan) of the Virginia Emergency Operations Plan, as amended, along with other appropriate state agency plans.

B. Limited activation of the Virginia Emergency Operations Center (VEOC) and Virginia Emergency Response Team (VERT) to coordinate the provision of assistance to the impacted states. I am directing that the VEOC and VERT coordinate state operations in support of the EMAC agreement, other mission assignments to agencies

designated in the Commonwealth of Virginia Emergency Operations Plan (COVEOP) and other measures that may be identified by the State Coordinator of Emergency Management, in consultation with the Secretary of Public Safety, which are needed to provide assistance for the preservation of life, protection of property, and implementation of recovery activities.

C. The activation, implementation and coordination of appropriate mutual aid agreements and compacts, including the Emergency Management Assistance Compact (EMAC), and the authorization of the State Coordinator of Emergency Management to enter into any other supplemental agreements, pursuant to §§ 44-146.17(5) and 44-146.28:1 of the Code of Virginia to provide for the exchange of medical, fire, police, National Guard personnel and equipment, public utility, reconnaissance, welfare, transportation and communications personnel, and equipment and supplies. The State Coordinator of Emergency Management is hereby designated as Virginia's authorized representative within the meaning of the Emergency Management Assistance Compact, § 44-146.28:1 of the Code of Virginia.

D. The authorization of the Departments of State Police, Transportation and Motor Vehicles to grant temporary overweight, overwidth, registration, or license exemptions to all carriers transporting essential commodities in and through any area of the Commonwealth in order to support the emergency conditions, regardless of their point of origin or destination.

The axle and gross weights shown below are the maximum allowed, unless otherwise posted.

Axle Size	Max. Weight
Any One Axle	24,000 Pounds
Tandem Axles (more than 40 inches but not more than 96 inches spacing between axle centers)	44,000 Pounds
Single Unit (2 Axles)	44,000 Pounds
Single Unit (3 Axles)	54,500 Pounds
Tractor-Semitrailer (4 Axles)	64,500 Pounds
Tractor-Semitrailer (5 or more Axles)	90,000 Pounds
Tractor-Twin Trailers (5 or more Axles)	90,000 Pounds
Other Combinations (5 or more Axles)	90,000 Pounds
Per Inch of Tire Width in Contact with Road Surface	850 Pounds

All overwidth loads, up to a maximum of 14 feet, must follow Virginia Department of Transportation (VDOT) hauling permit and safety guidelines.

In addition to described overweight/overwidth transportation privileges, carriers are also exempt from registration with the Department of Motor Vehicles. This includes the vehicles en route and returning to their home base. The above-cited agencies shall communicate this information to all staff responsible for permit issuance and truck legalization enforcement.

This authorization shall apply to hours worked by any carrier when transporting passengers, property, equipment, food,

fuel, construction materials and other critical supplies to or from any portion of the Commonwealth for purpose of providing relief or assistance as a result of this disaster, pursuant to § 52-8.4 of the Code of Virginia.

The foregoing overweight/overwidth transportation privileges, as well as the regulatory exemption provided by § 52-8.4 A of the Code of Virginia and implemented in 19 VAC 30-20-40 B of the "Motor Carrier Safety Regulations," shall remain in effect for 30 days from the onset of the disaster, or until emergency relief is no longer necessary, as determined by the Secretary of Public Safety in consultation with the Secretary of Transportation, whichever is earlier.

E. The discontinuance of provisions authorized in paragraph D above may be implemented and disseminated by publication of administrative notice to all affected and interested parties by the authority I hereby delegate to the Secretary of Public Safety, after consultation with other affected Cabinet-level Secretaries.

F. This state of emergency constitutes a major medical emergency under the Rules and Regulations of the Board of Health Governing Emergency Medical Services, pursuant to Article 3.01 (§ 32.1-111.1 et seq.) of Chapter 4 of Title 32.1, of the Code of Virginia, Statewide Emergency Medical Services System and Services, and exemptions specified in the Rules and Regulations regarding patient transport and provider certification in disasters apply.

G. The implementation by public agencies under my supervision and control of their emergency assignments as directed in the COVEOP without regard to normal procedures pertaining to performance of public work, entering into contracts, incurring of obligations, or other logistical and support measures of the Emergency Services and Disaster Laws, as provided in § 44-146.28 (b) of the Code of Virginia. Section 44-146.24 of the Code of Virginia also applies to the disaster activities of state agencies.

H. The temporary waiver by the Department of Agriculture and Consumer Services, and all other applicable state and local agencies, of enforcement of the provisions of § 3.1-949 of the Code of Virginia for retailers of petroleum products whose pumps are too antiquated to display accurately the current price of petroleum products. This limited waiver shall be effective for a period of 90 days from the effective date of this executive order and shall apply only to retailers whose pumps are mechanically unable to display accurately the current price of petroleum products due to the age and design of the pump.

The Commissioner, in consultation with the Secretary of Agriculture and Forestry, shall forthwith develop and issue guidelines allowing such retailers to use a "half pricing" technique for the sale of petroleum products. Any such retailer shall be required to display the actual price of the petroleum product on any applicable signage or advertisements in accordance with these guidelines. The Commissioner and Secretary shall consult with affected stakeholders in the development of such guidelines and shall make available appropriate technical assistance to affected retailers as well as appropriate consumer education.

I. Designation of members and personnel of volunteer, auxiliary and reserve groups including Search and Rescue

(SAR), Virginia Association of Volunteer Rescue Squads (VAVRS), Civil Air Patrol (CAP), member organizations of the Voluntary Organizations Active in Disaster (VOAD), Radio Amateur Civil Emergency Services (RACES), volunteer fire fighters, and others identified and tasked by the State Coordinator of Emergency Management for specific disaster-related mission assignments as representatives of the Commonwealth engaged in emergency services activities within the meaning of the immunity provisions of § 44-146.23 (a) of the Code of Virginia, in the performance of their specific disaster-related mission assignments.

J. I hereby authorize the Superintendent of Public Instruction to issue such guidance to local school divisions as may be necessary to facilitate enrollment of students displaced by Hurricane Katrina or Hurricane Rita.

K. The temporary waiver, for the period that the applicable waiver from the federal government is in effect, of enforcement by the Department of Motor Vehicles and other applicable agencies of the prohibition on use of dyed fuel for on-road use. Nothing in this provision shall change any tax liability due from any person or entity.

L. The temporary waiver, for a period of 90 days, of the enforcement by the Board of Pharmacy of statutory and regulatory provisions which, in the judgment of the Director of the Department of Health Professions, impede the ability of Virginia pharmacies to provide assistance to patients who have been displaced by the effects of Hurricane Katrina or Hurricane Rita.

M. The following conditions apply to the deployment of the Virginia National Guard:

1. The Adjutant General of Virginia, after consultation with the State Coordinator of Emergency Management, shall make available on state active duty such units and members of the Virginia National Guard and Virginia Defense Force and such equipment as may be necessary or desirable to assist in alleviating the human suffering and damage to property.

2. Pursuant to § 52-6 of the Code of Virginia, I authorize and direct the Superintendent of State Police to appoint any and all such Virginia Army and Air National Guard personnel called to state active duty as additional police officers. These police officers shall have the same powers and perform the same duties as the regular State Police officers appointed by the Superintendent. However, they shall nevertheless remain members of the Virginia National Guard, subject to military command as members of the State Militia. Any bonds and/or insurance required by § 52-7 of the Code of Virginia shall be provided for them at the expense of the Commonwealth.

3. In all instances, members of the Virginia National Guard shall remain subject to military command as prescribed by § 44-78.1 of the Code of Virginia and not subject to the civilian authorities of county or municipal governments. This shall not be deemed to prohibit working in close cooperation with members of the Virginia Departments of State Police or Emergency Management or local law enforcement or emergency management authorities or receiving guidance from them in the performance of their duties.

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# Governor

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4. Should service under this Executive Order result in the injury or death of any member of the Virginia National Guard, the following will be provided to the member and the member's dependents or survivors:

(a) Workers Compensation benefits provided to members of the National Guard by the Virginia Workers Compensation Act, subject to the requirements and limitations thereof; and, in addition,

(b) The same benefits, or their equivalent, for injury, disability and/or death, as would be provided by the federal government if the member were serving on federal active duty at the time of the injury or death. Any such federal-type benefits due to a member and his or her dependents or survivors during any calendar month shall be reduced by any payments due under the Virginia Workers Compensation Act during the same month. If and when the time period for payment of Workers Compensation benefits has elapsed, the member and his or her dependents or survivors shall thereafter receive full federal-type benefits for as long as they would have received such benefits if the member had been serving on federal active duty at the time of injury or death. Any federal-type benefits due shall be computed on the basis of military pay grade E-5 or the member's military grade at the time of injury or death, whichever produces the greater benefit amount. Pursuant to § 44-14 of the Code of Virginia, and subject to the availability of future appropriations that may be lawfully applied to this purpose, I now approve of future expenditures out of appropriations to the Department of Military Affairs for such federal-type benefits as being manifestly for the benefit of the military service.

5. The costs incurred by the Department of Military Affairs in performing these missions shall be paid from state funds.

N. The activation of the statutory provisions in § 59.1-525 et. seq. of the Code of Virginia related to price gouging. Price gouging at any time is unacceptable. Price gouging is even more reprehensible after a natural disaster. I have directed all applicable executive branch agencies to take immediate action to address any verified reports of price gouging of necessary goods or services. I make the same request of the Office of the Attorney General and appropriate local officials.

O. I hereby authorize the heads of executive branch agencies, acting when appropriate on behalf of their regulatory boards, to waive any state requirement or regulation for which the federal government has issued a waiver of the corresponding federal or state regulation based on the impact of Hurricane Katrina or Hurricane Rita.

P. I hereby authorize the presidents of colleges and universities in the Commonwealth to waive the requirements of any state law or regulation for good cause to facilitate enrollment of students displaced by Hurricane Katrina or Hurricane Rita.

Q. A state of emergency exists for the Commonwealth in support of the proper management, care and support of persons who have been displaced by Hurricane Katrina or Hurricane Rita, evacuated from states impacted by Hurricane Katrina or Hurricane Rita, and relocated to the Commonwealth

(Evacuees). These evacuees will require a variety of emergency services including, but not limited to health and medical care, social services, transportation and security services. I hereby order the following measures:

1. Designation of physicians, nurses, and other licensed and non-licensed health care providers and other individuals as well as hospitals, nursing facilities and other licensed and non-licensed health care organizations, political subdivisions and other private entities by agencies of the Commonwealth, including but not limited to the Department of Health, Department of Mental Health, Mental Retardation and Substance Abuse Services, Department of Emergency Management, Department of Transportation, Department of State Police, Department of Motor Vehicles, and Department of Social Services, as representatives of the Commonwealth engaged in emergency services activities, at sites designated by the Commonwealth, within the meaning of the immunity provisions of § 44-146.23 (a) of the Code of Virginia, in the performance of their disaster-related mission assignments.

2. During the next 120 days, the Director of the Department of Health Professions shall issue temporary licenses, registrations, and certifications to practice in the Commonwealth, for a period not to exceed one year, to qualified health care practitioners who are displaced residents of Hurricane Katrina or Rita-affected states, who hold like unrestricted licenses, registrations, or certifications in their resident states, and who may be unable to furnish or have furnished on their behalf complete documentation of their credentials and license status as otherwise required by Virginia law or regulation. The Director shall also have authority to defer the payment of licensing fees. Any license, registration or certification so issued may be revoked by for cause without a hearing by the Director.

Upon my approval, the costs incurred by state agencies and other agents in performing mission assignments through the VEOC of the Commonwealth as defined herein and in § 44-146.28 of the Code of Virginia, other than costs defined in Item 5 of the paragraphs above pertaining to the Virginia National Guard, in performing these missions shall be paid from state funds. In addition, up to \$50,000 shall be made available for operation of the Emergency Operation Center.

This Executive Order shall be effective August 31, 2005, and shall remain in full force and effect until June 30, 2006, unless sooner amended or rescinded by further executive order. Termination of the Executive Order is not intended to terminate any Federal-type benefits granted or to be granted due to injury or death as a result of service under this Executive Order.

Given under my hand and under the Seal of the Commonwealth of Virginia, this 23rd day of September 2005.

/s/ Mark R. Warner  
Governor

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# GENERAL NOTICES/ERRATA

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## DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

### Public Notice - Referendum on the Levy of an Excise Tax on Apples

The Commissioner of Agriculture and Consumer Services hereby gives notice of a referendum on the levy of the excise tax on apples. This notice is given pursuant to § 3.1-636.3 of the *Code of Virginia* (1950), as amended.

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J. Carlton Courter, III  
Commissioner of Agriculture and  
Consumer Services

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1. Date, Hours, Voting Places, and Method of Voting:

The Director of the Division of Marketing, Virginia Department of Agriculture and Consumer Services, will receive ballots from eligible voters until 5:00 pm on March 24, 2006, the date on which the referendum is deemed to be held. Completed ballots must be received in an official pre-addressed ballot envelope and mailed to be received at or hand delivered to the following address: Virginia Department of Agriculture and Consumer Services, 102 Governor Street, Room 323, Richmond, Virginia 23219.

2. Amount of Assessment to be Collected, Means by which the Assessment will be Collected, and General Purposes for How the Assessment will be Used:

The amount of the assessment will be 2.5 cents per tree run bushel of ungraded apples grown in the Commonwealth for sale by producers of at least 5,000 tree run bushels per calendar year. Every producer is to submit to the Tax Commissioner the excise tax levied on apples grown in the Commonwealth in a calendar year, by January 31 of the following year. The Tax Commissioner shall promptly pay the assessments into the Virginia state treasury to the credit of the Virginia Apple Fund. In general, the purpose of the collected assessment will be to support additional research, education, publicity, and industry development of the Virginia apple industry.

3. Rules for Conducting Referendum on the Levy of an Excise Tax on Apples:

Statutory authority: Section 3.1-636.2 of the *Code of Virginia*

Effective date: December 1, 2005

**Section 1, Definitions:** Unless the context indicates otherwise, the following terms have the following meanings:

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

"Director" means the Director of the Division of Marketing of the Virginia Department of Agriculture and Consumer Services.

"Rules" means "Rules for Conducting Referendum on the Levy of an Excise Tax on Apples."

**Section 2, Purpose:** The purpose of the referendum governed by these Rules is to present the following question to persons eligible to vote in a referendum on the levy of an excise tax on apples:

"Do you favor the levy of an excise tax of 2.5 cents per tree run bushel of ungraded apples grown in the Commonwealth for sale by producers of at least 5,000 tree run bushels per calendar year, to be paid into the Apple Fund and distributed as follows: up to 40 percent paid to the U.S. Apple Association for publicity and industry development; up to 20 percent paid to the Virginia State Horticultural Society for education and industry development; up to 20 percent paid to the Virginia Apple Research Program for research; up to 10 percent to be used for administration of this article; and up to 10 percent to be held in the Apple Fund as a reserve with (i) a maximum amount of \$125,000 and (ii) a requirement that any appropriation from the reserve receive at least two-thirds of the votes of the members of the Apple Board? If the maximum amount of the reserve fund is met, then the amount of that 10 percent distribution that exceeds the reserve fund shall be divided equally among the U.S. Apple Association, the Virginia State Horticultural Society, and the Virginia Apple Research Program. \_\_\_ Yes \_\_\_ No "

(For the quoted language of the referendum question, see Section 3.1-636.4 of the *Code of Virginia*.)

**Section 3, Eligibility:** Eligibility requirements shall be those established by Section 3.1-636.5 of the *Code of Virginia*, which states:

"Any producer, as defined in § 3.1-618, in the year preceding the date of the referendum held pursuant to this article shall be eligible to vote in such referendum if he so certifies on forms approved by the Commissioner. Any person, as defined in § 1-13.19, who meets these requirements shall be eligible to vote in the referendum, but no person shall be required to be a qualified voter in any other respect. Such person may vote provided that he is a resident of the Commonwealth or qualified to do business in the Commonwealth. Any person who is not an individual shall vote by its authorized representative."

(Section 3.1-618 contains several definitions, including the following:

"Producer" means any person who, in a calendar year, grows or causes to be grown within the Commonwealth, for sale, a minimum of 5,000 tree run bushels of apples, and

"Tree run bushel" means a container, with a content of not less than 2,140 cubic inches or more than 2,500 cubic inches, of apples that have not yet been graded or sized.

Also, effective October 1, 2005, the definition of "person" contained in Section 1-13.19 is superseded by Section 1-230, the latter of which defines "person" to include:

". . .any individual, corporation, partnership, association, cooperative, limited liability company, trust, joint venture,

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## General Notices/Errata

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government, political subdivision, or any other legal or commercial entity and any successor, representative, agent, agency, or instrumentality thereof.")

The Director must receive the completed Commissioner-approved form referred to above in this section no later than 5:00 pm on February 10, 2006.

**Section 4, Public notices:** Section 3.1-636.3 of the Code of Virginia provides (in part) the following:

". . .B. The Commissioner shall, at least 60 days before the date on which a referendum is to be held, mail notice to the clerk of the circuit court in each locality where apples are produced. The clerk of the court shall post the notice on the front door or public bulletin board of the courthouse and certify the posting to the Commissioner. The Commissioner shall, at least 60 days prior to the holding of any referendum under this article, publish notice of the referendum in a newspaper of daily general circulation in Richmond, Virginia, and send a notice of the referendum to a newspaper of general circulation in each locality where apples are produced.

The notice shall contain the date, hours, voting places, and method of voting in the referendum; the amount of assessment to be collected, the means by which the assessment will be collected, and the general purposes for how the assessment will be used; and the rules adopted by the Board of Agriculture and Consumer Services pursuant to § 3.1-636.2."

In fulfillment of this statutory notice requirement, the Commissioner shall:

- 1) Mail notice to clerks of court no later than December 2, 2005;
- 2) Publish notice in a newspaper of daily general circulation in Richmond, Virginia no later than December 2, 2005; and
- 3) Mail notice to a newspaper of general circulation in each locality where apples are produced no later than December 2, 2005.

**Section 5, Ballot distribution and receipt; date of referendum:** Section 3.1-636.3 of the Code of Virginia requires the Commissioner to distribute ballots in advance of the referendum. The Commissioner shall include a ballot along with a pre-addressed ballot return envelope in the referendum mailing.

Each person who is eligible to vote who votes and who wishes his vote to be counted shall return the completed ballot, in the pre-addressed return envelope provided, to the Director.

For purposes of these Rules, the referendum shall be deemed to be held on the last date on which the Director will accept cast ballots, namely, March 24, 2006. The deadline for receipt of cast ballots on that date is 5:00 pm.

**Section 6, Judges:** The Commissioner shall appoint three judges to count and certify the votes. The judges may not be financially interested in the production or sale of apples or apple products.

**Section 7, Counting ballots, etc.:** The judges shall open the envelopes and count the completed ballots and shall certify the results to the Commissioner. According to Section 3.1-636.3(D) of the Code of Virginia:

"The Commissioner shall, within 10 days after the referendum, canvass and publicly declare the results thereof and certify the same to the Governor and shall notify, by mail, each member of the Board of Agriculture and Consumer Services of the results."

With respect to those portions of this statutory requirement with specified deadlines, the Commissioner shall, no later than April 3, 2006:

1. Canvass and publicly declare the results of the referendum; and
2. Certify the same to the Governor, providing to the Governor through the Secretary of Agriculture and Forestry the results of the referendum and proposed findings in a form that can be used by the Governor in fulfillment of Section 3.1-636.6 of the Code, which states:

". . . If the Governor finds the referendum in order and that more than one-half of those voting are in favor of the excise tax on apples pursuant to § 3.1-636.4, then the Governor shall so proclaim. Upon such proclamation by the Governor, the excise tax on apples shall be established. If the Governor finds that more than one-half of those voting are in opposition to the excise tax on apples pursuant to § 3.1-636.4, then the Governor shall not so proclaim and the excise tax on apples shall not be established."

Adopted by the Board of Agriculture and Consumer Services on September 23, 2005. These Rules are full, true, and correctly dated.

/s/ Roy E. Seward  
Secretary  
October 3, 2005

### Public Notice - Referendum on the Levy of an Assessment on Manufactured Equine Feed

The Commissioner of Agriculture and Consumer Services hereby gives notice of a referendum on the levy of an assessment on manufactured equine feed. This notice is given pursuant to § 3.1- 22.60 of the Code of Virginia (1950), as amended.

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J. Carlton Courter, III  
Commissioner of Agriculture and  
Consumer Services

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#### 1. Date, Hours, Polling Places, and Method of Voting:

The Director of the Division of Marketing, Virginia Department of Agriculture and Consumer Services, will receive ballots from eligible voters until 5:00 pm on May 26, 2006, the date on which the referendum is deemed to be held. Completed ballots must be received in an official pre-addressed ballot envelope and mailed to be received at or hand delivered to the following address: Virginia

Department of Agriculture and Consumer Services, 102 Governor Street, Room 323, Richmond, Virginia 23219.

2. Amount of Assessment to be Collected, Means by which the Assessment shall be Collected, and General Purposes for Which the Assessment will be Used:

According to Section 3.1-22.74:

"A. Every manufacturer shall collect an assessment of \$3 per ton or \$0.075 per 50-pound bag of manufactured equine feed he sells in the Commonwealth and on any manufactured equine feed he imports for sale in the Commonwealth and shall remit such assessment to the Department annually. The Department shall promptly pay the assessments into the state treasury to the credit of the Virginia Horse Industry Promotion and Development Fund.

