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CUMULATIVE TABLE OF VIRGINIA ADMINISTRATIVE CODE SECTIONS ADOPTED, AMENDED, OR REPEALED

The table printed below lists regulation sections, by Virginia Administrative Code (VAC) title, that have been amended, added or repealed in the *Virginia Register* since the regulations were originally published or last supplemented in VAC (the Fall 2005 VAC Supplement includes final regulations published through *Virginia Register* Volume 21, Issue 24, dated August 8, 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
Title 4. Conservation and Natural Resources			
4 VAC 3-10-10	Amended	22:5 VA.R. 706	12/14/05
4 VAC 3-10-20	Amended	22:5 VA.R. 707	12/14/05
4 VAC 3-10-30	Amended	22:5 VA.R. 707	12/14/05
4 VAC 3-10-40	Repealed	22:5 VA.R. 709	12/14/05
4 VAC 15-20-210	Added	22:6 VA.R. 888	1/1/06
4 VAC 15-30-40	Amended	22:6 VA.R. 888	12/1/05
4 VAC 15-90-293	Amended	22:6 VA.R. 891	11/1/05
4 VAC 15-380-70	Amended	22:6 VA.R. 891	3/1/06
4 VAC 15-380-71	Added	22:6 VA.R. 892	3/1/06
4 VAC 15-430-60	Amended	22:6 VA.R. 892	3/1/06
4 VAC 15-430-160	Amended	22:6 VA.R. 892	3/1/06
4 VAC 20-70-30	Amended	22:4 VA.R. 575	12/1/05
4 VAC 20-70-70	Amended	22:4 VA.R. 575	12/1/05
4 VAC 20-70-140	Amended	22:4 VA.R. 576	12/1/05
4 VAC 20-80-30	Amended	21:25 VA.R. 3469	7/29/05
4 VAC 20-110-60	Amended	22:4 VA.R. 576	12/1/05
4 VAC 20-150-60	Amended	22:4 VA.R. 576	12/1/05
4 VAC 20-230-30	Amended	22:4 VA.R. 576