B. Every manufacturer shall complete, on forms furnished by the Department, an annual report of the total tonnage of manufactured equine feed he sold and imported into the Commonwealth. Such reports shall be submitted to the Department along with the assessments submitted pursuant to subsection A. The reporting year for manufactured equine feed shall be January 1 through December 31.

C. All assessments collected under this section shall be paid to the Department by February 1 for the preceding calendar year."

The purpose for which the assessment will be used is for conducting additional programs in market development, education, publicity, research, and promotion of the equine industry.

3. Rules for Conducting Referendum on Establishment of an Assessment on Manufactured Equine Feed:

Statutory authority: Section 3.1-22.59 of the Code of Virginia

Effective date: December 1, 2005

**Section 1, Definitions:** Unless the context indicates otherwise, the following terms have the following meanings:

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

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

"Director" means the Director of the Division of Marketing of the Virginia Department of Agriculture and Consumer Services.

"Rules" means "Rules for Conducting Referendum on Levy of an Assessment on Manufactured Equine Feed."

**Section 2, Purpose:** The purpose of the referendum governed by these Rules is to present the following question to persons eligible to vote in a referendum on the levy of an assessment on manufactured equine feed:

"Do you favor additional market development, education, publicity, research, and promotion of the Virginia equine industry and the levy of an assessment of \$3 per ton or \$0.075 per 50-pound bag of manufactured equine feed sold in the Commonwealth of Virginia in accordance with the

provisions of the Horse Industry Board law? \_\_\_\_\_ Yes  
\_\_\_\_\_ No."

(For the quoted language of the referendum question, see Section 3.1-22.70 of the Code of Virginia.)

**Section 3, Eligibility:** Eligibility requirements shall be those established by Section 3.1-22.69 of the Code of Virginia, which states:

"Any person who owns an equine in the Commonwealth shall be eligible to vote in a referendum held under this article if he executes and submits to the Commissioner an affidavit on forms and methods approved by the Board verifying Virginia residency, legal voting age, and at least one of the following to confirm equine ownership:

1. Current breed or discipline registration for an equine owned in the Commonwealth.
2. Receipt of a valid Virginia equine infectious anemia test within the last 12 months indicating an ownership interest in an equine.
3. A lease purchase agreement, contract, bill of sale, or other legal document showing current ownership or lease interest in an equine stabled or pastured in the Commonwealth.

Completed forms shall include the full name of the person submitting the form along with an associated farm name, if applicable, mailing address, and phone number. Any person who is not an individual shall vote by its authorized representative."

(Also, effective October 1, 2005, the definition of "person" contained in Section 1-13.19 is superseded by Section 1-230, the latter of which defines "person" to include:

". . .any individual, corporation, partnership, association, cooperative, limited liability company, trust, joint venture, government, political subdivision, or any other legal or commercial entity and any successor, representative, agent, agency, or instrumentality thereof.")

The Director must receive the completed Board-approved verification form (which provides for the affidavit referred to above in this section) no later than 5:00 pm on April 14, 2006.

**Section 4, Public notices:** Section 3.1-22.60 of the Code of Virginia provides (in part) the following:

"...B. The Commissioner shall, at least 60 days before the date upon which a referendum is to be held, mail notice to the clerk of the circuit court in each county where those eligible to vote in the referendum reside. The clerk of the circuit court shall post the notice and rules and regulations on the front door or public bulletin board of the courthouse and certify the posting to the Commissioner. The Commissioner shall give general notice of the referendum in a newspaper of general circulation in Richmond, Virginia, and shall send a notice of the referendum to a newspaper of general circulation for each area where members of the horse industry reside, at least 60 days prior to the holding of any referendum under this chapter.

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## General Notices/Errata

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The notice shall contain (i) the date, hours, polling place, and method of voting in such referendum; (ii) the amount of assessment to be collected, means by which such assessment shall be collected, and general purposes for which the assessments will be used; and (iii) the rules adopted by the Board pursuant to § 3.1-22.59. "

In fulfillment of this statutory notice requirement, the Commissioner shall:

- 1) Mail notice to clerks of court no later than December 2, 2005;
- 2) Give general notice in a newspaper of general circulation in Richmond, Virginia no later than December 2, 2005; and
- 3) Send notice to a newspaper of general circulation for each area where members of the horse industry reside no later than December 2, 2005.

**Section 5, Ballot distribution and receipt; date of referendum:** Section 3.1-22.60 of the Code of Virginia requires the Commissioner to distribute ballots in advance of the referendum. The Commissioner shall include a ballot along with a pre-addressed ballot return envelope in the referendum mailing.

Each person who is eligible to vote who votes and who wishes his vote to be counted shall return the completed ballot, in the pre-addressed return envelope provided, to the Director.

For purposes of these Rules, the referendum shall be deemed to be held on the last date on which the Director will accept cast ballots, namely May 26, 2006. The deadline for receipt of cast ballots on that date is 5:00 pm.

**Section 6, Judges:** The Commissioner shall appoint three judges to count and certify the votes. The judges may not own horses or equine feed manufacturing businesses or be financially interested in the horse industry or equine manufacturing businesses.

**Section 7, Counting ballots, etc.:** The judges shall open the envelopes and count the completed ballots and shall certify the results to the Commissioner. According to Section 3.1-22.60 D. of the Code of Virginia:

"The Commissioner shall, within 10 days after the referendum, canvass and publicly declare the results thereof and certify the same to the Governor and the Board."

In fulfillment of this statutory requirement, the Commissioner shall, no later than June 5, 2006:

1. Canvass and publicly declare the results of the referendum; and
2. Certify the same to the Board and to the Governor, providing to the Governor through the Secretary of Agriculture and Forestry the results of the referendum and proposed findings in a form that can be used by the Governor in fulfillment of Section 3.1-22.71 of the Code or Section 3.1-22.72 of the Code, as the case may be. Section 3.1-22.71 states:

"If the Governor finds the referendum in order and that at least a simple majority of those voting are in favor of the assessment for the purpose of conducting additional programs

in market development, education, publicity, research, and promotion of the equine industry, he shall so proclaim and an assessment of \$3 per ton or \$0.075 per 50-pound bag of manufactured equine feed shall be established within 180 days of such proclamation and collected as set forth in this chapter."

Section 3.1-22.72 states:

"If the Governor finds the referendum out of order, or that at least a simple majority of those voting are not in favor of the assessment for the purpose of conducting additional programs of market development, education, publicity, research, and promotion of the equine industry, he shall so proclaim and an assessment on manufactured equine feed shall not be established."

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Adopted by the Board of Agriculture and Consumer Services on September 23, 2005. These Rules are full, true, and correctly dated.

/s/ Roy E. Seward  
Secretary  
October 3, 2005

### DEPARTMENT OF CRIMINAL JUSTICE SERVICES

#### Notice of Amendments to the Training Objectives, Criteria, or Lesson Plan Guides

Pursuant to the Rules Relating to Compulsory Minimum Training Standards for Dispatchers, notice is hereby given that amendments have been adopted by the Committee on Training of the Board of Criminal Justice Services relating to the Training Objectives, Criteria, or Lesson Plan Guides. The effective date of the changes is December 1, 2005.

For a copy of the pages with the amendments, please contact Judy Kirkendall, Department of Criminal Justice Services, 202 N. 9th Street, Richmond, VA 23219, telephone (804) 786-8003, or e-mail [judith.kirkendall@dcjs.virginia.gov](mailto:judith.kirkendall@dcjs.virginia.gov).

### BOARD OF EDUCATION

#### Revision of Standards of Learning for Fine Arts

The Board of Education plans to review or revise, or both, the current Fine Arts Standards of Learning. The public is invited to comment on the proposed revisions, which will be distributed for public comment on December 1, 2005. Proposed revisions may be viewed as of that date on the Department of Education's website: [www.pen.k12.va.us](http://www.pen.k12.va.us).

In addition, a public hearing will be held prior to adoption of the revised standards, which is anticipated in February 2006. Announcements will be made concerning the date, time and location of the public hearing. Persons are invited to send comments by mail, fax, or e-mail to Mrs. Cherry Gardner, Director of Fine Arts, Department of Education, P.O. Box 2120, Richmond, VA 23218, telephone (804) 225-2881, FAX (804) 225-2524, or e-mail [cherry.gardner@doe.virginia.gov](mailto:cherry.gardner@doe.virginia.gov).

Public comment will be received until February 1, 2006.

## DEPARTMENT OF ENVIRONMENTAL QUALITY

### Total Maximum Daily Loads (TMDLs) for the North River

The Department of Environmental Quality (DEQ) and the Department of Conservation and Recreation seek written and oral comments from interested persons on the development of total maximum daily loads (TMDLs) for the North River. This stream was listed on the 1996 303(d) TMDL Priority List and Report as impaired due to violations of the state's general standard for aquatic life (i.e., a benthic impairment) and the state's water quality standard for bacteria. The general standard impairment includes a 16.32-mile segment from Cooks Creek to the confluence with the South River. The bacteria impairment includes a 24.96-mile segment from Beaver Creek to the confluence with the South River.

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 drafted a bacteria TMDL for the North River and is seeking comment on that draft. As part of the benthic TMDL development, DEQ conducted a stressor identification analysis. This analysis showed that benthic impairments in the North River were due to pollutants (sediment and phosphorus) identified in several TMDLs developed for North River tributaries. The analysis also concluded that implementation of those sediment and phosphorus TMDLs on North River tributaries would eliminate the benthic impairment on the North River mainstem. Based on these conclusions, a benthic TMDL was not developed for the North River mainstem. In the 2006 305(b) and 303(d) Water Quality Assessment Integrated Report, DEQ intends to recategorize the North 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.

A final public meeting to discuss the bacteria TMDL and the benthic stressor identification analysis will be held on Monday, November 14, 2005, 7 p.m. at John Wayland Elementary School cafeteria, 801 North Main Street, Bridgewater, Virginia 22812.

A copy of the draft bacteria TMDL report and the benthic stressor analysis report will be available for review on or before November 14, 2005, on the DEQ website at <http://www.deq.state.va.us/tmdl/tmdlrvpts.html>. The public comment period for the draft report and the meeting will end on December 14, 2005. 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 e-mail [mbrent@deq.virginia.gov](mailto:mbrent@deq.virginia.gov).

## STATE LOTTERY DEPARTMENT

### Director's Orders

The following Director's Orders of the State Lottery Department were filed with the Virginia Registrar of Regulations on October 5, 2005. The orders may be viewed at the State Lottery Department, 900 E. Main Street, Richmond, Virginia, or at the office of the Registrar of Regulations, 910 Capitol Street, 2nd Floor, Richmond, Virginia.

Retailer Incentive Program Rules:

Director's Order Number Seventy-One (05)

Virginia Lottery Retailer Incentive Program Rules, "Scratch Win Fall" (effective 10/2/05 - 12/3/05)

## STATE WATER CONTROL BOARD

### Proposed Consent Special Order for Centex Homes

Purpose of notice: To invite citizens to comment on a proposed consent order for a facility in York County, Virginia.

Public comment period: October 31, 2005, to November 30, 2005.

Consent order description: The State Water Control Board proposes to issue a consent order to Centex Homes to address alleged violations of Virginia Water Protection General Permit No. WP4 of Virginia Administrative Code 9 VAC 25-690. The property where the alleged violation occurred is a subdivision being developed called Hawk's Landing that is bounded by Hampton Highway 134 to the north, the Davis Forge single family subdivision to the south, and one parcel east of Owen Davis Boulevard, in York County, Virginia. The consent order describes a settlement to resolve the unauthorized clearing of wetlands and failure to provide pre-construction notification and construction monitoring reports to DEQ.

How to comment: DEQ accepts comments from the public by e-mail, 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](http://www.deq.virginia.gov).

Contact for public comments, document requests and additional information: Marquetta Cain, Department of Environmental Quality, Tidewater Regional Office, 5636 Southern Boulevard, Virginia Beach, VA 23462, telephone (757) 518-2134, FAX (757) 518-2003, or e-mail [mjcain@deq.virginia.gov](mailto:mjcain@deq.virginia.gov).

### Proposed Consent Special Order for Ferguson Land and Lumber Company, Inc.

Purpose of notice: To seek public comment on a proposed consent order from the Department of Environmental Quality for a facility in Rocky Mount, Virginia.

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## General Notices/Errata

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Public comment period: October 31, 2005, to December 1, 2005.

Consent order description: The State Water Control Board proposes to issue a consent order to Ferguson Land and Lumber Company, Inc. to address alleged violations of the Virginia Water Protection Permit Program. The location of the facility where the alleged violation occurred is a 10-acre parcel of land between State Street and Ferguson Lumber Co. The consent order describes a settlement to resolve unauthorized filling in of wetlands and operating without a permit.

How to comment: DEQ accepts comments from the public by e-mail, 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](http://www.deq.virginia.gov).

Contact for public comments, document requests and additional information: Steve Wright, Department of Environmental Quality, West Central Regional Office, 3019 Peters Creek Road, Roanoke, VA 24019, telephone (540) 562-6792, FAX (540) 562-6725, or e-mail [sbwright@deq.virginia.gov](mailto:sbwright@deq.virginia.gov).

### **Proposed Consent Special Order for the Town of Orange**

Purpose of notice: To invite citizens to comment on a proposed consent order for a facility in Orange, Virginia.

Public comment period: October 31, 2005, to November 30, 2005.

Consent order description: The State Water Control Board proposes to issue a consent order to the Town of Orange to address alleged violations of the Virginia Pollutant Discharge Elimination System Permit No. VA0021385. The location of the facility where the alleged violations occurred is 13222 Spicers Mill Road. The consent order describes a settlement to resolve sewage treatment plant effluent limit violations for total recoverable copper and late submittal of required reports.

How to comment: DEQ accepts comments from the public by e-mail, 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](http://www.deq.virginia.gov).

Contact for public comments, document requests and additional information: Carl Ciccarelli; Department of Environmental Quality, Northern Virginia Regional Office, 13901 Crown Court, Woodbridge, VA 22193, telephone (703) 583-3862, FAX (703) 583-3871, or e-mail [cjccicarelli@deq.virginia.gov](mailto:cjccicarelli@deq.virginia.gov).

### **Proposed Consent Special Order for Stafford County Board of Supervisors**

Purpose of notice: To invite citizens to comment on a proposed amended consent order for a facility in Stafford County, Virginia.

Public comment period: October 31, 2005, to November 30, 2005.

Consent order description: The State Water Control Board proposes to issue an amended consent order to Stafford County Board of Supervisors to address alleged violations of the Aquia Advanced Wastewater Treatment Facility governed by permit number VA0060968. The location of the facility where the alleged violation occurred is 75 Coal Landing Road, Stafford, VA 22554. The amended consent order describes a settlement to resolve exceedences to E. coli effluent limits.

How to comment: DEQ accepts comments from the public by e-mail, 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](http://www.deq.virginia.gov).

Contact for public comments, document requests, and additional information: Jennifer Sheedy, Northern Virginia Regional Office, 13901 Crown Court, Woodbridge, VA 22193, telephone (703) 583-3938, FAX (703) 583-3841, or e-mail [jlshedy@deq.virginia.gov](mailto:jlshedy@deq.virginia.gov).

### **Notice of Intent to Approve Use of Virginia Aquatic Resources Trust Fund as a Form of Compensatory Mitigation Under 9 VAC 25-210**

Pursuant to Section 62.1-44.15:5 D of the Code of Virginia and 9 VAC 25-210-115 E, the State Water Control Board (the board) is giving notice of its intent to approve the continued use of the Virginia Aquatic Resources Trust Fund (the Fund) as one of several acceptable forms of compensatory mitigation for permitted impacts to state waters, including wetlands, after considering public comment for a 30-day period starting October 31, 2005. The board first approved use of the Fund as a compensatory mitigation option in December 2001, and then again in April 2003 based on the 2002 annual report submitted to DEQ. The Norfolk District Corps of Engineers (the Corps) submitted the draft 2004 annual report of Fund activities on July 17, 2005, and the final 2004 annual report on September 30, 2005. The Corps has requested that the board approve continued use of the Fund as meeting the requirements set forth in 9 VAC 25-210 115 E, including: dedication to the achievement of no net loss of wetland or stream acreage and function; consultation with the board on site selection; provision of annual reports detailing contributions by watershed; and a mechanism to establish fee amounts. The board proposes to approve continued use of the Fund as a compensatory mitigation option for a one-year period, ending December 31, 2006, provided that the following conditions (including, but not limited to) are met: (i) DEQ has the opportunity to review and comment on wetland and stream project plans; (ii) the Fund cannot be used as a compensatory

mitigation option in geographic areas having approved mitigation banks with appropriate credits available for purchase; (iii) monitoring reports on wetland and stream restoration sites are completed and available for review; and (iv) DEQ has input on the development of criteria to establish fee amounts for stream restoration. The final 2004 annual report is available on the Department of Environmental Quality website at <http://www.deq.virginia.gov/wetlands/mitigate.html> or by calling or e-mailing David L. Davis, DEQ Office of Wetlands & Water Protection. Written comments, including those by email, must be received no later than 4 p.m. on December 1, 2005, and should be submitted to David L. Davis at the address given below. Only those comments received within this period will be considered by the board. Written comments shall include the name, address, and telephone number of the writer, and shall contain a complete, concise statement of the factual basis for comments.

For additional information contact David L. Davis, Department of Environmental Quality, Office of the Wetlands & Water Protection, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4105, FAX (804) 698-4347, or e-mail [dldavis@deq.virginia.gov](mailto:dldavis@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, FAX (804) 692-0625.

### Forms for Filing Material for Publication in the Virginia Register of Regulations

All agencies are required to use the appropriate forms when furnishing material for publication in the Virginia Register of Regulations. The forms may be obtained from: Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591.

**Internet:** Forms and other Virginia Register resources may be printed or downloaded from the Virginia Register web page: <http://register.state.va.us>.

FORMS:

NOTICE of INTENDED REGULATORY ACTION-RR01  
NOTICE of COMMENT PERIOD-RR02  
PROPOSED (Transmittal Sheet)-RR03  
FINAL (Transmittal Sheet)-RR04  
EMERGENCY (Transmittal Sheet)-RR05  
NOTICE of MEETING-RR06  
AGENCY RESPONSE TO LEGISLATIVE OBJECTIONS-RR08  
RESPONSE TO PETITION FOR RULEMAKING-RR13  
FAST-TRACK RULEMAKING ACTION-RR14

## ERRATA

### STATE BOARD OF HEALTH

**Title of Regulation:** 12 VAC 5-381. Rules and Regulations for the Licensure of Home Care Organizations (12 VAC 5-381-120)

**Publication:** 22:3 VA.R. 388-406 October 17, 2005.

**Correction to Final Regulation:**

Page 393, column 2, 12 VAC 5-381-120 F, after "in writing" insert "if the requested variance is denied"

VA.R. Doc. No. R94-653; Filed October 18, 2005, 3:29 p.m.

### BOARD OF MEDICINE

**Title of Regulation:** 18 VAC 85-80. Regulations Governing the Licensure of Occupational Therapists (adding 18 VAC 85-80-120 through 18 VAC 85-80-125).

**Publication:** 22:1 VA.R. 91-93 September 19, 2005.

**Correction to Final Regulation:**

Based on the Virginia Code Commission's authority in § 30-150 of the Code of Virginia to renumber sections of the Virginia Administrative Code, the following title and section numbers are being changed:

**Title of Regulation:** 18 VAC 85-80. Regulations Governing the Licensure of Occupational Therapists (adding ~~18 VAC 85-80-120~~ 18 VAC 85-80-130 through ~~18 VAC 85-80-125~~ 18 VAC 85-80-180).

~~18 VAC 85-80-120~~ 18 VAC 85-80-130. Confidentiality.

~~18 VAC 85-80-121~~ 18 VAC 85-80-140. Patient records.

~~18 VAC 85-80-122~~ 18 VAC 85-80-150. Practitioner-patient communication; termination of relationship.

~~18 VAC 85-80-123~~ 18 VAC 85-80-160. Practitioner responsibility.

~~18 VAC 85-80-124~~ 18 VAC 85-80-170. Sexual contact.

~~18 VAC 85-80-125~~ 18 VAC 85-80-180. Refusal to provide information.

VA.R. Doc. No. R03-263

### STATE BOARD OF SOCIAL SERVICES

**Title of Regulation:** 22 VAC 40-71. Standards and Regulations for Licensed Assisted Living Facilities (22 VAC 40-71-485 and 22 VAC 40-71-630)

**Publication:** 22:2 VA.R. 262-287 October 3, 2005.

**Correction to Emergency Regulation:**

Page 277, column 1, change "22 VAC 40-72-485" to "22 VAC 40-71-485"

Page 277, column 2, 22 VAC 40-72-485 B 3, change "22 VAC 40-72-500" to "22 VAC 40-71-680"

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## General Notices/Errata

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Page 278, column 2, 22 VAC 40-71-630 F, after "in this section," lowercase "the"

VA.R. Doc. No. R06-49; Filed October 18, 2005, 1:22 p.m.

### STATE WATER CONTROL BOARD

Title of Regulation: **9 VAC 25-780. Local and Regional Water Supply Planning.**

Publication: 22:2 VA.R. 238-246 October 3, 2005.

Corrections to Final Regulation:

Page 239, 9 VAC 25-780-30, definition of "Beneficial use," lines 1 and 2, change "instream" to "in-stream"

Page 239, 9 VAC 25-780-30, definition of "Technical evaluation committee," line 9, change "instream" to "in-stream"

Page 240, 9 VAC 25-780-50 C 2, line 2, change "9 VAC 25-780-70" to "9 VAC 25-780-80"

Page 242, 9 VAC 25-780-90 B, line 3, change "instream flow, instream uses" to "in-stream flow, in-stream uses"

Page 245, 9 VAC 25-780-140 C 10, line 1, change "9 VAC 25-78-130" to "9 VAC 25-780-130"

Page 245, 9 VAC 25-780-140 D, lines 3 and 4, change "findings pursuant to this section" to "findings pursuant to 9 VAC 25-780-150"

VA.R. Doc. No. R03-214; Filed October 14, 2005, 3:55 p.m.

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# CALENDAR OF EVENTS

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## Symbol Key

- † Indicates entries since last publication of the *Virginia Register*  
♿ Location accessible to persons with disabilities  
☎ Teletype (TTY)/Voice Designation

### NOTICE

Only those meetings which are filed with the Registrar of Regulations by the filing deadline noted at the beginning of this publication are listed. Since some meetings are called on short notice, please be aware that this listing of meetings may be incomplete. Also, all meetings are subject to cancellation and the *Virginia Register* deadline may preclude a notice of such cancellation. If you are unable to find a meeting notice for an organization in which you are interested, please check the Commonwealth Calendar at [www.vipnet.org](http://www.vipnet.org) or contact the organization directly.

For additional information on open meetings and public hearings held by the standing committees of the legislature during the interim, please call Legislative Information at (804) 698-1500 or Senate Information and Constituent Services at (804) 698-7410 or (804) 698-7419/TTY☎, or visit the General Assembly web site's Legislative Information System (<http://leg1.state.va.us/lis.htm>) and select "Meetings."

VIRGINIA CODE COMMISSION

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## EXECUTIVE

### BOARD OF ACCOUNTANCY

† **November 18, 2005 - 9 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, Suite 378, Richmond, Virginia.♿  
(Interpreter for the deaf provided upon request)

A meeting of the Enforcement Committee.

**Contact:** Jean Grant, Agency Enforcement Coordinator,  
Board of Accountancy, 3600 W. Broad St., Suite 378,  
Richmond, VA 23230-4923, telephone (804) 367-0725, FAX  
(804) 367-2174, (804) 367-9753/TTY☎, e-mail  
[jean.grant@boa.virginia.gov](mailto:jean.grant@boa.virginia.gov).

**December 13, 2005 - 10 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, Suite 395, Richmond, Virginia.♿  
(Interpreter for the deaf provided upon request)

A general business meeting. A public comment period will be held at the beginning of the meeting. All meetings are subject to cancellation. The time of the meeting is subject to change. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

**Contact:** Nancy Taylor Feldman, Executive Director, Board of Accountancy, 3600 W. Broad St., Suite 378, Richmond, VA 23230, telephone (804) 367-8505, FAX (804) 367-2174, (804) 367-9753/TTY☎, e-mail [boa@boa.virginia.gov](mailto:boa@boa.virginia.gov).

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## BOARD OF AGRICULTURE AND CONSUMER SERVICES

† **December 8, 2005 - 9 a.m.** -- Open Meeting  
102 Governor Street, 2nd Floor, Board Room, Richmond, Virginia.♿

A regular meeting. The board will entertain public comment at the beginning of all other business for a period not to exceed 30 minutes. Any person who needs any accommodation in order to participate at the meeting should contact Roy Seward at least five days before the meeting date so that suitable arrangements can be made.

**Contact:** Roy E. Seward, Board Secretary, Board of Agriculture and Consumer Services, Washington Bldg., 1100 Bank St., Suite 211, Richmond, VA 23219, telephone (804) 786-3538, FAX (804) 371-2945, e-mail [roy.seward@vdacs.virginia.gov](mailto:roy.seward@vdacs.virginia.gov).

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## DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

### Virginia Cattle Industry Board

† **November 17, 2005 - 10 a.m.** -- Open Meeting  
Stonewall Jackson Hotel and Conference Center, Staunton, Virginia.♿ (Interpreter for the deaf provided upon request)

A regular business meeting to (i) hear and approve, if appropriate, minutes from the September 2005 meeting; (ii) receive program updates from staff for the state and national level; and (iii) hear an educational program on veal production and marketing. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodation in order to participate at the meeting should contact Bill R. McKinnon at least five days before the meeting date so that suitable arrangements can be made.

**Contact:** Bill R. McKinnon, Executive Director, Virginia Cattle Industry Board, P.O. Box 9, Daleville, VA 24083, telephone

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# Calendar of Events

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(540) 992-1992, FAX (540) 992-4632, e-mail  
bmckinnon@vacattlemen.org.

## Virginia Marine Products Board

† **November 9, 2005 - 6 p.m.** -- Open Meeting  
Bill's Seafood House, Corner of Denbigh Boulevard and Route  
17, Grafton, Virginia. 

A meeting to (i) read and approve, if appropriate, minutes of the previous board meeting and (ii) receive a report on finance, trade shows, industry tours, calendar sales and cooperative programs with the Virginia Department of Agriculture and Consumer Services and croaker exports. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodation in order to participate at the meeting should contact Shirley Estes at least five days before the meeting date so that suitable arrangements can be made.

**Contact:** Shirley Estes, Executive Director, Virginia Marine Products Board, 554 Denbigh Blvd., Suite B, Newport News, VA, telephone (757) 874-3474, FAX (757) 886-0671, e-mail shirley.estes@vdacs.virginia.gov.

## Virginia Pork Industry Board

**November 4, 2005 - 3:30 p.m.** -- Open Meeting  
Holiday Inn, Staunton Golf and Conference Center, I-81, Exit  
225, Staunton, Virginia. 

A meeting to (i) review and approve the board's minutes of the last meeting, (ii) review the board's financial statement, (iii) discuss National Pork Board issues and appoint committees for the Pork Conference, and (iv) conduct general business. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodation in order to participate at the meeting should contact John H. Parker at least three days before the meeting date so that suitable arrangements can be made.

**Contact:** John H. Parker, Executive Director, Virginia Pork Industry Board, 1100 Bank St., 9th Floor, Richmond, VA 23219, telephone (804) 786-7092, FAX (804) 371-7786, e-mail john.parker@vdacs.virginia.gov.

## STATE AIR POLLUTION CONTROL BOARD

### State Advisory Board on Air Pollution

**November 16, 2005 - 10 a.m.** -- Open Meeting  
Department of Environmental Quality, Piedmont Regional  
Office, 4949-A Cox Road, Glen Allen, Virginia. 

A regular meeting.

**Contact:** Janet Wynne, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4140, e-mail jtwynne@deq.virginia.gov.

## ALCOHOLIC BEVERAGE CONTROL BOARD

**November 7, 2005 - 9 a.m.** -- Open Meeting  
**November 21, 2005 - 9 a.m.** -- Open Meeting  
**December 5, 2005 - 9 a.m.** -- Open Meeting  
**December 19, 2005 - 9 a.m.** -- Open Meeting  
Department of Alcoholic Beverage Control, 2901 Hermitage  
Road, Richmond, Virginia. 

An executive staff meeting to receive and discuss reports and activities from staff members and to discuss other matters not yet determined.

**Contact:** W. Curtis Coleburn, III, Secretary to the Board, Department of Alcoholic Beverage Control, 2901 Hermitage Rd., Richmond, VA 23220, telephone (804) 213-4409, FAX (804) 213-4411, (804) 213-4687/TTY , e-mail curtis.coleburn@abc.virginia.gov.

## ALZHEIMER'S DISEASE AND RELATED DISORDERS COMMISSION

NOTE: CHANGE IN MEETING DATE

**December 6, 2005 - 10 a.m.** -- Open Meeting  
Department for the Aging, 1610 Forest Avenue, Suite 100,  
Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A regular meeting.

**Contact:** Cecily Slasor, I and R Specialist, Alzheimer's Disease and Related Disorders Commission, 1610 Forest Ave., Ste. 100, Richmond, VA 23229, telephone (804) 662-9338, FAX (804) 662-9354, toll-free (800) 552-3402, (804) 662-9333/TTY , e-mail cecily.slasor@vda.virginia.gov.

## BOARD FOR ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS, CERTIFIED INTERIOR DESIGNERS AND LANDSCAPE ARCHITECTS

**October 31, 2005 - 9 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, Richmond, Virginia. 

A meeting of the Professional Engineers Section to conduct board business. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

**Contact:** Mark N. Courtney, Executive Director, Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY , e-mail apelscidla@dpor.virginia.gov.

**November 3, 2005 - 9 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, Richmond, Virginia. 

A meeting of the Landscape Architects Section to conduct board business. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

**Contact:** Mark N. Courtney, Executive Director, Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY , e-mail [apelscidla@dpor.virginia.gov](mailto:apelscidla@dpor.virginia.gov).

**November 8, 2005 - 9 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, Richmond, Virginia. 

A meeting of the Land Surveyors Section to conduct board business. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

**Contact:** Mark N. Courtney, Executive Director, Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY , e-mail [apelscidla@dpor.virginia.gov](mailto:apelscidla@dpor.virginia.gov).

**November 10, 2005 - 9 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, Richmond, Virginia. 

A meeting of the Interior Designers Section to conduct board business. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

**Contact:** Mark N. Courtney, Executive Director, Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY , e-mail [apelscidla@dpor.virginia.gov](mailto:apelscidla@dpor.virginia.gov).

**December 7, 2005 - 3 p.m.** -- Open Meeting  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, 4th Floor, Room 453, Richmond,  
Virginia. 

An informal fact-finding conference.

**Contact:** Mark N. Courtney, Executive Director, Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY , e-mail [apelscidla@dpor.virginia.gov](mailto:apelscidla@dpor.virginia.gov).

**December 8, 2005 - 9 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, Richmond, Virginia. 

A meeting to conduct any and all board business. A portion of the board's business may be discussed in closed session. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the department at (804) 367-8514 at least 10 days prior to this meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

**Contact:** Mark N. Courtney, Executive Director, Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8514, FAX (804) 367-2475 or e-mail [apelscidla@dpor.virginia.gov](mailto:apelscidla@dpor.virginia.gov).

\* \* \* \* \*

**December 8, 2005 - 9 a.m.** -- Public Hearing  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, 4th Floor, Richmond, Virginia. 

**December 8, 2005** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects intends to amend regulations entitled **18 VAC 10-20, Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects Regulations**. The purpose of the proposed action is to make general clarifying changes to the regulation as well as clarifying the requirements relating to "responsible charge" and "direct control and personal supervision." Any other changes that may be necessary may also be considered.

Statutory Authority: §§ 54.1-201, 54.1-404 and 54.1-411 of the Code of Virginia.

**Contact:** Mark N. Courtney, Executive Director, Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8514, FAX (804) 367-2475 or e-mail [apelscidla@dpor.virginia.gov](mailto:apelscidla@dpor.virginia.gov).

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# Calendar of Events

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## ART AND ARCHITECTURAL REVIEW BOARD

**November 4, 2005 - 10 a.m.** -- Open Meeting

**December 2, 2005 - 10 a.m.** -- Open Meeting

Science Museum of Virginia, 2500 West Broad Street, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A monthly meeting to review projects submitted by state agencies. Art and Architectural Review Board submittal forms and submittal instructions can be downloaded by visiting the DGS Forms Center at [www.dgs.state.va.us](http://www.dgs.state.va.us). Request form #DGS-30-905 or submittal instructions #DGS-30-906. The deadline for submitting project datasheets and other required information is two weeks prior to the meeting date.

**Contact:** Richard L. Ford, AIA Chairman, Art and Architectural Review Board, 101 Shockoe Slip, 3rd Floor, Richmond, VA 23219, telephone (804) 648-5040, FAX (804) 225-0329, (804) 786-6152/TTY, or e-mail [rford@comarchs.com](mailto:rford@comarchs.com).

## VIRGINIA BOARD FOR ASBESTOS, LEAD, AND HOME INSPECTORS

**November 2, 2005 - 9 a.m.** -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.

A meeting to conduct board business.

**Contact:** David E. Dick, Executive Director, Virginia Board for Asbestos, Lead, and Home Inspectors, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8507, FAX (804) 367-6128, (804) 367-9753/TTY, e-mail [alhi@dpor.virginia.gov](mailto:alhi@dpor.virginia.gov).

## COMPREHENSIVE SERVICES FOR AT-RISK YOUTH AND FAMILIES

### State Executive Council

NOTE: CHANGE IN MEETING DATE AND TIME

**November 14, 2005 - 6 p.m.** -- Open Meeting

General Assembly Building, 910 Capitol Street, House Room D, Richmond, Virginia.

A regular meeting.

**Contact:** Kim McGaughey, Executive Director, Comprehensive Services for At-Risk Youth and Families, 1604 Santa Rosa Rd., Richmond, VA 23229, telephone (804) 662-9830, FAX (804) 662-9831.

## BOARD OF AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY

**November 10, 2005 - 9:30 a.m.** -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia.

A regular board meeting.

**Contact:** Elizabeth Young, Executive Director, Board of Audiology and Speech-Language Pathology, Alcoa Building, 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9907, FAX (804) 662-9523, (804) 662-7197/TTY, e-mail [elizabeth.young@dhp.virginia.gov](mailto:elizabeth.young@dhp.virginia.gov).

## BOARD FOR BARBERS AND COSMETOLOGY

**October 31, 2005 - 9 a.m.** -- CANCELED

**December 5, 2005 - 9 a.m.** -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Conference Room 4W, Richmond, Virginia.

A meeting to conduct general business and consider regulatory issues as may be presented. A portion of the meeting may be held in closed session. A public comment period will be held at the beginning of the meeting. Any person desiring to attend the meeting and requiring special accommodations or interpreter services should contact the board at least 10 days prior to the meeting so suitable arrangements can be made. The board fully complies with the Americans with Disabilities Act.

**Contact:** William H. Ferguson II, Executive Director, Board for Barbers and Cosmetology, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590, FAX (804) 367-6295, (804) 367-9753/TTY, e-mail [barbercosmo@dpor.virginia.gov](mailto:barbercosmo@dpor.virginia.gov).

## DEPARTMENT FOR THE BLIND AND VISION IMPAIRED

† **November 11, 2005 - 5 p.m.** -- Open Meeting

Clarion Hotel and Conference Center, 1809 West Mercury Boulevard, Hampton, Virginia. (Interpreter for the deaf provided upon request)

† **November 15, 2005 - 1 p.m.** -- Open Meeting

Department for the Blind and Vision Impaired, 111 Commonwealth Avenue, Bristol, Virginia. (Interpreter for the deaf provided upon request)

† **December 6, 2005 - 11 a.m.** -- Open Meeting

Melfa Chamber of Commerce, 19056 Parkway, Eastern Shore, Virginia.

A public meeting to solicit comments regarding the Department for the Blind and Vision Impaired's intent to amend its state plan for vocational rehabilitation (VR) to identify by category the order in which eligible VR clients will be served in the event resources are not available to serve all eligible VR clients.

**Contact:** Susan D. Payne, Vocational Rehabilitation Program Director, Department for the Blind and Vision Impaired, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3184, FAX (804) 371-3390, toll-free (800) 622-2155, (804) 371-3140/TTY ☎, e-mail susan.payne@dbvi.virginia.gov.

## Statewide Rehabilitation Council for the Blind

**December 10, 2005 - 10 a.m.** -- Open Meeting  
Department for the Blind and Vision Impaired, 397 Azalea Avenue, Richmond, Virginia.♿ (Interpreter for the deaf provided upon request)

A quarterly meeting to advise the Department for the Blind and Vision Impaired on matters related to vocational rehabilitation services for the blind and visually impaired citizens of the Commonwealth.

**Contact:** Susan D. Payne, VR Program Director, Department for the Blind and Vision Impaired, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3184, FAX (804) 371-3390, toll-free (800) 622-2155, (804) 371-3140/TTY ☎, e-mail susan.payne@dbvi.virginia.gov.

## BOARD FOR BRANCH PILOTS

**November 1, 2005 - 10 a.m.** -- Open Meeting  
**December 12, 2005 - 9 a.m.** -- Open Meeting  
Virginia Port Authority, 600 World Trade Center, Norfolk, Virginia.♿

A meeting to conduct board business. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the department at 804-367-8514 at least 10 days prior to this meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

**Contact:** Mark N. Courtney, Executive Director, Board for Branch Pilots, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY ☎, e-mail branchpilots@dpor.virginia.gov.

## CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

**December 5, 2005 - 10 a.m.** -- Open Meeting  
Location to be announced.

A regular business meeting and review of local programs.

**Contact:** David C. Dowling, Policy, Planning, and Budget Director, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-2291, FAX (804) 786-6141, e-mail david.dowling@dcr.virginia.gov.

## CHILD DAY-CARE COUNCIL

† **November 10, 2005 - 10 a.m.** -- Open Meeting  
Department of Social Services, 7 North 8th Street, 6th Floor, Conference Room, Richmond, Virginia.♿

A regular meeting.

**Contact:** Pat Rengnerth, Board Liaison, Department of Social Services, Office of Legislative and Regulatory Affairs, 7 N. 8th St., Room 5214, Richmond, VA 23219, telephone (804) 726-7905, FAX (804) 726-7906, (800) 828-1120/TTY ☎, e-mail patricia.rengnerth@dss.virginia.gov.

## STATE CHILD FATALITY REVIEW TEAM

**November 18, 2005 - 10 a.m.** -- Open Meeting  
Office of the Chief Medical Examiner, 400 East Jackson Street, Richmond, Virginia.♿

The business portion of the meeting is open to the public. At the conclusion of the open meeting, the team will go into closed session for confidential case review.

**Contact:** Virginia Powell, Coordinator, Department of Health, 400 E. Jackson St., Richmond, VA 23219, telephone (804) 786-6047, FAX (804) 371-8595, toll-free (800) 447-1708, e-mail angela.myrick@vdh.virginia.gov.

## STATE BOARD FOR COMMUNITY COLLEGES

**November 16, 2005 - 1:30 pm.** -- Open Meeting  
NOTE: CHANGE IN MEETING LOCATION  
The Institute Conference Center, 150 Slayton Avenue, Danville, Virginia.♿ (Interpreter for the deaf provided upon request)

† **January 18, 2006 - 1:30 p.m.** -- Open Meeting  
James Monroe Building, 101 North 14th Street, 15th Floor, Godwin-Hamel Board Room, Richmond, Virginia.♿ (Interpreter for the deaf provided upon request)

Meetings of the Academic Committee, Student Affairs and Workforce Development Committee, and Budget and Finance Committee begin at 1:30 p.m. The Facilities Committee and the Audit Committee will meet at 3 p.m. The Personnel Committee will meet at 3:30 p.m.

**Contact:** D. Susan Hayden, Director of Public Affairs, Virginia Community College System, 101 N. 14th St., Richmond, VA 23219, telephone (804) 819-4961, FAX (804) 819-4768, (804) 371-8504/TTY ☎

**November 17, 2005 - 9 a.m.** -- Open Meeting  
Danville Community College, 1008 South Main Street, Danville, Virginia.♿

**January 19, 2006 - 9 a.m.** -- Open Meeting  
James Monroe Building, 101 North 14th Street, 15th Floor, Godwin-Hamel Board Room, Richmond, Virginia.♿ (Interpreter for the deaf provided upon request)

A meeting of the full board. Public comment may be received at the beginning of the meeting upon notification at least five working days prior to the meeting.

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# Calendar of Events

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**Contact:** D. Susan Hayden, Director of Public Affairs, Virginia Community College System, 101 N. 14th St., 15th Floor, Richmond, VA 23219, telephone (804) 819-4961, FAX (804) 819-4768, (804) 371-8504/TTY ☎

## COMPENSATION BOARD

† **November 16, 2005 - 11 a.m.** -- Open Meeting  
102 Governor Street, Richmond, Virginia. ♿

A monthly board meeting.

**Contact:** Cindy P. Waddell, Compensation Board, P.O. Box 710, Richmond, VA 23218, telephone (804) 786-0786, FAX (804) 371-0235, e-mail cindy.waddell@scb.virginia.gov.

## DEPARTMENT OF CONSERVATION AND RECREATION

**November 1, 2005 - 3 p.m.** -- Open Meeting  
**November 1, 2005 - 7 p.m.** -- Open Meeting  
Region 2000 Local Government Council (R11), 915 Main Street, Suite 202, Lynchburg, Virginia.

**November 2, 2005 - 3 p.m.** -- Open Meeting  
**November 2, 2005 - 7 p.m.** -- Open Meeting  
Commonwealth Regional Council (PD14), 102-1/2 High Street, Farmville, Virginia.

**November 2, 2005 - 3 p.m.** -- Open Meeting  
**November 2, 2005 - 7 p.m.** -- Open Meeting  
West Piedmont Planning District Commission (PD12), Henry County Administration Building, 3300 Kings Mountain, Board Room, Martinsville, Virginia.

**November 3, 2005 - 3 p.m.** -- Open Meeting  
**November 3, 2005 - 7 p.m.** -- Open Meeting  
Southside Planning District Commission (PD13), 200 South Mecklenburg Avenue, South Hill, Virginia.

**November 11, 2005 - 3 p.m.** -- CANCELED  
**November 11, 2005 - 7 p.m.** -- CANCELED  
RADCO Planning District Commission Office (PD16), 3304 Bourbon Street, Fredericksburg, Virginia.

A 2007 Virginia Outdoors Plan citizen input meeting. State planners from the Virginia Department of Conservation and Recreation are developing Virginia's comprehensive plan for the acquisition, development and management of outdoor recreation and open space resources. Virginia has produced a Virginia Outdoors Plan every five years since 1966; this will be the 9th edition. At 22 locations across the state, DCR staff will inform citizens of the progress of developing the 2007 Virginia Outdoors Plan and provide opportunity for citizen input on issues of interest. DCR is accepting written comments on the update of the 2007 Virginia Outdoors Plan at VOP Comments, DCR, 203 Governor Street, Suite 326, Richmond, VA 23219. Comments will also be accepted via e-mail at vop@dcr.virginia.gov.

**Contact:** Robert Munson, Planning Bureau Manager, Department of Conservation and Recreation, 203 Governor St., Suite 326, Richmond, VA 23219, telephone (804) 786-

6140, FAX (804) 371-7899, e-mail robert.munson@dcr.virginia.gov.

† **November 9, 2005 - 5:30 p.m.** -- Public Hearing  
Prince Edward County Courthouse, 111 South Street, 3rd Floor, Board of Supervisors Room, Farmville, Virginia.

A public hearing for the 2006 Enhancement Grant for High Bridge State Park.

**Contact:** Robert S. Munson, Planning Bureau Manager, Department of Conservation and Recreation, 203 Governor St., Suite 326, Richmond, VA 23219, telephone (804) 786-6140, FAX (804) 371-7899, e-mail robert.munson@dcr.virginia.gov.

**November 10, 2005 - Noon** -- Open Meeting

**December 8, 2005 - Noon** -- Open Meeting  
Richmond City Hall, 5th Floor Conference Room, Richmond, Virginia.

A regular meeting of the Falls of the James River Scenic Advisory Committee to discuss river issues.

**Contact:** David C. Dowling, Policy, Planning, and Budget Director, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-2291, FAX (804) 786-6141, e-mail david.dowling@dcr.virginia.gov.

## Virginia Land Conservation Foundation

**December 1, 2005 - 10 a.m.** -- Open Meeting  
Location to be announced.

A regular business meeting to review and approve grant applications.

**Contact:** David C. Dowling, Policy, Planning, and Budget Director, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-2291, FAX (804) 786-6141, e-mail david.dowling@dcr.virginia.gov.

## Virginia Soil and Water Conservation Board

† **November 9, 2005 - 1 p.m.** -- Open Meeting  
Natural Resources Conservation Service, 1606 Santa Rosa Road, Richmond, Virginia.

A meeting of the Study Committee Regarding SWCD Ag Program Delivery. At the direction of the Virginia General Assembly, the Department of Conservation and Recreation and the Virginia Soil and Water Conservation Board are charged with assessing agricultural programs delivered by SWCDs; annually collecting related data; and proposing changes in SWCD practices, staffing and funding. An interim report was submitted to key House and Senate Committees before December 31, 2004; a final report is due December 31, 2005.

**Contact:** David C. Dowling, Policy, Planning, and Budget Director, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-2291, FAX (804) 786-6141, e-mail david.dowling@dcr.virginia.gov.

**November 17, 2005 - 9:30 a.m.** -- Open Meeting  
Location to be determined.

A regular business meeting to discuss soil and water, stormwater management and dam safety issues.

**Contact:** David C. Dowling, Policy, Planning, and Budget Director, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-2291, FAX (804) 786-6141, e-mail david.dowling@dcr.virginia.gov.

## BOARD FOR CONTRACTORS

**November 1, 2005 - 9 a.m.** -- Open Meeting

**November 1, 2005 - 1 p.m.** -- Open Meeting

**November 3, 2005 - 1 p.m.** -- Open Meeting

**November 17, 2005 - 9 a.m.** -- Open Meeting

† **December 1, 2005 - 9 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Richmond, Virginia. 

Informal fact-finding conferences.

**Contact:** Eric L. Olson, Executive Director, Board for Contractors, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2785, FAX (804) 367-2474, (804) 367-9753/TTY , e-mail contractors@dpor.virginia.gov.

**November 16, 2005 - 9 a.m.** -- Open Meeting

**December 13, 2005 - 9 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. 

A regular meeting to address policy and procedural issues and review and render decisions on matured complaints against licensees. The meeting is open to the public; however, a portion of the board's business may be conducted in closed session. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the department at least 10 days prior to this meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

**Contact:** Eric L. Olson, Executive Director, Board for Contractors, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2785, FAX (804) 367-2474, (804) 367-9753/TTY , e-mail contractors@dpor.virginia.gov.

**November 16, 2005 - 10 a.m.** -- CANCELED

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. 

A meeting of the Tradesman Education Committee to conduct committee business has been canceled. The department fully complies with the Americans with Disabilities Act.

**Contact:** Eric L. Olson, Executive Director, Board for Contractors, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2785, FAX (804) 367-2474, (804) 367-9753/TTY , e-mail contractors@dpor.virginia.gov.

## BOARD OF CORRECTIONS

**November 15, 2005 - 10 a.m.** -- Open Meeting  
Department of Corrections, 6900 Atmore Drive, 3rd Floor Board Room, Richmond, Virginia. 

A meeting of the Liaison Committee to discuss correctional matters of interest to the board.

**Contact:** Barbara Woodhouse, Administrative Staff Assistant, Department of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3124, FAX (804) 674-3236, e-mail barbara.woodhouse@vadoc.virginia.gov.

**November 15, 2005 - 1 p.m.** -- Open Meeting

Department of Corrections, 6900 Atmore Drive, 3rd Floor, Room 3054, Richmond, Virginia. 

A meeting of the Correctional Services/Policy and Regulations Committee to discuss correctional services and policy/regulation matters to be considered by the board.

**Contact:** Barbara Woodhouse, Administrative Staff Assistant, Department of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3124, FAX (804) 674-3236, e-mail barbara.woodhouse@vadoc.virginia.gov.

**November 16, 2005 - 9:30 a.m.** -- Open Meeting

Department of Corrections, 6900 Atmore Drive, 3rd Floor Board Room, Richmond, Virginia. 

A meeting of the Administration Committee to discuss administrative matters to be considered by the board.

**Contact:** Barbara Woodhouse, Administrative Staff Assistant, Department of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3124, FAX (804) 674-3236, e-mail barbara.woodhouse@vadoc.virginia.gov.

**November 16, 2005 - 10 a.m.** -- Open Meeting

Department of Corrections, 6900 Atmore Drive, 3rd Floor Board Room, Richmond, Virginia. 

A regular meeting of the full board to review and discuss all matters considered by board committees that require action by the board.

**Contact:** Barbara Woodhouse, Administrative Staff Assistant, Department of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3124, FAX (804) 674-3236, e-mail barbara.woodhouse@vadoc.virginia.gov.

## BOARD OF COUNSELING

**November 3, 2005 - 9 a.m.** -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Board Room 3, Richmond, Virginia. 

A meeting of the Credentials Review Committee to review the files of applicants to determine if they have met the requirements for licensure.

**Contact:** Evelyn B. Brown, Executive Director, Board of Counseling, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9912, FAX (804) 662-9943, (804) 662-7197/TTY , e-mail evelyn.brown@dhp.virginia.gov.

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# Calendar of Events

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**November 4, 2005 - 9:30 a.m.** -- Open Meeting  
Department of Health Professions, 6603 West Broad Street,  
5th Floor, Board Room 2, Richmond, Virginia. 

A quarterly meeting to conduct board business.

**Contact:** Evelyn B. Brown, Executive Director, Board of Counseling, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9912, FAX (804) 662-9943, (804) 662-7197/TTY , e-mail [evelyn.brown@dhp.virginia.gov](mailto:evelyn.brown@dhp.virginia.gov).

## CRIMINAL JUSTICE SERVICES BOARD

**December 8, 2005 - 9 a.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia.

A meeting of the Committee on Training.

**Contact:** Leon D. Baker, Jr., Division Director, Criminal Justice Services Board, Eighth St. Office Bldg., 805 E. Broad St., 10th Floor, Richmond, VA 23219, telephone (804) 225-4086, FAX (804) 786-0588, e-mail [lbaker@dcjs.state.va.us](mailto:lbaker@dcjs.state.va.us).

**December 8, 2005 - 11 a.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia.

A meeting to conduct general business.

**Contact:** Leon D. Baker, Jr., Division Director, Criminal Justice Services Board, Eighth St. Office Bldg., 805 E. Broad St., 10th Floor, Richmond, VA 23219, telephone (804) 225-4086, FAX (804) 786-0588, e-mail [lbaker@dcjs.state.va.us](mailto:lbaker@dcjs.state.va.us).

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

**† November 2, 2005 - 9:30 a.m.** -- Open Meeting  
Department for the Deaf and Hard-of-Hearing, 1602 Rolling Hills Drive, 2nd Floor, Conference Room, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A regular quarterly meeting of the advisory board to include the election of officers.

**Contact:** Leslie Hutcheson Prince, Policy and Planning Manager, Department for the Deaf and Hard-of-Hearing, 1602 Rolling Hills Dr., Suite 203, Richmond, VA 23235, telephone (804) 662-9703, FAX (804) 662-9718, toll-free (800) 552-7917, (804) 662-9703/TTY , e-mail [leslie.prince@vddhh.virginia.gov](mailto:leslie.prince@vddhh.virginia.gov).

## BOARD OF DENTISTRY

**November 4, 2005 - 9 a.m.** -- Open Meeting  
**December 2, 2005 - 9 a.m.** -- Open Meeting  
**† January 6, 2006 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6603 West Broad Street,  
5th Floor, Richmond, Virginia. 

A meeting of the Special Conference Committee to hold informal conferences. There will not be a public comment period.

**Contact:** Cheri Emma-Leigh, Operations Manager, Board of Dentistry, 6603 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 662-9906, FAX (804) 662-7246, (804) 662-7197/TTY , e-mail [cheri.emma-leigh@dhp.virginia.gov](mailto:cheri.emma-leigh@dhp.virginia.gov).

**December 8, 2005 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6603 West Broad Street,  
5th Floor, Richmond, Virginia. 

Formal hearings. There will not be a public comment period.

**Contact:** Cheri Emma-Leigh, Operations Manager, Board of Dentistry, 6603 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 662-9906, FAX (804) 662-7246, (804) 662-7197/TTY , e-mail [cheri.emma-leigh@dhp.virginia.gov](mailto:cheri.emma-leigh@dhp.virginia.gov).

**December 9, 2005 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6603 West Broad Street,  
5th Floor, Richmond, Virginia. 

A meeting to discuss business issues. There will be a public comment period at the beginning of the meeting.

**Contact:** Sandra Reen, Executive Director, Board of Dentistry, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9906, FAX (804) 662-9943, (804) 662-7197/TTY , e-mail [sandra.reen@dhp.virginia.gov](mailto:sandra.reen@dhp.virginia.gov).

## DESIGN-BUILD/CONSTRUCTION MANAGEMENT REVIEW BOARD

**November 17, 2005 - 11 a.m.** -- Open Meeting  
**December 15, 2005 - 11 a.m.** -- Open Meeting  
Department of General Services, 202 North 9th Street, Room 412, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A monthly meeting to review requests submitted by localities to use design-build or construction-management-type contracts. Contact the Division of Engineering and Building to confirm the meeting.

**Contact:** Rhonda M. Bishton, Administrative Assistant, Department of General Services, 805 E. Broad Street, Room 101, Richmond, VA 23219, telephone (804) 786-3263, FAX (804) 371-7934, (804) 786-6152/TTY , or e-mail [rhonda.bishton@dgs.virginia.gov](mailto:rhonda.bishton@dgs.virginia.gov).

## BOARD OF EDUCATION

**November 30, 2005 - 9 a.m.** -- Open Meeting  
† **January 11, 2006 - 9 a.m.** -- Open Meeting  
James Monroe Building, 101 North 14th Street, Main Lobby Level, Conference Rooms C and D, Richmond, Virginia. 

A regular business meeting of the board. The public is urged to confirm arrangements prior to each meeting by viewing the Department of Education's public meeting calendar at <http://www.pen.k12.va.us/VDOE/meetings.html>. This site will contain the latest information on the meeting arrangements and will note any last minute changes in time or location. Persons who wish to speak or who require the services of an interpreter for the deaf should contact the agency at least 72 hours in advance.

**Contact:** Dr. Margaret N. Roberts, Office of Policy and Public Affairs, Department of Education, P.O. Box 2120, James Monroe Bldg., 101 N. 14th St., 25th Floor, Richmond, VA 23219, telephone (804) 225-2540, FAX (804) 225-2524, e-mail [margaret.roberts@doe.virginia.gov](mailto:margaret.roberts@doe.virginia.gov).

## Advisory Board on Teacher Education and Licensure

**November 21, 2005 - 9 a.m.** -- Open Meeting  
† **January 23, 2006 - 9 a.m.** -- Open Meeting  
Location to be announced.

A regular meeting. The public is urged to confirm arrangements prior to each meeting by viewing the Department of Education's public meeting calendar at <http://www.pen.k12.va.us/VDOE/meetings.html>. This site will contain the latest information on the meeting arrangements and will note any last-minute changes in time or location. Please note that persons requesting the services of an interpreter for the deaf are asked to do so at least 72 hours in advance so that the appropriate arrangements may be made.

**Contact:** Dr. Margaret N. Roberts, Office of Policy and Public Affairs, Department of Education, P.O. Box 2120, James Monroe Bldg., 101 N. 14th St., 25th Floor, Richmond, VA 23219, telephone (804) 225-2540, FAX (804) 225-2524, e-mail [margaret.roberts@doe.virginia.gov](mailto:margaret.roberts@doe.virginia.gov).

## STATE BOARD OF ELECTIONS

**November 15, 2005 - 10 a.m.** -- Open Meeting  
Patrick Henry Building, 1111 East Broad Street, House Room 1, Richmond, Virginia. 

A regular meeting.

**Contact:** Vanessa Archie, Administrative Assistant, State Board of Elections, 200 N. 9th Street, Room 101, Richmond, VA 23219, telephone (804) 864-8908, FAX (804) 371-0194, toll-free (800) 552-9745, (800) 260-3466/TTY , e-mail [vanessa.archie@sbe.virginia.gov](mailto:vanessa.archie@sbe.virginia.gov).

## DEPARTMENT OF ENVIRONMENTAL QUALITY

† **November 3, 2005 - 10 a.m.** -- Open Meeting  
Department of Environmental Quality, Northern Regional Office, 13901 Crown Court, Woodbridge, Virginia. 

A meeting of the advisory committee working with DEQ to identify sources of bacteria contamination and causes of benthic aquatic life impairments in certain streams of the Occoquan Watershed in Northern Virginia. A TMDL will be developed.

**Contact:** Kimberly V. Davis, Department of Environmental Quality, 13901 Crown Court, Woodbridge, VA 22193, telephone (703) 583-3937, FAX (703) 583-3841, e-mail [kvdavis@deq.virginia.gov](mailto:kvdavis@deq.virginia.gov).

**November 10, 2005 - 4 p.m.** -- Open Meeting  
Alleghany County Governmental Complex, 9212 Winterberry Avenue, Board of Supervisors Room, Low Moor, Virginia. 

A public meeting on the development of dissolved oxygen and benthic TMDLs for segments of the Jackson River in Alleghany and Botetourt counties and in Covington. The public notice appears in the Virginia Register of Regulations on October 3, 2005. The comment period begins on November 10, 2005, and ends on December 12, 2005.

**Contact:** Jason R. Hill, Department of Environmental Quality, 3019 Peters Creek Rd., Roanoke, VA 24019, telephone (540) 562-6724, FAX (540) 562-6860, e-mail [jrhill@deq.virginia.gov](mailto:jrhill@deq.virginia.gov).

† **November 14, 2005 - 7 p.m.** -- Open Meeting  
John Wayland Elementary School, 801 North Main Street, Cafeteria, Bridgewater, Virginia. 

The final public meeting to discuss the bacteria TMDL and the benthic stressor identification analysis for the North River TMDLs. The public notice appears in the Virginia Register of Regulations on October 31, 2005. The comment period begins on November 14, 2005, and ends on December 14, 2005.

**Contact:** Robert Brent, Department of Environmental Quality, P.O. Box 3000, Harrisonburg, VA 22801, telephone (540) 574-7848, FAX (540) 574-7878, e-mail [rbrent@deq.virginia.gov](mailto:rbrent@deq.virginia.gov).

**November 15, 2005 - 9 a.m.** -- Open Meeting  
Department of Environmental Quality, 629 East Main Street, Richmond, Virginia. 

A regular meeting of the Ground Water Protection Steering Committee.

**Contact:** Mary Ann Massie, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4042, FAX (804) 698-4116, e-mail [mamassie@deq.virginia.gov](mailto:mamassie@deq.virginia.gov).

† **November 17, 2005 - 9 a.m.** -- Public Hearing  
Department of Environmental Quality, 629 East Main Street, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A public hearing on a proposed revision to the Commonwealth of Virginia State Implementation Plan (SIP). The proposed revision consists of amendments to existing

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## Calendar of Events

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regulation provisions concerning the definition of volatile organic compound (VOC). The amendments revise the state definition of VOC in order to implement U.S. EPA exemptions for four substances and a partial exemption for one substance. The department is seeking comment on the issue of whether the regulation amendments should be submitted to EPA as a revision to the SIP.

**Contact:** Karen G. Sabasteanski, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4426, FAX (804) 698-4510, e-mail kgsabastea@deq.virginia.gov.

### BOARD OF FORESTRY

† **November 18, 2005 - 9 a.m.** -- Open Meeting  
Department of Forestry, Central Office, Board Room, Charlottesville, Virginia.  (Interpreter for the deaf provided upon request)

Senate Joint Resolution 367 Subcommittee meeting to discuss report for 2006 General Assembly members.

**Contact:** Donna Hoy, Administrative Staff Specialist, Board of Forestry, 900 Natural Resources Dr., Charlottesville, VA 22903, telephone (434) 977-6555, FAX (434) 296-2369, e-mail donna.hoy@dof.virginia.gov.

† **December 7, 2005 - 9 a.m.** -- Open Meeting  
Department of Forestry, Central Office, Board Room, Charlottesville, Virginia.  (Interpreter for the deaf provided upon request)

A regular business meeting.

**Contact:** Donna Hoy, Administrative Staff Specialist, Board of Forestry, 900 Natural Resources Dr., Suite 800, Charlottesville, VA 22903, telephone (434) 977-6555, FAX (434) 296-2369, e-mail donna.hoy@dof.virginia.gov.

### CHARITABLE GAMING BOARD

**December 6, 2005 - 10 a.m.** -- Open Meeting  
Science Museum of Virginia, 2500 West Broad Street, Discovery Room, Richmond, Virginia. 

A regular quarterly meeting.

**Contact:** Clyde E. Cristman, Director, Charitable Gaming Board, James Monroe Bldg., 101 N. 14th St., 17th Floor, Richmond, VA 23219, telephone (804) 786-1681, FAX (804) 786-1079, e-mail clyde.cristman@dca.virginia.gov.

### GOVERNOR'S ADVISORY COUNCIL ON REVENUE ESTIMATES

**November 21, 2005 - 9:30 a.m.** -- Open Meeting  
Location to be announced.

A meeting of the Governor's Advisory Council on Revenue Estimates. A request will be made for the meeting to be closed to the public.

**Contact:** Carolyn Johnson, Office Manager, Department of Taxation, 600 East Main Street Centre, Richmond, VA 23219, telephone (804) 371-4371, FAX (804) 371-4379, e-mail carolyn.johnson@tax.virginia.gov.

### GOVERNOR'S EMERGENCY MEDICAL SERVICES ADVISORY BOARD

**November 17, 2005 - 3 p.m.** -- Open Meeting  
The Place at Innsbrook, Glen Allen, Virginia. 

A meeting of the Regulation and Policy Committee to conduct regular business, accept reports from staff regarding implementation of civil penalties, and receive an update on NOIRA processes.

**Contact:** Michael D. Berg, Manager, Regulation and Compliance, Department of Health, 109 Governor St., UB-55, Richmond, VA 23219, telephone (804) 864-7600, FAX (804) 864-7580, toll-free (800) 523-6019, e-mail michael.berg@vdh.virginia.gov.

### STATE BOARD OF HEALTH

**November 4, 2005** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Health intends to amend regulations entitled **12 VAC 5-90, Regulations Governing Disease Reporting and Control**. The purpose of the proposed action is to (i) establish isolation and quarantine requirements, (ii) insert and clarify definitions, (iii) clarify the reportable disease list, (iv) update the conditions that are reportable by laboratories and to the tests used to confirm those conditions, (v) revise information to be included on a disease report, and (vi) update tuberculosis reporting and control requirements.

Statutory Authority: §§ 32.1-12 and 32.1-35 of the Code of Virginia.

**Contact:** Diane Woolard, Ph.D., Director, Division of Surveillance and Investigation, Department of Health, 109 Governor St., Richmond, VA 23219, telephone (804) 864-8141, FAX (804) 864-8139 or e-mail diane.woolard@vdh.virginia.gov.

### DEPARTMENT OF HEALTH

† **November 1, 2005 - 10 a.m.** -- Open Meeting  
Henrico Doctor's Hospital, 7700 East Parham Road, MOB III Classroom, Richmond, Virginia. 

A meeting of the Statewide Comprehensive Plan Advisory Committee.

**Contact:** Ben Alonso, Health Care Planner, Department of Health, 109 Governor St., Richmond, VA 23129, telephone (804) 864-8022, e-mail ben.alonso@vdh.virginia.gov

† **November 9, 2005 - 10 a.m.** -- Open Meeting  
Henrico Doctor's Hospital, 7700 East Parham Road, MOB III Classroom, Richmond, Virginia. 

A quarterly Statewide Consortia/MAI meeting.

**Contact:** Safere Diawara, Contract Monitor, Department of Health, 109 Governor St., Richmond, VA 23219, telephone (804) 864-8021, e-mail safere.diawara@vdh.virginia.gov.

**November 10, 2005 - 9 a.m.** -- Open Meeting

**January 17, 2006 - 9 a.m.** -- Open Meeting

Madison Building, 109 Governor Street, 5th Floor Conference Room, Richmond, Virginia.

A meeting of the Authorized Onsite Soil Evaluator Regulations Advisory Committee to make recommendations to the commissioner regarding AOSE/PE policies, procedures and programs.

**Contact:** Donna Tiller, Executive Secretary, Department of Health, 109 Governor St., Richmond, VA 23219, telephone (804) 864-7470, FAX (804) 864-7475, e-mail donna.tiller@vdh.virginia.gov.

**December 9, 2005 - 10 a.m.** -- Open Meeting

**December 21, 2005 - 10 a.m.** -- Open Meeting

Virginia Hospital and Healthcare Association, 4200 Innslake Drive, Glen Allen, Virginia.  (Interpreter for the deaf provided upon request)

A meeting of the Virginia Early Hearing Detection and Intervention Program Advisory Committee to assist the Virginia Department of Health in the implementation of the Virginia Early Hearing Detection and Intervention Program. The advisory committee meets four times a year.

**Contact:** Pat T. Dewey, Program Manager, Department of Health, 109 Governor St., 8th Floor, Richmond, VA 23219, telephone (804) 864-7713, FAX (804) 864-7721, toll-free (866) 493-1090, (800) 828-1120/TTY , e-mail pat.dewey@vdh.virginia.gov.

**December 14, 2005 - 1:30 p.m.** -- Open Meeting

Madison Building, 109 Governor Street, Richmond, Virginia. 

A meeting of the Newborn Screening Regulations Advisory Group to allow and invite public participation in the development of proposed regulations.

**Contact:** Nancy Ford, Pediatric Screening and Genetic Services, Department of Health, 109 Governor St., 8th Floor, Richmond, VA 23219, telephone (804) 864-7691, FAX (804) 864-7022, e-mail nancy.ford@vdh.virginia.gov.

## Radiation Advisory Board

**November 2, 2005 - 10 a.m.** -- Open Meeting

Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia.

A meeting to follow up with the Department of Health's progress towards participating in the Nuclear Regulatory Commission's Agreement State Program and to conduct other business regarding radiological issues of interest within the Commonwealth.

**Contact:** Les Foldesi, Director, Radiological Health Program, Department of Health, Radiological Health Program, PO. Box 2448, Richmond, VA 23218, telephone (804) 864-8151, FAX

(804) 864-8155, toll-free (800) 468-0138, (800) 828-1120/TTY , e-mail Les.Foldesi@vdh.virginia.gov.

## BOARD OF HEALTH PROFESSIONS

**December 16, 2005 - 9 a.m.** -- Open Meeting

Department of Health Professions, 6603 West Broad Street, Board Room 3, Richmond, Virginia. 

A meeting of the Health Practitioners' Intervention Program Committee.

**Contact:** Peggy W. Call, Intervention Program Manager, Department of Health Professions, 6603 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 662-9424, FAX (804) 662-7358, e-mail peggy.call@dhp.virginia.gov.

## BOARD FOR HEARING AID SPECIALISTS

**November 7, 2005 - 9 a.m.** -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor Richmond, Virginia. 

A general business meeting including consideration of regulatory issues as may be presented on the agenda. The meeting is open to the public; however, a portion of the board's business may be conducted in closed session. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the department at least 10 days prior to this meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

**Contact:** William H. Ferguson, II, Executive Director, Board for Hearing Aid Specialists, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590, FAX (804) 367-6295, (804) 367-9753/TTY , e-mail hearingaidspec@dpor.virginia.gov.

## BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

**November 14, 2005 - 10 a.m.** -- Open Meeting

Department of Housing and Community Development, 501 North 2nd Street, Richmond, Virginia. 

A general business meeting.

**Contact:** Stephen W. Calhoun, Regulatory Coordinator, Department of Housing and Community Development, The Jackson Center, 501 N. 2nd St., Richmond, VA 23219-1321, telephone (804) 371-7000, FAX (804) 371-7090, (804) 371-7089/TTY , e-mail steve.calhoun@dhcd.virginia.gov.

## VIRGINIA HOUSING DEVELOPMENT AUTHORITY

**† November 15, 2005 - 11 a.m.** -- Open Meeting

Virginia Housing Development Authority, 601 South Belvidere Street, Richmond, Virginia. 

A regular meeting of the Board of Commissioners to review and, if appropriate, approve the minutes from the prior

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## Calendar of Events

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meeting; consider for approval and ratification mortgage loan commitments under its various programs; consider for approval proposed amendments to the Authority's Rules and Regulations for Allocation of Low-Income Housing Tax Credits and proposed amendments to the Authority's Rules and Regulations for Administration of Rent Reduction Tax Credits; review the Authority's operations for the prior months; and consider such other matters and take such other actions as they may deem appropriate. Various committees of the Board of Commissioners, including the Programs Committee, the Audit/Operations Committee, the Executive Committee, and the Committee of the Whole, may also meet during the day preceding the meeting and before and after the meeting and may consider matters within their purview. The committees and the board may also meet during meals on the night before the meeting and on the day of the meeting. The planned agenda of the meeting will be available at the offices of the authority one week prior to the date of the meeting.

**Contact:** J. Judson McKellar, Jr., General Counsel, Virginia Housing Development Authority, 601 S. Belvidere St., Richmond, VA 23220, telephone (804) 343-5540, FAX (804) 783-6701, toll-free (800) 968-7837, (804) 783-6705/TTY ☎, e-mail judson.mckellar@vhda.com.

### VIRGINIA INFORMATION TECHNOLOGIES AGENCY

#### E-911 Wireless Services Board

**November 9, 2005 - 9 a.m.** -- Open Meeting  
110 South 7th Street, 1st Floor, Telecommunications Conference Room, Suite 100, Richmond, Virginia.

A subcommittee meeting. A request will be made to hold the meeting in closed session.

**Contact:** Steve Marzolf, Public Safety Communications Coordinator, Virginia Information Technologies Agency, 110 S. 7th St., 3rd Floor, Richmond, VA 23219, telephone (804) 371-0015, FAX (804) 371-2277, toll-free (866) 482-3911, e-mail steve.marzolf@vita.virginia.gov.

**November 9, 2005 - 10 a.m.** -- Open Meeting  
110 South 7th Street, 4th Floor Auditorium, Richmond, Virginia.

A regular board meeting.

**Contact:** Steve Marzolf, Public Safety Communications Coordinator, Virginia Information Technologies Agency, 110 S. 7th St., 3rd Floor, Richmond, VA 23219, telephone (804) 371-0015, FAX (804) 371-2277, toll-free (866) 482-3911, e-mail steve.marzolf@vita.virginia.gov.

#### Information Technology Investment Board

**December 8, 2005 - 1 p.m.** -- Open Meeting  
Virginia Information Technologies Agency Operations Center, 110 S. 7th Street, Richmond, Virginia. ♿

A regular meeting.

**Contact:** Jennifer W. Hunter, Interim IT Investment Board Executive Director, Virginia Information Technologies Agency,

110 S. 7th St., 3rd Floor, Richmond, VA 23219, telephone (804) 343-9012, FAX (804) 343-9048, e-mail jenny.hunter@vita.virginia.gov.

### JAMESTOWN-YORKTOWN FOUNDATION

**November 21, 2005 - 10 a.m.** -- Open Meeting  
**November 22, 2005 - 8 a.m.** -- Open Meeting  
Williamsburg Hospitality House, 415 Richmond Road, Williamsburg, Virginia. ♿ (Interpreter for the deaf provided upon request)

A semiannual two-day meeting of the Board of Trustees and the board's standing committees. Time listed above is approximate as a detailed schedule is yet to be determined. Opportunity for public comment will be included on the November 22 business meeting agenda.

**Contact:** Laura W. Bailey, Executive Assistant to the Boards, Jamestown-Yorktown Foundation, P.O. Box 1607, Williamsburg, VA 23187, telephone (757) 253-7285, FAX (757) 253-5299, toll-free (888) 593-4682, (757) 253-5110/TTY ☎, e-mail laura.bailey@jyf.virginia.gov.

NOTE: CHANGE IN MEETING TIME

**December 9, 2005 - Noon** -- Open Meeting  
Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A regular meeting of the Executive Committee of the Jamestown 2007 Steering Committee. Call contact below for specific meeting location.

**Contact:** Judith Leonard, Administrative Office Manager, Jamestown-Yorktown Foundation, 410 W. Francis St., Williamsburg, VA 23185, telephone (757) 253-4253, FAX (757) 253-4950, (757) 253-5110/TTY ☎, e-mail judith.leonard@jyf.virginia.gov.

### BOARD OF JUVENILE JUSTICE

**November 9, 2005 - 10 a.m.** -- Public Hearing  
Department of Juvenile Justice, 700 East Franklin Street, 4th Floor, Richmond, Virginia.

**November 25, 2005** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Juvenile Justice intends to amend regulations entitled **6 VAC 35-10, Public Participation Guidelines**. The purpose of the proposed action is to update the regulation to reflect technological and statutory changes since the original regulation was adopted in 1991.

Statutory Authority: §§ 2.2-4007 and 66-3 of the Code of Virginia.

Public comments may be submitted until November 25, 2005, to Patricia Rollston, P.O. Box 1110, Richmond, VA 23219-1110.

**Contact:** Donald R. Carignan, Regulatory Coordinator, Department of Juvenile Justice, P.O. Box 1110,

Richmond, VA 23219-1110, telephone (804) 371-0743, FAX (804) 371-0773 or e-mail don.carignan@djj.virginia.gov.

## DEPARTMENT OF LABOR AND INDUSTRY

### Virginia Apprenticeship Council

**December 8, 2005 - 10 a.m.** -- Open Meeting  
Location to be announced.  (Interpreter for the deaf provided upon request)

A regular meeting to discuss general business.

**Contact:** Beverley Donati, Program Director, Department of Labor and Industry, Powers-Taylor Bldg., 13 S. 13th St., Richmond, VA 23219, telephone (804) 786-2382, FAX (804) 786-8418, (804) 786-2376/TTY , e-mail bgd@doli.state.va.us.

### STATE LIBRARY BOARD

**November 4, 2005 - 9:30 a.m.** -- Open Meeting  
Library of Virginia, 800 East Broad Street, 5th Floor, Richmond, Virginia. 

A meeting of the Public Library Development Committee to review and discuss the public library study.

**Contact:** Jean H. Taylor, Executive Secretary Senior, The Library of Virginia, 800 East Broad Street, Richmond, VA 23219-8000, telephone (804) 692-3535, FAX (804) 692-3994, (804) 692-3976/TTY , e-mail jtaylor@lva.lib.va.us.

**November 14, 2005 - 8:15 a.m.** -- Open Meeting  
**January 27, 2006 - 8:15 a.m.** -- Open Meeting  
The Library of Virginia, 800 East Broad Street, Richmond, Virginia. 

Meetings of the board to discuss matters pertaining to the Library of Virginia and the board. Committees of the board will meet as follows:

8:15 a.m. - Public Library Development Committee, Orientation Room  
Publications and Educational Services Committee, Conference Room B  
Records Management Committee, Conference Room C

9:30 a.m. - Archival and Information Services Committee, Orientation Room  
Collection Management Services Committee, Conference Room B  
Legislative and Finance Committee, Conference Room C

10:30 a.m. - Library Board, Conference Room, 2M

**Contact:** Jean H. Taylor, Executive Secretary to the Librarian, The Library of Virginia, 800 E. Broad St., Richmond, VA 23219-8000, telephone (804) 692-3535, FAX (804) 692-3594, (804) 692-3976/TTY , e-mail jtaylor@lva.lib.va.us.

## COMMISSION ON LOCAL GOVERNMENT

**November 10, 2005 - 10 a.m.** -- Open Meeting  
The Jackson Center, 501 North 2nd Street, First Floor Board Room, Richmond, Virginia. 

A regular meeting.

**Contact:** Ted McCormack, Associate Director, Commission on Local Government, 501 N. 2nd St., Richmond, VA 23219, telephone (804) 786-6508, FAX (804) 371-7090, (804) 828-1120/TTY , e-mail ted.mccormack@dhcd.virginia.gov.

## BOARD OF LONG-TERM CARE ADMINISTRATORS

**November 21, 2005 - 9:30 a.m.** -- Open Meeting  
**December 12, 2005 - 9:30 a.m.** -- Open Meeting  
Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. 

The Long-Term Care Administrators Task Force will meet to discuss development of regulations. There will be a public comment period during the first 15 minutes of the meeting.

**Contact:** Sandra Reen, Executive Director, Board of Long-Term Care Administrators, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-7457, FAX (804) 662-9943, (804) 662-7197/TTY , e-mail sandra.reen@dhp.virginia.gov.

**November 29, 2005 - 9:30 a.m.** -- Open Meeting  
Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. 

A meeting to discuss general business matters and receive information from the Long-Term Care Administrators Task Force. There will be a 15-minute public comment period during the beginning of the meeting.

**Contact:** Sandra Reen, Executive Director, Board of Long-Term Care Administrators, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-7457, FAX (804) 662-9943, (804) 662-7197/TTY , e-mail sandra.reen@dhp.virginia.gov.

**January 10, 2006 - 9:30 a.m.** -- Open Meeting  
Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. 

A meeting to discuss general business matters. There will be a 15-minute public comment period during the beginning of the meeting.

**Contact:** Sandra Reen, Executive Director, Board of Long-Term Care Administrators, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-7457, FAX (804) 662-9943, (804) 662-7197/TTY , e-mail sandra.reen@dhp.virginia.gov.

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# Calendar of Events

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## LONGWOOD UNIVERSITY

† **November 9, 2005 - 9:30 a.m.** -- Open Meeting  
Richmond Retail Merchant's Association, 5101 Monument  
Avenue, Richmond, Virginia. 

A meeting to conduct routine business of the Executive  
Committee of the Board of Visitors.

**Contact:** Jeanne S. Hayden, Office of the President,  
Longwood University, 201 High St., Farmville, VA 23909,  
telephone (434) 395-2004, e-mail haydenjs@longwood.edu.

## MARINE RESOURCES COMMISSION

**November 22, 2005 - 9:30 a.m.** -- Open Meeting  
**December 20, 2005 - 9:30 a.m.** -- Open Meeting  
Marine Resources Commission, 2600 Washington Avenue,  
4th Floor, Newport News, Virginia.  (Interpreter for the deaf  
provided upon request)

A monthly commission meeting.

**Contact:** Jane McCroskey, Commission Secretary, Marine  
Resources Commission, 2600 Washington Avenue, 3rd Floor,  
Newport News, VA 23607, telephone (757) 247-2215, FAX  
(757) 247-8101, toll-free (800) 541-4646, (757) 247-2292/TTY  
, e-mail jane.mccroskey@mrc.virginia.gov.

## BOARD OF MEDICAL ASSISTANCE SERVICES

**December 13, 2005 - 10 a.m.** -- Open Meeting  
Department of Medical Assistance Services, 600 East Broad  
Street, 13th Floor Conference Room, Richmond, Virginia. 

A routine quarterly meeting required in the BMAS bylaws.

**Contact:** Nancy Malczewski, Board Liaison, Department of  
Medical Assistance Services, 600 E. Broad St., Suite 1300,  
Richmond, VA 23219, telephone (804) 786-8096, FAX (804)  
371-4981, (800) 343-0634/TTY , e-mail  
nancy.malczewski@dmas.virginia.gov.

## DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

NOTE: CHANGE IN MEETING DATE

**October 31, 2005 - 9 a.m.** -- Open Meeting  
Department of Medical Assistance Services, 600 East Broad  
Street, 13th Floor, Richmond, Virginia. 

A meeting of the Pharmacy and Therapeutics Committee to  
conduct an annual review of Phase I PDL Drug Classes and  
Review of New Drugs and New Drug Classes.

**Contact:** Katina Goodwyn, Pharmacy Contract Manager,  
Department of Medical Assistance Services, 600 E. Broad St.,  
Suite 1300, Richmond, VA 23219, telephone (804) 371-0428,  
FAX (804) 786-0973, (800) 343-0634/TTY , e-mail  
katina.goodwyn@dmas.virginia.gov.

**November 10, 2005 - 2 p.m.** -- Open Meeting  
Department of Medical Assistance Services, 600 East Broad  
Street, 13th Floor Board Room, Richmond, Virginia. 

A meeting of the Drug Utilization Review Board to discuss  
issues and concerns about Medicaid pharmacy issues with  
the committee and the community.

**Contact:** Rachel Cain, Pharmacist, Department of Medical  
Assistance Services, 600 E. Broad St., Suite 1300, Richmond,  
VA 23219, telephone (804) 225-2873, FAX (804) 786-5799,  
(800) 343-0634/TTY , e-mail  
rachel.cain@dmas.virginia.gov.

**November 15, 2005 - 1 p.m.** -- Open Meeting  
Department of Medical Assistance Services, 600 East Broad  
Street, 13th Floor, Boardroom, Richmond, Virginia. 

A meeting of the Pharmacy Liaison Committee to discuss  
issues and concerns about Medicaid pharmacy issues with  
the committee and the community.

**Contact:** Rachel Cain, Pharmacist, Department of Medical  
Assistance Services, 600 E. Broad St., Suite 1300, Richmond,  
VA 23219, telephone (804) 225-2873, FAX (804) 786-5799,  
(800) 343-0634/TTY , e-mail  
rachel.cain@dmas.virginia.gov.

**November 16, 2005 - 1 p.m.** -- Open Meeting  
Department of Medical Assistance Services, 600 East Broad  
Street, 13th Floor, Boardroom, Richmond, Virginia.

A meeting of the Medicaid Transportation Advisory  
Committee to discuss issues and concerns about Medicaid  
transportation issues with the committee and the  
community.

**Contact:** Bob Knox, Transportation Manager, Department of  
Medical Assistance Services, 600 E. Broad St., Suite 1300,  
Richmond, VA 23219, telephone (804) 371-8854, FAX (804)  
786-5799, (800) 343-0634/TTY , e-mail  
bob.knox@dmas.virginia.gov.

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**December 2, 2005** - Public comments may be submitted until  
this date.

Notice is hereby given in accordance with § 2.2-4007 of the  
Code of Virginia that the Department of Medical Assistance  
Services intends to amend regulations entitled **12 VAC 30-  
120, Waivered Services**. The purpose of the proposed  
action is to combine the Elderly and Disabled Waiver with  
the Consumer-Directed Waiver.

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

**Contact:** Teja Stokes, Project Manager, Department of  
Medical Assistance Services, 600 E. Broad St., Suite 1300,  
Richmond, VA 23219, telephone (804) 786-0527, FAX (804)  
786-1680 or e-mail teja.stokes@dmas.virginia.gov.

## BOARD OF MEDICINE

† **November 2, 2005 - 2 p.m.** -- Open Meeting  
Department of Health Professions, 6603 West Broad Street,  
5th Floor, Board Room 1, Richmond, Virginia. ☎

A meeting of the Ad Hoc Committee on Laser Hair Removal to discuss the use of lasers in hair removal procedures. Public comment on agenda items will be received at the beginning of the meeting.

**Contact:** William L. Harp, M.D., Executive Director, Board of Medicine, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9908, FAX (804) 662-9943, (804) 662-7197/TTY ☎, e-mail [william.harp@dhp.virginia.gov](mailto:william.harp@dhp.virginia.gov).

**November 17, 2005 - 8 a.m.** -- Open Meeting  
Department of Health Professions, 6603 West Broad Street,  
5th Floor, Board Room 2, Richmond, Virginia. ☎

A meeting to consider regulatory and disciplinary matters as may be presented on the agenda. Public comment on agenda items will be received at the beginning of the meeting.

**Contact:** William L. Harp, M.D., Executive Director, Board of Medicine, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9908, FAX (804) 662-9943, (804) 662-7197/TTY ☎, e-mail [william.harp@dhp.virginia.gov](mailto:william.harp@dhp.virginia.gov).

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**December 1, 2005 - 9 a.m.** -- Public Hearing  
Department of Health Professions, 6603 West Broad Street,  
5th Floor, Richmond, Virginia. ☎

**December 2, 2005** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Medicine intends to amend regulations entitled **18 VAC 85-120, Regulations Governing the Licensure of Athletic Trainers**. The purpose of the proposed action is to require an applicant to hold current NATABOC certification for initial licensure.

Statutory Authority: §§ 54.1-2400, 54.1-2912.1 and 54.1-2957.4 of the Code of Virginia.

Public comments may be submitted until December 2, 2005, to William L. Harp, M.D., Executive Director, Board of Medicine, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712.

**Contact:** Elaine J. Yeatts, Regulatory Coordinator, Department of Health Professions, 6603 W. Broad St., Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9114 or e-mail [elaine.yeatts@dhp.virginia.gov](mailto:elaine.yeatts@dhp.virginia.gov).

**December 16, 2005 - 8:30 a.m.** -- Open Meeting  
Department of Health Professions, 6603 West Broad Street,  
5th Floor, Board Room 2, Richmond, Virginia. ☎

A meeting of the Legislative Committee to consider regulatory matters as may be presented on the agenda.

Public comment on agenda items will be received at the beginning of the meeting.

**Contact:** William L. Harp, M.D., Executive Director, Board of Medicine, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9908, FAX (804) 662-9943, (804) 662-7197/TTY ☎, e-mail [william.harp@dhp.virginia.gov](mailto:william.harp@dhp.virginia.gov).

## Advisory Board on Acupuncture

**November 30, 2005 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6603 West Broad Street,  
5th Floor, Board Room 4, Richmond, Virginia.

A meeting to consider issues related to the regulation of acupuncture. Public comment will be received at the beginning of the meeting.

**Contact:** William L. Harp, M.D., Executive Director, Board of Medicine, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9908, FAX (804) 662-9943, (804) 662-7197/TTY ☎, e-mail [william.harp@dhp.virginia.gov](mailto:william.harp@dhp.virginia.gov).

## Advisory Board on Athletic Training

**December 1, 2005 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6603 West Broad Street,  
5th Floor, Board Room 4, Richmond, Virginia. ☎

A meeting to consider issues related to the regulation of athletic training. Public comment will be received at the beginning of the meeting.

**Contact:** William L. Harp, M.D., Executive Director, Board of Medicine, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9908, FAX (804) 662-9943, (804) 662-7197/TTY ☎, e-mail [william.harp@dhp.virginia.gov](mailto:william.harp@dhp.virginia.gov).

## Advisory Board on Occupational Therapy

**November 29, 2005 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6603 West Broad Street,  
5th Floor, Board Room 4, Richmond, Virginia. ☎

A meeting to consider issues related to the regulation of occupational therapy. Public comment will be received at the beginning of the meeting.

**Contact:** William L. Harp, M.D., Executive Director, Board of Medicine, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9908, FAX (804) 662-9943, (804) 662-7197/TTY ☎, e-mail [william.harp@dhp.virginia.gov](mailto:william.harp@dhp.virginia.gov).

## Advisory Board on Physician Assistants

**December 1, 2005 - 1 p.m.** -- Open Meeting  
Department of Health Professions, 6603 West Broad Street,  
5th Floor, Board Room 4, Richmond, Virginia. ☎

A meeting to consider issues related to the regulation of physician assistants. Public comment will be received at the beginning of the meeting.

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# Calendar of Events

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**Contact:** William L. Harp, M.D., Executive Director, Board of Medicine, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9908, FAX (804) 662-9943, (804) 662-7197/TTY ☎, e-mail [william.harp@dhp.virginia.gov](mailto:william.harp@dhp.virginia.gov).

## Advisory Board on Radiologic Technology

**November 30, 2005 - 1 p.m.** -- Open Meeting  
Department of Health Professions, 6603 West Broad Street, 5th Floor, Board Room 4, Richmond, Virginia. ♿

A meeting to consider issues related to the regulation of radiologic technologists and radiologic technologist-limited. Public comment will be received at the beginning of the meeting.

**Contact:** William L. Harp, M.D., Executive Director, Board of Medicine, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9908, FAX (804) 662-9943, (804) 662-7197/TTY ☎, e-mail [william.harp@dhp.virginia.gov](mailto:william.harp@dhp.virginia.gov).

## Advisory Board on Respiratory Care

**November 29, 2005 - 1 p.m.** -- Open Meeting  
Department of Health Professions, 6603 West Broad Street, 5th Floor, Board Room 4, Richmond, Virginia. ♿

A meeting to consider issues related to the regulation of respiratory care. Public comment will be received at the beginning of the meeting.

**Contact:** William L. Harp, M.D., Executive Director, Board of Medicine, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9908, FAX (804) 662-9943, (804) 662-7197/TTY ☎, e-mail [william.harp@dhp.virginia.gov](mailto:william.harp@dhp.virginia.gov).

## STATE MILK COMMISSION

**December 15, 2005 - 10:45 a.m.** -- Open Meeting  
Department of Forestry, 900 Natural Resources Drive, Room 2063, Charlottesville, Virginia. ♿

A regular meeting to consider industry issues, distributor licensing, base transfers, and reports from staff. The commission offers anyone in attendance an opportunity to speak at the conclusion of the agenda. Those persons requiring special accommodations should notify the agency meeting contact at least five working days prior to the meeting date so that suitable arrangements can be made.

**Contact:** Edward C. Wilson, Jr., Deputy Administrator, State Milk Commission, Washington Bldg., 1100 Bank St., Suite 1019, Richmond, VA 23218, telephone (804) 786-2013, FAX (804) 786-3779, e-mail [edward.wilson@vdacs.virginia.gov](mailto:edward.wilson@vdacs.virginia.gov).

## MOTOR VEHICLE DEALER BOARD

† **November 14, 2005 - 8:30 a.m.** -- Open Meeting  
Department of Motor Vehicles, 2300 West Broad Street, Room 702, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

Committees will meet as follows:

Dealer Practices Committee - 8:30 a.m.  
Licensing Committee - Immediately following Dealer Practices  
Advertising Committee - 9:30 a.m. or immediately after Licensing, whichever is later  
Transaction Recovery Fund Committee - Immediately following Advertising  
Franchise Law Committee - To be scheduled as needed.  
Full board meeting - 10 a.m. or five to 45 minutes following Transaction Recovery Fund

NOTE: Meetings may begin later, but not earlier than scheduled. Meeting end times are approximate. Any person who needs any accommodation in order to participate in the meeting should contact the board at least 10 days before the meeting so that suitable arrangements can be made.

**Contact:** Alice R. Weedon, Administrative Assistant, Motor Vehicle Dealer Board, 2201 W. Broad St., Suite 104, Richmond, VA 23220, telephone (804) 367-1100, FAX (804) 367-1053, toll-free (877) 270-0203, e-mail [dboard@mvdv.virginia.gov](mailto:dboard@mvdv.virginia.gov).

## VIRGINIA MUSEUM OF FINE ARTS

**November 1, 2005 - 8 a.m.** -- Open Meeting

**December 6, 2005 - 8 a.m.** -- Open Meeting

NOTE: CHANGE IN LOCATION

**January 3, 2006 - 8 a.m.** -- Open Meeting

Virginia Museum of Fine Arts, 200 North Boulevard, CEO 2nd Floor Meeting Room, Richmond, Virginia. ♿

A meeting for staff to update the Executive Committee. Public comment will not be received.

**Contact:** Suzanne Broyles, Secretary of the Museum, Virginia Museum of Fine Arts, 200 N. Boulevard, Richmond, VA 23220, telephone (804) 340-1503, FAX (804) 340-1502, (804) 340-1401/TTY ☎, e-mail [sbroyles@vmfa.state.va.us](mailto:sbroyles@vmfa.state.va.us).

## VIRGINIA MUSEUM OF NATURAL HISTORY

† **December 3, 2005 - 10 a.m.** -- Open Meeting

Piedmont Arts Association, 215 Starling Avenue, Martinsville, Virginia. ♿

A meeting to include reports from standing board committees.

**Contact:** Cindy Gray, Director's Assistant, Virginia Museum of Natural History, 1001 Douglas Ave., Martinsville, VA 24112, telephone (276) 666-8616, FAX (276) 632-6487, (276) 666-8638/TTY ☎, e-mail [cgray@vmnh.net](mailto:cgray@vmnh.net).

## BOARD OF NURSING

**November 14, 2005 - 9 a.m.** -- Open Meeting  
**November 16, 2005 - 9 a.m.** -- Open Meeting  
**November 17, 2005 - 9 a.m.** -- Open Meeting  
† **January 23, 2006 - 9 a.m.** -- Open Meeting  
† **January 25, 2006 - 9 a.m.** -- Open Meeting  
† **January 26, 2006 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6603 West Broad Street,  
5th Floor, Board Room 2, Richmond, Virginia. ♿

A panel of the board will conduct formal hearings with licensees and/or certificate holders. Public comment will not be received.

**Contact:** Jay P. Douglas, R.N., M.S.M., C.S.A.C., Executive Director, Board of Nursing, 6603 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 662-9909, FAX (804) 662-9512, (804) 662-7197/TTY ♿, e-mail nursebd@dhp.virginia.gov.

**November 15, 2005 - 9 a.m.** -- Open Meeting  
† **January 24, 2006 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6603 West Broad Street,  
5th Floor, Board Room 2, Richmond, Virginia. ♿

A general business meeting including committee reports, consideration of regulatory action and discipline case decisions as presented on the agenda. Public comment will be received at 11 a.m.

**Contact:** Jay P. Douglas, R.N., Executive Director, Board of Nursing, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9909, FAX (804) 662-9512, (804) 662-7197/TTY ♿, e-mail jay.douglas@dhp.virginia.gov.

**December 5, 2005 - 9 a.m.** -- Open Meeting  
**December 6, 2005 - 9 a.m.** -- Open Meeting  
**December 13, 2005 - 9 a.m.** -- Open Meeting  
† **December 15, 2005 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6603 West Broad Street,  
5th Floor, Richmond, Virginia. ♿

A Special Conference Committee comprised of two or three members of the Virginia Board of Nursing or agency subordinate will conduct informal conferences with licensees and certificate holders. Public comment will not be received.

**Contact:** Jay P. Douglas, R.N., M.S.M., C.S.A.C., Executive Director, Board of Nursing, 6603 West Broad Street, 5th Floor, Richmond, VA 23230, telephone (804) 662-9909, FAX (804) 662-9512, (804) 662-7197/TTY ♿, e-mail nursebd@dhp.virginia.gov.

## JOINT BOARDS OF NURSING AND MEDICINE

**December 7, 2005 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6603 West Broad Street,  
5th Floor, Board Room 1, Richmond, Virginia. ♿

A meeting of the Joint Boards of Nursing and Medicine.

**Contact:** Jay P. Douglas, RN, MSM, CSAC, Executive Director, Board of Nursing, 6603 W. Broad St., 5th Floor,

Richmond, VA 23230, telephone (804) 662-9909, FAX (804) 662-9512, (804) 662-7197/TTY ♿, e-mail nursebd@dhp.virginia.gov.

## OLD DOMINION UNIVERSITY

**November 15, 2005 - 3 p.m.** -- Open Meeting  
Old Dominion University, Webb University Center, Norfolk,  
Virginia. ♿

A regular meeting of the executive committee of the governing board of the institution to discuss business of the board and the institution as determined by the rector and the president. Public comment will not be received by the board.

**Contact:** Donna Meeks, Executive Secretary to the Board of Visitors, Old Dominion University, 204 Koch Hall, Norfolk, VA 23529, telephone (757) 683-3072, FAX (757) 683-5679, e-mail dmeeks@odu.edu.

**December 16, 2005 - 1 p.m.** -- Open Meeting  
Dominion University, Webb University Center, Old Norfolk,  
Virginia. ♿

A quarterly meeting of the governing board of the institution to discuss business of the board and the institution as determined by the rector and the president. Public comment will not be received by the board.

**Contact:** Donna Meeks, Executive Secretary to the Board of Visitors, Old Dominion University, 204 Koch Hall, Old Dominion University, Norfolk, VA 23529, telephone (757) 683-3072, FAX (757) 683-5679, e-mail dmeeks@odu.edu.

## BOARD FOR OPTICIANS

NOTE: CHANGE IN MEETING DATE

**November 9, 2005 - 9:30 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, Richmond, Virginia. ♿

A general business meeting including consideration of regulatory issues as may be presented on the agenda. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. Public comment will be heard at the beginning of the meeting. Person desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

**Contact:** William H. Ferguson, II, Executive Director, Board for Opticians, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590, FAX (804) 367-6295, (804) 367-9753/TTY ♿, e-mail opticians@dpor.virginia.gov.

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# Calendar of Events

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## BOARD OF OPTOMETRY

† **November 1, 2005 - 8:30 a.m.** -- Open Meeting  
Ramada Inn, 5700 Atlantic Avenue, Room E, Virginia Beach,  
Virginia. 

Informal conference hearings. Public comment will not be received.

**Contact:** Elizabeth A. Carter, Ph.D., Executive Director, Board of Optometry, 6603 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 662-9910, FAX (804) 662-7098, (804) 662-7197/TTY , e-mail [optbd@dhp.virginia.gov](mailto:optbd@dhp.virginia.gov).

## VIRGINIA OUTDOORS FOUNDATION

† **November 16, 2005 - 1 p.m.** -- Open Meeting  
Monticello, Jefferson Library, Charlottesville, Virginia.

† **November 17, 2005 - 9 a.m.** -- Open Meeting  
Department of Forestry, 900 Natural Resources Drive, Boardroom, Charlottesville, Virginia.

A regular meeting. Public comment will be received on November 16.

**Contact:** Trisha Cleary, Administrative Assistant, Department of Conservation and Recreation, 101 N. 14th Street, 17th Floor, Richmond, VA 23219, telephone (804) 225-2147, FAX (804) 371-4810, e-mail [tcleary@vofonline.org](mailto:tcleary@vofonline.org).

## VIRGINIA BOARD FOR PEOPLE WITH DISABILITIES

**December 1, 2005 - 10 a.m.** -- Open Meeting  
Location to be announced. 

An Executive Committee meeting.

**Contact:** Sandra Smalls, Executive Assistant, Virginia Board for People with Disabilities, 202 N. 9th St., 9th Floor, Richmond, VA, telephone (804) 786-0016, FAX (804) 786-1118, toll-free (800) 846-4464, (800) 846-4464/TTY , e-mail [sandra.smalls@vbpd.virginia.gov](mailto:sandra.smalls@vbpd.virginia.gov).

**December 2, 2005 - 9 a.m.** -- Open Meeting  
Location to be announced.

A quarterly board meeting.

**Contact:** Sandra Smalls, Executive Assistant, Virginia Board for People with Disabilities, 202 N. 9th St., 9th Floor, Richmond, VA 23219, telephone (804) 786-0016, FAX (804) 786-1118, toll-free (800) 846-4464, (800) 846-4464/TTY , e-mail [sandra.smalls@vbpd.virginia.gov](mailto:sandra.smalls@vbpd.virginia.gov).

## PESTICIDE CONTROL BOARD

**November 30, 2005** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Pesticide Control Board intends to amend regulations entitled **2 VAC 20-51, Regulations Governing Pesticide Applicator Certification Under Authority of Virginia Pesticide Control Act**. The purpose

of the proposed action is to review the regulation for effectiveness and continued need, including amending the regulation to (i) help reduce fraudulent examination activities by eliminating proctoring by private individuals; (ii) more clearly define application and training requirements; (iii) establish applicator categories in areas where needed for industry; (iv) meet EPA requirements; (v) establish recordkeeping requirements for not-for-hire pesticide applicators, as means of ensuring that all pesticides are stored and used safely; and (vi) amend the regulation for housekeeping purposes.

Statutory Authority: § 3.1-249.30 of the Code of Virginia.

**Contact:** W. Wayne Surles, Program Manager, Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, VA 23218, telephone (804) 371-6558, FAX (804) 371-8598, toll-free 1-800-552-9963 or e-mail [wayne.surles@vdacs.virginia.gov](mailto:wayne.surles@vdacs.virginia.gov).

## BOARD OF PHARMACY

† **October 31, 2005 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6603 West Broad Street, 5th Floor, Conference Room 1, Richmond, Virginia. 

A meeting of the Ad Hoc Committee on Pedigree Regulations to continue the meeting held on September 19, 2005. The committee will discuss amending proposed regulations entitled 18 VAC 110-50, Regulations Governing Wholesale Distributors, Manufacturers and Warehousemen, to add a requirement for a pedigree system in wholesale distribution of prescription drugs. Public comment will be received.

**Contact:** Elizabeth Scott Russell, RPh, Executive Director, Board of Pharmacy, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9911, FAX (804) 662-9313, (804) 662-7197/TTY , e-mail [scotti.russell@dhp.virginia.gov](mailto:scotti.russell@dhp.virginia.gov).

† **November 22, 2005 - 2 p.m.** -- Open Meeting  
Department of Health Professions, 6603 West Broad Street, 5th Floor, Conference Room 4, Richmond, Virginia. 

A meeting of the Ad Hoc Committee on Collaborative Practice Agreement to conduct the periodic review of 18 VAC 110-40, Regulations Governing Collaborative Practice Agreements. Public comment will be received.

**Contact:** Elizabeth Scott Russell, RPh, Executive Director, Board of Pharmacy, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9911, FAX (804) 662-9313, (804) 662-7197/TTY , e-mail [scotti.russell@dhp.virginia.gov](mailto:scotti.russell@dhp.virginia.gov).

† **December 1, 2005 - 9 a.m.** -- Public Hearing  
Department of Health Professions, 6603 West Broad Street, 5th Floor, Board Room 2, Richmond, Virginia. 

A meeting to receive comment on proposed regulations for wholesale distributors.

**Contact:** Elizabeth Scott Russell, RPh, Executive Director, Board of Pharmacy, Alcoa Bldg., 6603 W. Broad St., 5th

Floor, Richmond, VA 23230-1712, telephone (804) 662-9911, FAX (804) 662-9313, (804) 662-7197/TTY ☎, e-mail scotti.russell@dhp.virginia.gov.

**December 1, 2005 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6603 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia. ♿

A meeting to consider regulatory and disciplinary matters.

**Contact:** Elizabeth Scott Russell, RPh, Executive Director, Board of Pharmacy, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9911, FAX (804) 662-9313, (804) 662-7197/TTY ☎, e-mail scotti.russell@dhp.virginia.gov.

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**December 1, 2005 - 9 a.m.** -- Public Hearing  
Department of Health Professions, 6603 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia. ♿

**December 2, 2005** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Pharmacy intends to amend regulations entitled **18 VAC 110-20, Regulations Governing the Practice of Pharmacy**, and adopt regulations entitled **18 VAC 110-50, Regulations Governing Wholesale Distributors, Manufacturers and Warehousemen**. The purpose of the proposed action is to establish more accountability for wholesale distribution of prescription drugs.

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

Public comments may be submitted until December 2, 2005, to Elizabeth Scott Russell, RPh, Executive Director, Board of Pharmacy, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712.

**Contact:** Elaine J. Yeatts, Regulatory Coordinator, Department of Health Professions, 6603 W. Broad St., Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9114 or e-mail elaine.yeatts@dhp.virginia.gov.

## POLYGRAPH EXAMINERS ADVISORY BOARD

**December 1, 2005 - 10 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ♿

A meeting to conduct board business. The meeting is open to the public; however a portion of the board's business may be discussed in closed session. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

**Contact:** Kevin Hoeft, Regulatory Boards Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804)

367-2785, FAX (804) 367-2474, (804) 367-9753/TTY ☎, e-mail kevin.hoeft@dpor.virginia.gov.

## BOARD FOR PROFESSIONAL AND OCCUPATIONAL REGULATION

**November 14, 2005 - 10 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ♿

A quarterly board meeting.

**Contact:** Judith A. Spiller, Executive Secretary, Board for Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8519, FAX (804) 367-9537, (804) 367-9753/TTY ☎, e-mail judy.spiller@dpor.virginia.gov.

## BOARD OF PSYCHOLOGY

† **October 31, 2005 - 10 a.m.** -- Open Meeting  
Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. ♿

An informal conference.

**Contact:** Evelyn B. Brown, Executive Director, Board of Psychology, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9913, FAX (804) 662-9943, (804) 662-7197/TTY ☎, e-mail evelyn.brown@dhp.virginia.gov.

## VIRGINIA PUBLIC GUARDIAN AND CONSERVATOR ADVISORY BOARD

**December 8, 2005 - 10 a.m.** -- Open Meeting  
Department for the Aging, 1610 Forest Avenue, Suite 100, Richmond, Virginia. ♿

An advisory board meeting.

**Contact:** Janet Dingle Brown, Esq., Public Guardianship Coordinator and Legal Services Developer, Department for the Aging, 1610 Forest Ave., Suite 100, Richmond, VA 23229, telephone (804) 662-7049, FAX (804) 662-9354, toll-free (800) 552-3402, (804) 662-9333/TTY ☎, e-mail janet.brown@vda.virginia.gov.

## REAL ESTATE APPRAISER BOARD

**November 1, 2005 - 10 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, 4 West Conference Room, Richmond, Virginia. ♿

A meeting to discuss board business.

**Contact:** Karen W. O'Neal, Regulatory Programs Coordinator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8537, FAX (804) 367-2475, (804) 367-9753/TTY ☎, e-mail karen.oneal@dpor.virginia.gov.

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# Calendar of Events

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## REAL ESTATE BOARD

**November 16, 2005 - 1 p.m.** -- Open Meeting  
† **November 17, 2005 - 9 a.m.** -- Open Meeting  
† **December 1, 2005 - 9 a.m.** -- Open Meeting  
**December 2, 2005 - 2 p.m.** -- Open Meeting

Department of Professional and Occupational Regulation,  
3600 West Broad Street, 4th Floor, Room 453, Richmond,  
Virginia. ♿

Informal fact-finding conferences.

**Contact:** Christine Martine, Executive Director, Real Estate Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8552, FAX (804) 367-6946, (804) 367-9753/TTY ☎, e-mail reboard@dpor.virginia.gov.

**November 16, 2005 - 3 p.m.** -- Open Meeting  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, 5th Floor, Richmond, Virginia. ♿

A meeting of the Education Committee to discuss education issues.

**Contact:** Christine Martine, Executive Director, Real Estate Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8552, FAX (804) 367-6946, (804) 367-9753/TTY ☎, e-mail reboard@dpor.virginia.gov.

**November 17, 2005 - 8:30 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, 5th Floor, Richmond, Virginia. ♿

A meeting of the Fair Housing Committee to discuss fair housing cases.

**Contact:** Christine Martine, Executive Director, Real Estate Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8552, FAX (804) 367-6946, (804) 367-9753/TTY ☎, e-mail reboard@dpor.virginia.gov.

**November 17, 2005 - 9 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, 4 West Conference Room,  
Richmond, Virginia. ♿

A meeting to discuss board business.

**Contact:** Christine Martine, Executive Director, Real Estate Board, 3600 W. Broad Street, Richmond, VA 23230, telephone (804) 367-8552, FAX (804) 367-6946, (804) 367-9753/TTY ☎, e-mail reboard@dpor.virginia.gov.

## DEPARTMENT OF REHABILITATIVE SERVICES

† **November 2, 2005 - 10 a.m.** -- Open Meeting  
Disability Resource Center, 409 Progress Street,  
Fredericksburg, Virginia. ♿ (Interpreter for the deaf provided upon request)

A quarterly business meeting of the Assistive Technology Advisory Council to provide oversight and direction to the Virginia Assistive Technology System.

**Contact:** Kenneth H. Knorr, Jr., Director, Virginia Assistive Technology System, Department of Rehabilitative Services, 8004 Franklin Farms Drive, Richmond, VA 23229, telephone

(804) 662-9990, FAX (804) 662-9478, e-mail ken.knorr@drs.virginia.gov.

**November 3, 2005 - 3 p.m.** -- Public Hearing  
Virginia Beach Central Library, 4100 Virginia Beach Boulevard, Virginia Beach, Virginia. ♿ (Interpreter for the deaf provided upon request)

Public hearings to obtain comment regarding the Department of Rehabilitative Services State Plan for vocational rehabilitation services.

**Contact:** Susan Burns, Training and Development Coordinator, Department of Rehabilitative Services, 8004 Franklin Farms Dr., Richmond, VA 23229, telephone (804) 662-7613, FAX (804) 662-7696, toll-free (800) 552-5019, (800) 552-5019/TTY ☎, e-mail susan.burns@drs.virginia.gov.

† **November 4, 2005 - 9 a.m.** -- Open Meeting  
Henrico Field Office, 1601 Willow Lawn Drive, Suite 370-A,  
Richmond, Virginia. ♿

Orientation to members of the State Rehabilitation Council.

**Contact:** Elizabeth Smith, Policy and Planning Director, Department of Rehabilitative Services, 8004 Franklin Farms Dr., P.O. Box K-300, Richmond, VA 23288-0300, telephone (804) 662-7071, FAX (804) 662-7696, toll-free (800) 552-5019, (800) 464-9950/TTY ☎, e-mail elizabeth.smith@drs.virginia.gov.

## VIRGINIA RESOURCES AUTHORITY

† **November 10, 2005 - 9 a.m.** -- Open Meeting  
† **December 13, 2005 - 9 a.m.** -- Open Meeting  
† **January 10, 2006 - 9 a.m.** -- Open Meeting  
8th and Main Building, 2nd Floor Conference Room,  
Richmond, Virginia.

A regular board meeting.

**Contact:** Trisha Henshaw, Office Manager, Virginia Resources Authority, 707 E. Main St., Suite 1350, Richmond, VA 23219, telephone (804) 644-3331, FAX (804) 644-3109, e-mail thenshaw@virginiareources.org.

## VIRGINIA RESEARCH AND TECHNOLOGY ADVISORY COMMISSION

**November 15, 2005 - 1 p.m.** -- Open Meeting  
NASA Langley Research Center/National Institute of Aerospace, Hampton, Virginia.

Tour at 10 a.m. Meeting will follow at 1 p.m. Lunch will be provided.

**Contact:** Nancy Vorona, VP Research Investment, CIT, Virginia Research and Technology Advisory Commission, 2214 Rock Hill Rd., Suite 600, Herndon, VA 20170, telephone (703) 689-3043, FAX (703) 464-1720, e-mail nvorona@cit.org.

## STATE BOARD OF SOCIAL SERVICES

† **November 3, 2005 - 1 p.m.** -- Open Meeting  
DCSE Office, Charlottesville, Virginia. 

A regularly scheduled meeting of the CPS OOF Advisory Committee.

**Contact:** Pat Rengnerth, Board Liaison, Department of Social Services, Office of Legislative and Regulatory Affairs, 7 N. 8th St., Room 5214, Richmond, VA 23219, telephone (804) 726-7905, FAX (804) 726-7906, (800) 828-1120/TTY , e-mail [patricia.rengnerth@dss.virginia.gov](mailto:patricia.rengnerth@dss.virginia.gov).

## BOARD OF SOCIAL WORK

† **November 18, 2005 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6603 West Broad Street, Classroom B, Lower Level, Richmond, Virginia. 

A meeting to hear possible violations of the laws and regulations governing the practice of social work.

**Contact:** Evelyn B. Brown, Executive Director, Board of Social Work, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9914, FAX (804) 662-7250, (804) 662-7197/TTY , e-mail [evelyn.brown@dhp.virginia.gov](mailto:evelyn.brown@dhp.virginia.gov).

## COMMONWEALTH TRANSPORTATION BOARD

**November 1, 2005 - 7 p.m.** -- Open Meeting  
Springfield Interchange Project Office, 6400 Commerce Street, Springfield, Virginia. 

A meeting of the I-95/I-395 PPTA Advisory Panel to discuss qualifications of PPTA project proposers and other issues, and make a recommendation concerning the project. Note: Public comment will not be collected at the meeting.

**Contact:** James J. Loftus, Project Manager, Department of Transportation, 1221 E. Broad St., Richmond, VA 23219, telephone (804) 786-9307, FAX (804) 786-7221, e-mail [james.loftus@vdot.virginia.gov](mailto:james.loftus@vdot.virginia.gov).

**November 2, 2005 - 2:30 p.m.** -- Open Meeting  
Chesapeake Conference Center, 900 Greenbrier Circle, Chesapeake, Virginia. 

**November 10, 2005 - 2:30 p.m.** -- Open Meeting  
Fairfax City Hall, 10455 Armstrong Avenue, 3rd Floor, Board Room, Fairfax, Virginia. 

Public review and comment on projects and programs that are candidates for inclusion in the Fiscal Year 2007-2012 Six-Year Improvement Program (SYIP) including interstate and primary highway improvements and rail, public transportation and commuter assistance programs. Metropolitan Planning Organizations will be represented. All projects in the SYIP that are eligible for federal funding will be included in the Statewide Transportation Improvement Program (STIP), which documents how Virginia will obligate its share of federal funds.

**Contact:** Katherine Graham, Transportation Engineer, Commonwealth Transportation Board, Va. Department of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-4198, toll-free (866) 835-6070, e-mail [katherine.graham@vdot.virginia.gov](mailto:katherine.graham@vdot.virginia.gov).

**November 16, 2005 - 2 p.m.** -- Open Meeting  
Department of Transportation, 1221 East Broad Street, Auditorium, Richmond, Virginia. 

A work session.

**Contact:** Carol Mathis, Administrative Staff Assistant, Commonwealth Transportation Board, Policy Division, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-2701, e-mail [carol.mathis@vdot.virginia.gov](mailto:carol.mathis@vdot.virginia.gov).

**November 17, 2005 - 9 a.m.** -- Open Meeting  
Department of Transportation, 1221 East Broad Street, Auditorium, Richmond, Virginia. 

A regularly scheduled meeting to transact board business, such as permits, additions/deletions to the highway system, and other matters requiring board approval. Public comment will be received at the outset of the meeting on items on the agenda for which the opportunity for public comment has not been afforded the public in another forum. Remarks will be limited to five minutes. Large groups will be asked to select one individual to speak for the group. The board reserves the right to amend these conditions. Separate committee meetings may be held on call of the chairman. Contact VDOT Public Affairs at (804) 786-2715 for schedule.

**Contact:** Carol A. Mathis, Administrative Staff Assistant, Commonwealth Transportation Board, Policy Division, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-2701, e-mail [carol.mathis@vdot.virginia.gov](mailto:carol.mathis@vdot.virginia.gov).

## TREASURY BOARD

**November 16, 2005 - 9 a.m.** -- Open Meeting  
**December 14, 2005 - 9 a.m.** -- Open Meeting  
Department of the Treasury, 101 North 14th Street, 3rd Floor, Treasury Board Room, Richmond, Virginia. 

A regular meeting.

**Contact:** Melissa Mayes, Secretary, Department of the Treasury, 101 N. 14th St., 3rd Floor, Richmond, VA 23219, telephone (804) 371-6011, FAX (804) 786-0833, e-mail [melissa.mayes@trs.virginia.gov](mailto:melissa.mayes@trs.virginia.gov).

## DEPARTMENT OF VETERANS SERVICES

### Veterans Services Foundation

**November 16, 2005 - 11 a.m.** -- Open Meeting  
American Legion Department of Virginia, 1708 Commonwealth Avenue, Richmond, Virginia. 

A regular meeting of the Board of Trustees.

**Contact:** Steven Combs, Assistant to the Commissioner, Department of Veterans Services, 900 E. Main St., Richmond,

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# Calendar of Events

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VA 23219, telephone (804) 786-0294, e-mail  
steven.combs@dvs.virginia.gov.

(804) 698-4146, FAX (804) 698-4327, e-mail  
mjdieter@deq.virginia.gov.

## BOARD OF VETERINARY MEDICINE

† **November 9, 2005 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6603 West Broad Street,  
5th Floor, Conference Room 2, Richmond, Virginia. ♿

A discussion of the reorganization of the agency by Mr. Nebiker, a report on the AAVSB conference by Dr. Siemering, and a discussion of the significant increase in drug-related veterinary cases with a question and answer session with enforcement. General board business will also be discussed.

**Contact:** Elizabeth A. Carter, Ph.D., Executive Director, Board of Veterinary Medicine, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9915, FAX (804) 662-7098, (804) 662-7197/TTY ♿, e-mail elizabeth.carter@dhp.virginia.gov.

† **November 10, 2005 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6603 West Broad Street,  
5th Floor, Conference Room 4, Richmond, Virginia. ♿

Informal (disciplinary) hearings. Public comment will not be received.

**Contact:** Terri Behr, Administrative Specialist, Department of Health Professions, 6603 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 662-9915, FAX (804) 662-7098, (804) 662-7197/TTY ♿, e-mail terri.behr@dhp.virginia.gov.

## COUNCIL ON VIRGINIA'S FUTURE

**December 16, 2005 - Noon** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, Senate Room A, Richmond, Virginia. ♿

A regular meeting.

**Contact:** Carole Noe, Executive Assistant, 700 E. Franklin St., Suite 700, Richmond, VA 23219, telephone (804) 371-2346, e-mail cnoe@virginia.edu.

## VIRGINIA WASTE MANAGEMENT BOARD

**November 18, 2005** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Virginia Waste Management Board intends to amend regulations entitled **9 VAC 20-80, Solid Waste Management Regulations**. The purpose of the proposed action is to remove the requirement for radio advertisement of a tentative decision to grant or deny a variance petition under the solid waste management regulations.

Statutory Authority: § 10.1-1402 of the Code of Virginia; 42 USC § 6941 et seq.; 40 CFR Part 258.

**Contact:** Michael J. Dieter, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone

## STATE WATER CONTROL BOARD

**November 9, 2005 - 9:30 a.m.** -- Open Meeting  
Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia. ♿

A meeting of the advisory committee assisting in the development of a General VPDES Watershed Permit Regulation for Total Nitrogen and Total Phosphorus Discharges and Nutrient Trading in the Chesapeake Bay Watershed in Virginia.

**Contact:** Kyle Winter, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4182, FAX (804) 698-4032, e-mail kiwinter@deq.virginia.gov.

† **November 10, 2005 - 3 p.m.** -- Open Meeting  
Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia. ♿

A meeting to discuss the use of the Virginia Clean Water Revolving Loan Fund for FY 2006. Section 606(c) of the Water Quality Act of 1987 requires the Department of Environmental Quality to develop an annual plan that identifies the intended use of its revolving loan funds for construction of publicly owned wastewater treatment facilities and other clean water projects. The Act also requires that a list of projects targeted for financial assistance with those funds be developed each year. The Intended Use Plan for FY 2006 and FY 2006 draft list of targeted loan recipients are open to public comment. The public comment and review period will end at the conclusion of the meeting.

**Contact:** Walter A. Gills, State Water Control Board, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4133, FAX (804) 698-4136, e-mail wagills@deq.virginia.gov.

† **November 15, 2005 - 7 p.m.** -- Public Hearing  
Culpeper County Middle School Auditorium, 14300 Achievement Drive, Culpeper, Virginia.

A public hearing to receive comment on the proposed reissuance of a permit for Boston Water and Sewer sewage treatment plant. The comment period closes on November 5, 2005.

**Contact:** Alison Thompson, State Water Control Board, 13901 Crown Court, Woodbridge, VA 22193, telephone (703) 583-3834, FAX (703) 583-3841, e-mail althompson@deq.virginia.gov.

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† **November 23, 2005 - 10 a.m.** -- Public Hearing  
Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia. ♿

† **December 30, 2005** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Water Control Board intends

to amend regulations entitled **9 VAC 25-194, General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Car Wash Facilities**. The purpose of the proposed action is to reissue the existing general VPDES permit for car wash facilities that expires on October 15, 2007.

Statutory Authority: § 62.1-44.15 of the Code of Virginia; § 402 of the Clean Water Act; 40 CFR Parts 122, 123 and 124.

**Contact:** George Cosby, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4067, FAX (804) 698-4032 or e-mail [gecosby@deq.virginia.gov](mailto:gecosby@deq.virginia.gov).

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† **December 5, 2005 - 2 p.m.** -- Public Hearing  
Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia. 

† **January 13, 2006** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Water Control Board intends to adopt regulations entitled **9 VAC 25-800, Virginia Water Protection General Permit for Minor Water Withdrawals**. The purpose of the proposed action is to establish a general Virginia Water Protection Permit for water withdrawals.

Statutory Authority: §§ 62.1-44.15 and 62.1-44.15:5 of the Code of Virginia.

**Contact:** Ellen Gilinsky, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4375, FAX (804) 698-4032 or e-mail [egilinsky@deq.virginia.gov](mailto:egilinsky@deq.virginia.gov).

### **BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS**

**December 7, 2005 - 8:30 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. 

A meeting to conduct board business. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. All meetings are subject to cancellation. The time of the meeting is subject to change. Any person desiring to attend the meeting and requiring special accommodations or interpreter services should contact the board at least 10 days prior to the meeting so suitable arrangements can be made. The board fully complies with the Americans with Disabilities Act.

**Contact:** David E. Dick, Executive Director, Board for Waterworks and Wastewater Works Operators, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8507, FAX (804) 367-6128, (804) 367-9753/TTY , e-mail [waterwasteoper@dpor.virginia.gov](mailto:waterwasteoper@dpor.virginia.gov).

## **INDEPENDENT**

### **VIRGINIA INDIGENT DEFENSE COMMISSION**

† **November 29, 2005 - 11 a.m.** -- Open Meeting  
Virginia Indigent Defense Commission, 701 East Franklin Street, Suite 1416, Richmond, Virginia. 

A meeting of the Budget Committee.

**Contact:** Danita Pryor, Office Manager, Virginia Indigent Defense Commission, 701 E. Franklin St., Suite 1416, Richmond, VA 23219, telephone (804) 225-3297, FAX (804) 371-8326, e-mail [dpryor@idc.virginia.gov](mailto:dpryor@idc.virginia.gov).

**December 1, 2005 - 2 p.m.** -- Open Meeting  
Virginia Indigent Defense Commission, 701 East Franklin Street, Suite 1416, Richmond, Virginia. 

A regular meeting.

**Contact:** Danita Pryor, Office Manager, Virginia Indigent Defense Commission, 701 E. Franklin St., Suite 1416, Richmond, VA 23219, telephone (804) 225-3297, FAX (804) 371-8326, e-mail [dpryor@idc.virginia.gov](mailto:dpryor@idc.virginia.gov).

### **VIRGINIA OFFICE FOR PROTECTION AND ADVOCACY**

#### **Board for Protection and Advocacy**

† **January 20, 2006 - 9 a.m.** -- Open Meeting  
Virginia Office for Protection and Advocacy, Byrd Building, 1910 Byrd Avenue, Suite 5, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A regular meeting. Public comment is welcomed by the board and will be received beginning at 9 a.m. Public comment will also be accepted by telephone. If you wish to provide public comment via telephone, call Lisa Shehi, Administrative Assistant at 1-800-552-3962 (Voice/TTY) or e-mail at [lisa.shehi@vopa.virginia.gov](mailto:lisa.shehi@vopa.virginia.gov) no later than January 6, 2006. Ms. Shehi will take your name and phone number and you will be telephoned during the public comment period. If interpreter services or other accommodations are required, please contact Ms. Shehi no later than January 6, 2006.

**Contact:** Lisa Shehi, Administrative Assistant, Virginia Office for Protection and Advocacy, 1910 Byrd Avenue, Suite 5, Richmond, VA, telephone (804) 225-2042, FAX (804) 662-7431, toll-free (800) 552-3962, (804) 225-2042/TTY , e-mail [lisa.shehi@vopa.virginia.gov](mailto:lisa.shehi@vopa.virginia.gov).

#### **PAIMI Advisory Council**

**November 3, 2005 - 10 a.m.** -- Open Meeting  
Albemarle County Office Building, 1600 5th Street, Meeting Room B, Charlottesville, Virginia.  (Interpreter for the deaf provided upon request)

Public comment is welcome and will be received at the beginning of the meeting. Public comment will also be

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## Calendar of Events

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accepted by telephone. If you wish to provide public comment via telephone, you must call Lisa Shehi, Administrative Assistant, at 1-800-552-3962 (Voice/TTY) or via e-mail at [lisa.shehi@vopa.virginia.gov](mailto:lisa.shehi@vopa.virginia.gov) no later than October 20, 2005. Ms. Shehi will take your name and phone number and you will be telephoned during the public comment period. Please visit the Virginia Office for Protection and Advocacy website at [www.vopa.state.va.us](http://www.vopa.state.va.us) for directions. For further information, please contact Ms. Shehi. If interpreter services or other accommodations are required, please contact Ms. Shehi, no later than October 20, 2005.

**Contact:** Lisa Shehi, Administrative Assistant, Virginia Office for Protection and Advocacy, 1910 Byrd Ave., Suite 5, Richmond, VA 23230, telephone (804) 662-7213, FAX (804) 662-7431, toll-free (800) 552-3962, (804) 225-2042/TTY ☎, e-mail [lisa.shehi@vopa.virginia.gov](mailto:lisa.shehi@vopa.virginia.gov).

### VIRGINIA RETIREMENT SYSTEM

**November 8, 2005 - 1 p.m.** -- Open Meeting

**November 16, 2005 - 2:30 p.m.** -- CANCELED

Virginia Retirement System Headquarters Building, 1200 East Main Street, Richmond, Virginia. ♿

A regular meeting of the Benefits and Actuarial Committee. No public comment will be received at the meeting.

**Contact:** LaShaunda B. King, Executive Assistant, Virginia Retirement System, 1200 E. Main St., Richmond, VA 23219, telephone (804) 649-8059, FAX (804) 786-1541, toll-free (888) 827-3847, (804) 344-3190/TTY ☎, or e-mail [lking@vrs.state.va.us](mailto:lking@vrs.state.va.us).

**November 8, 2005 - 3:30 p.m.** -- Open Meeting

Virginia Retirement System Headquarters Building, 1200 East Main Street, Richmond, Virginia. ♿

A regular meeting of the Audit and Compliance Committee. No public comment will be received at the meeting.

**Contact:** LaShaunda B. King, Executive Assistant, Virginia Retirement System, 1200 E. Main St., Richmond, VA 23219, telephone (804) 649-8059, FAX (804) 786-1541, toll-free (888) 827-3847, (804) 344-3190/TTY ☎, or e-mail [lking@vrs.state.va.us](mailto:lking@vrs.state.va.us).

**November 9, 2005 - 9 a.m.** -- Open Meeting

**December 15, 2005 - 9 a.m.** -- Open Meeting

Virginia Retirement System Headquarters Building, 1200 East Main Street, Richmond, Virginia. ♿

A regular meeting of the Board of Trustees. No public comment will be received at the meeting.

**Contact:** LaShaunda B. King, Executive Assistant, Virginia Retirement System, 1200 E. Main St., Richmond, VA 23219, telephone (804) 649-8059, FAX (804) 786-1541, toll-free (888) 827-3847, (804) 344-3190/TTY ☎, or e-mail [lking@vrs.state.va.us](mailto:lking@vrs.state.va.us).

**November 15, 2005 - Noon** -- Open Meeting

Virginia Retirement System Headquarters Building, 1200 East Main Street, Richmond, Virginia. ♿

A regular meeting of the Optional Retirement Plan Advisory Committee. No public comment will be received at the meeting.

**Contact:** LaShaunda B. King, Executive Assistant, Virginia Retirement System, 1200 E. Main St., Richmond, VA 23219, telephone (804) 649-8059, FAX (804) 786-1541, toll-free (888) 827-3847, (804) 344-3190/TTY ☎, e-mail [lking@vrs.state.va.us](mailto:lking@vrs.state.va.us).

**November 16, 2005 - 11 a.m.** -- Open Meeting

Virginia Retirement System Headquarters Building, 1200 East Main Street, Richmond, Virginia. ♿

Meetings of the following committees:

11 a.m. - Investment Advisory

4 p.m. - Administration and Personnel

No public comment will be received at the meeting.

**Contact:** LaShaunda B. King, Executive Assistant, Virginia Retirement System, 1200 E. Main St., Richmond, VA 23219, telephone (804) 649-8059, FAX (804) 786-1541, toll-free (888) 827-3847, (804) 344-3190/TTY ☎, e-mail [lking@vrs.state.va.us](mailto:lking@vrs.state.va.us).

**December 14, 2005 - 3 p.m.** -- Open Meeting

Virginia Retirement System Investment Department, 1111 East Main St., 3rd Floor, Richmond, Virginia. ♿

A special meeting of the Investment Advisory Committee. No public comment will be received at the meeting.

**Contact:** Phyllis Henderson, Executive Assistant, Virginia Retirement System, 1111 E. Main St., Richmond, VA 23219, telephone (804) 697-6675, FAX (804) 786-1541, toll-free (888) 827-3847, (804) 344-3190/TTY ☎, e-mail [phenderson@vrs.state.va.us](mailto:phenderson@vrs.state.va.us).

## LEGISLATIVE

### JOINT SUBCOMMITTEE ON ADOPTION LAWS AND POLICIES

**November 14, 2005 - 12:30 p.m.** -- Open Meeting

General Assembly Building, 9th and Broad Streets, Senate Room B, Richmond, Virginia. ♿

A regular meeting. For questions regarding the meeting agenda, contact Greg O'Halloran or Jescey French, Division of Legislative Services, (804) 786-3591. Individuals requiring interpreter services or other accommodations should telephone Senate Committee Operations at (804) 698-7450, (804) 698-7419/TTY, or write to Senate Committee Operations, P.O. Box 396, Richmond, VA 23218, at least seven days prior to the meeting.

**Contact:** Patty Lung, Senate Committee Operations, General Assembly Bldg., 910 Capitol St., Richmond, VA 23219, telephone (804) 698-7410.

## VIRGINIA CODE COMMISSION

NOTE: CHANGE IN MEETING TIME

**November 16, 2005 - 9 a.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, 6th Floor,  
Speaker's Conference Room, Richmond, Virginia. ♿

NOTE: CHANGE IN MEETING DATE

† **December 8, 2005 - 10 a.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, 6th Floor,  
Senate Leadership Room, Richmond, Virginia. ♿

† **December 9, 2005 - 9 a.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, 6th Floor,  
Speaker's Conference Room, Richmond, Virginia. ♿

A meeting to continue work on the 2007 Code of Virginia reorganization project and the Title 3.1 recodification. A brief public comment period will be scheduled at the end of the meeting.

**Contact:** Jane Chaffin, Registrar of Regulations, Virginia Code Commission, General Assembly Building, 2nd Floor, 910 Capitol Street, Richmond, VA 23219, telephone (804) 786-3591, FAX (804) 692-0625 or e-mail [jchaffin@leg.state.va.us](mailto:jchaffin@leg.state.va.us).

## JOINT SUBCOMMITTEE STUDYING CONFLICTS OF INTERESTS AND LOBBYIST DISCLOSURE FILINGS

**November 10, 2005 - 9 a.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, House Room C, Richmond, Virginia. ♿

A regular meeting. For questions regarding the meeting agenda, contact Amigo Wade, Division of Legislative Services, (804) 786-3591.

**Contact:** Barbara L. Teague, House Committee Operations, 910 Capitol St., Richmond, VA 23219, telephone (804) 698-1540.

## DISABILITY COMMISSION

**November 16, 2005 - 1 p.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, Senate Room B, Richmond, Virginia. ♿

A regular meeting. For questions regarding the meeting agenda, contact Amy Marschean, Division of Legislative Services, (804) 786-3591. Individuals requiring interpreter services or other accommodations should telephone Senate Committee Operations at (804) 698-7450, (804) 698-7419/TTY, or write to Senate Committee Operations, P.O. Box 396, Richmond, VA 23218, at least seven days prior to the meeting.

**Contact:** Patty Lung, Senate Committee Operations, General Assembly Bldg., 910 Capitol St., Richmond, VA 23219, telephone (804) 698-7410.

## JOINT SUBCOMMITTEE STUDYING REDUCTION OF HIGHWAY ABATEMENT COSTS

† **December 12, 2005 - 10 a.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia. ♿

A regular meeting. For questions regarding the meeting agenda, contact Alan Wambold, Division of Legislative Services, (804) 786-3591.

**Contact:** William L. Owen, House Committee Operations, 910 Capitol St., Richmond, VA 23219, telephone (804) 698-1540.

## HOUSE AND SENATE SUBCOMMITTEES ON LAND CONSERVATION TAX CREDIT

**November 10, 2005 - 2 p.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia. ♿

A regular meeting. For questions regarding the meeting agenda, contact Joan Putney, Division of Legislative Services, (804) 786-3591.

**Contact:** William L. Owen, House Committee Operations, 910 Capitol St., Richmond, VA 23219, telephone (804) 698-1540.

## SPECIAL SUBCOMMITTEE OF THE HOUSE TRANSPORTATION COMMITTEE STUDYING MOPED-RELATED LEGISLATION

† **November 17, 2005 - 10 a.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, 7th Floor West Conference Room, Richmond, Virginia. ♿

A regular meeting. For questions regarding the meeting agenda, contact Alan Wambold or Stephanie Bishop, Division of Legislative Services, (804) 786-3591.

**Contact:** William L. Owen, House Committee Operations, 910 Capitol St., Richmond, VA 23219, telephone (804) 698-1540.

## JOINT SUBCOMMITTEE ON RISK MANAGEMENT PLANS

† **October 31, 2005 - 1 p.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, Senate Room A, Richmond, Virginia. ♿

A regular meeting. For questions regarding the meeting agenda, contact Jescey French, Division of Legislative Services, (804) 786-3591. Individuals requiring interpreter services or other accommodations should telephone Senate Committee Operations at (804) 698-7450, (804) 698-7419/TTY, or write to Senate Committee Operations, P.O. Box 396, Richmond, VA 23218, at least seven days prior to the meeting.

**Contact:** Patty Lung, Senate Committee Operations, General Assembly Bldg., 910 Capitol St., Richmond, VA 23219, telephone (804) 698-7410.

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# Calendar of Events

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## JOINT SUBCOMMITTEE STUDYING SCHOOL INFRASTRUCTURE K-12

† **November 29, 2005 - 3 p.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, House  
Room C, Richmond, Virginia. 

A regular meeting. For questions regarding the meeting  
agenda, contact Bryan Stogdale, Division of Legislative  
Services, (804) 786-3591.

**Contact:** Lori L. Maynard, House Committee Operations, 910  
Capitol St., Richmond, VA 23219, telephone (804) 698-1540.

## JOINT SUBCOMMITTEE STUDYING MEDICAL, ETHICAL, AND SCIENTIFIC ISSUES RELATING TO STEM CELL RESEARCH

**November 15, 2005 - 2 p.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, House  
Room C, Richmond, Virginia. 

A regular meeting. For questions regarding the meeting  
agenda, contact Norma Szakal or Amy Marschean, Division  
of Legislative Services, (804) 786-3591.

**Contact:** Barbara L. Regen, House Committee Operations,  
910 Capitol St., Richmond, VA 23219, telephone (804) 698-  
1540.

## JOINT SUBCOMMITTEE TO EXAMINE THE COST AND FEASIBILITY OF RELOCATING THE MUSEUM AND WHITE HOUSE OF THE CONFEDERACY

**November 21, 2005 - 2 p.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, House  
Room D, Richmond, Virginia. 

A regular meeting. For questions regarding the meeting  
agenda, contact Robie Ingram or Bryan Stogdale, Division  
of Legislative Services, (804) 786-3591.

**Contact:** Barbara L. Teague, House Committee Operations,  
910 Capitol St., Richmond, VA 23219, telephone (804) 698-  
1540.

## JOINT COMMISSION ON TECHNOLOGY AND SCIENCE

**November 15, 2005 - 2 p.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, House  
Room D, Richmond, Virginia. 

A meeting of the JCOTS Integrated Government Advisory  
Committee.

**Contact:** Lisa Wallmeyer, Executive Director, Joint  
Commission on Technology and Science, 910 Capitol St., 2nd  
Floor, Richmond, VA 23219, telephone (804) 786-3591, e-mail  
lwallmeyer@leg.state.va.us.

**November 16, 2005 - 2 pm.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, House  
Room D, Richmond, Virginia. 

A meeting of the JCOTS Privacy Advisory Committee.

**Contact:** Lisa Wallmeyer, Executive Director, Joint  
Commission on Technology and Science, 910 Capitol St., 2nd  
Floor, Richmond, VA 23219, telephone (804) 786-3591,  
e-mail lwallmeyer@leg.state.va.us.

**December 1, 2005 - 10 a.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, House  
Room D, Richmond, Virginia. 

The final meeting for 2005.

**Contact:** Lisa Wallmeyer, Executive Director, Joint  
Commission on Technology and Science, 910 Capitol St., 2nd  
Floor, Richmond, VA 23219, telephone (804) 786-3591, e-mail  
lwallmeyer@leg.state.va.us.

## JOINT SUBCOMMITTEE STUDYING OPTIONS TO PROVIDE A LONG-TERM FUNDING SOURCE TO CLEAN UP VIRGINIA'S POLLUTED WATERS, INCLUDING THE CHESAPEAKE BAY AND ITS TRIBUTARIES

**November 14, 2005 - 1 p.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, House  
Room C, Richmond, Virginia. 

A regular meeting. For questions regarding the meeting  
agenda, contact Marty Farber, David Rosenberg or Mark  
Vucci, Division of Legislative Services, (804) 786-3591.

**Contact:** Barbara L. Teague, House Committee Operations,  
910 Capitol St., Richmond, VA 23219, telephone (804) 698-  
1540.

## UNEMPLOYMENT COMPENSATION COMMISSION

† **November 29, 2005 - 1 p.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, Senate  
Room A, Richmond, Virginia. 

A regular meeting. For questions regarding the meeting  
agenda, contact Frank Munyan, Division of Legislative  
Services, (804) 786-3591.

**Contact:** Hobie Lehman, Senate Committee Operations,  
General Assembly Bldg., 910 Capitol St., Richmond, VA  
23219, telephone (804) 698-7410.

## JOINT SUBCOMMITTEE STUDYING THE VOTING EQUIPMENT CERTIFICATION PROCESS

**November 21, 2005 - 1 p.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, House  
Room C, Richmond, Virginia. 

A regular meeting. For questions regarding the meeting  
agenda, contact Mary Spain or Jack Austin, Division of  
Legislative Services, (804) 786-3591.

**Contact:** Barbara L. Regen, House Committee Operations, 910 Capitol St., Richmond, VA 23219, telephone (804) 698-1540.

## JOINT SUBCOMMITTEE STUDYING WORKFORCE DEVELOPMENT TRAINING RESOURCES

**November 14, 2005 - 10 a.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, House Room C, Richmond, Virginia. 

A regular meeting. For questions regarding the meeting agenda, contact Frank Munyan, Division of Legislative Services, (804) 786-3591.

**Contact:** Lois V. Johnson, House Committee Operations, 910 Capitol St., Richmond, VA 23219, telephone (804) 698-1540.

## CHRONOLOGICAL LIST

### OPEN MEETINGS

#### October 31

Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, Board for

Medical Assistance Services, Department of

† Pharmacy, Board of

† Psychology, Board of

† Risk Management Plans, Joint Subcommittee on

#### November 1

Branch Pilots, Board for

Conservation and Recreation, Department of

Contractors, Board for

† Health, Department of

Museum of Fine Arts, Virginia

† Optometry, Board of

Real Estate Appraiser Board

Transportation Board, Commonwealth

#### November 2

Asbestos, Lead, and Home Inspectors, Virginia Board for

Conservation and Recreation, Department of

† Deaf and Hard-of-Hearing, Department for the

Health, Department of

- Radiation Advisory Board

† Medicine, Board of

† Rehabilitative Services, Department of

Transportation Board, Commonwealth

#### November 3

Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, Board for

Conservation and Recreation, Department of

Contractors, Board for

Counseling, Board of

† Environmental Quality, Department of

Protection and Advocacy, Virginia Office for

† Social Services, State Board of

#### November 4

Agriculture and Consumer Services, Department of

- Virginia Pork Industry Board

Art and Architectural Review Board

Counseling, Board of

Dentistry, Board of

Library Board, State

† Rehabilitative Services, Department of

#### November 7

Alcoholic Beverage Control Board

Hearing Aid Specialists, Board for

#### November 8

Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, Board for

Retirement System, Virginia

#### November 9

† Agriculture and Consumer Services, Department of

- Virginia Marine Products Board

† Conservation and Recreation, Department of

- Virginia Soil and Water Conservation Board

† Health, Department of

Information Technologies Agency, Virginia

- E-911 Wireless Services Board

† Longwood University

Opticians, Board for

Retirement System, Virginia

† Veterinary Medicine, Board of

Water Control Board, State

#### November 10

Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, Board for

Audiology and Speech-Language Pathology, Board of

† Child Day-Care Council

Conflicts of Interest and Lobbyist Disclosure Filings, Joint Subcommittee Studying

Conservation and Recreation, Department of

- Falls of the James Scenic River Advisory Board

Environmental Quality, Department of

Health, Department of

Land Conservation Tax Credit, House and Senate

Subcommittees

Local Government, Commission on

Medical Assistance Services, Department of

- Drug Utilization Review Board

† Resources Authority, Virginia

Transportation Board, Commonwealth

† Veterinary Medicine, Board of

† Water Control Board, State

#### November 11

† Blind and Vision Impaired, Department for the

#### November 14

Adoption Laws and Policies, Joint Subcommittee on

At-Risk Youth and Families, Comprehensive Services for

† Environmental Quality, Department of

Housing and Community Development, Board of

Library Board, State

† Motor Vehicle Dealer Board

Nursing, Board of

Professional and Occupational Regulation, Board for

Virginia's Polluted Waters, Including the Chesapeake Bay and its Tributaries, Joint Subcommittee Studying Options to Provide a Long-Term Funding Source to Clean Up

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# Calendar of Events

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Workforce Development Training Resources, Joint Subcommittee Studying

## November 15

† Blind and Vision Impaired, Department for the Corrections, Board of  
Elections, State Board of  
Environmental Quality, Department of  
† Housing Development Authority, Virginia  
Medical Assistance Services, Department of  
Nursing, Board of  
Old Dominion University  
Research and Technology Advisory Commission, Virginia  
Retirement System, Virginia  
Stem Cell Research, Joint Subcommittee Studying Medical, Ethical and Scientific Issues Relating to  
Technology and Science, Joint Commission on

## November 16

Air Pollution Control Board, State  
Code Commission, Virginia  
Community Colleges, State Board for  
† Compensation Board  
Contractors, Board for  
Corrections, Board of  
Disability Commission  
Medical Assistance Services, Department of  
Nursing, Board of  
† Outdoors Foundation, Virginia  
Real Estate Board  
Retirement System, Virginia  
Technology and Science, Joint Commission on  
Transportation Board, Commonwealth  
Treasury Board  
Veterans Services, Department of  
- Veterans Services Foundation

## November 17

† Agriculture and Consumer Services, Department of  
- Virginia Cattle Industry Board  
Community Colleges, State Board for  
Conservation and Recreation, Department of  
- Virginia Soil and Water Conservation Board  
Contractors, Board for  
Design-Build/Construction Management Review Board  
Health, Department of  
- Emergency Medical Services Advisory Board  
Medicine, Board of  
† Moped-Related Legislation, Special Subcommittee of the House Transportation Committee Studying  
Nursing, Board of  
† Outdoors Foundation, Virginia  
Real Estate Board  
Transportation Board, Commonwealth

## November 18

† Accountancy, Board of  
Child Fatality Review Team, State  
† Forestry, Board of  
† Social Work, Board of

## November 21

Alcoholic Beverage Control Board  
Education, Board of  
- Advisory Board on Teacher Education and Licensure  
Jamestown-Yorktown Foundation  
Long-Term Care Administrators, Board of

Museum and White House of the Confederacy, Joint Subcommittee to Examine the Cost and Feasibility of Relocating the  
Taxation, Department of  
- Governor's Advisory Council on Revenue Estimates  
Voting Equipment Certification Process, Joint Subcommittee Studying the

## November 22

Jamestown-Yorktown Foundation  
Marine Resources Commission  
† Pharmacy, Board of

## November 29

† Indigent Defense Commission, Virginia  
Long-Term Care Administrators, Board of  
Medicine, Board of  
- Advisory Board on Occupational Therapy  
- Advisory Board on Respiratory Care  
† School Infrastructure K-12, Joint Subcommittee Studying  
† Unemployment Compensation Commission

## November 30

Education, Board of  
Medicine, Board of  
- Advisory Board on Acupuncture  
- Advisory Board on Radiologic Technology

## December 1

Conservation and Recreation, Department of  
† Contractors, Board for  
Indigent Defense Commission, Virginia  
Medicine, Board of  
- Advisory Board on Athletic Training  
- Advisory Board on Physician Assistants  
People with Disabilities, Board for  
Pharmacy, Board of  
Polygraph Examiners Advisory Board  
† Real Estate Board  
Technology and Science, Joint Commission on

## December 2

Art and Architectural Review Board  
Dentistry, Board of  
People with Disabilities, Board for  
Real Estate Board

## December 3

† Museum of Natural History, Virginia

## December 5

Alcoholic Beverage Control Board, State  
Barbers and Cosmetology, Board for  
Chesapeake Bay Local Assistance Board  
Nursing, Board of

## December 6

Alzheimer's Disease and Related Disorders Commission  
† Blind and Vision Impaired, Department for the  
Gaming Board, Charitable  
Museum of Fine Arts, Virginia  
Nursing, Board of

## December 7

Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, Board for  
† Forestry, Board of  
Nursing and Medicine, Joint Boards of  
Waterworks and Wastewater Works Operators, Board for

## December 8

† Agriculture and Consumer Services, Board of  
Architects, Professional Engineers, Land Surveyors,  
Certified Interior Designers and Landscape Architects,  
Board for  
† Code Commission, Virginia  
Conservation and Recreation, Department of  
- Falls of the James Scenic River Advisory Board  
Criminal Justice Services Board  
Dentistry, Board of  
Information Technologies Agency, Virginia  
- Information Technology Investment Board  
Labor and Industry, Department of  
Public Guardian and Conservator Advisory Board

## December 9

† Code Commission, Virginia  
Dentistry, Board of  
Health, Department of  
Jamestown-Yorktown Foundation

## December 10

Blind and Vision Impaired, Department for the

## December 12

Branch Pilots, Board for  
† Highway Abatement Costs, Joint Subcommittee Studying  
Reduction of  
Long-Term Care Administrators, Board of

## December 13

Accountancy, Board of  
Contractors, Board for  
Medical Assistance Services, Board of  
Nursing, Board of  
† Resources Authority, Virginia

## December 14

Health, Department of  
Retirement System, Virginia  
Treasury Board

## December 15

Design-Build/Construction Management Review Board  
Milk Commission, State  
† Nursing, Board of  
Retirement System, Virginia

## December 16

Health Professions, Board of  
Medicine, Board of  
Old Dominion University  
Virginia's Future, Council on

## December 19

Alcoholic Beverage Control Board

## December 20

Marine Resources Commission

## December 21

Health, Department of

## January 3, 2006

Museum of Fine Arts, Virginia

## January 6

† Dentistry, Board of

## January 10

Long-Term Care Administrators, Board of  
† Resources Authority, Virginia

## January 11

† Education, Board of

## January 17

Health, Department of

## January 18

† Community Colleges, State Board for

## January 19

Community Colleges, State Board for

## January 20

† Protection and Advocacy, Virginia Office for  
- Board for Protection and Advocacy

## January 23

† Education, Board of  
- Advisory Board on Teacher Education and Licensure

† Nursing, Board of

## January 24

† Nursing, Board of

## January 25

† Nursing, Board of

## January 26

† Nursing, Board of

## January 27

Library Board, State

## PUBLIC HEARINGS

### November 3

Rehabilitative Services, Department of

### November 9

† Conservation and Recreation, Department of  
Juvenile Justice, Board of

### November 15

† Water Control Board, State

### November 17

† Environmental Quality, Department of

### November 23

† Water Control Board, State

### December 1

Medicine, Board of  
† Pharmacy, Board of

### December 5

† Water Control Board, State

### December 8

Architects, Professional Engineers, Land Surveyors,  
Certified Interior Designers and Landscape Architects,  
Board for

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# Calendar of Events

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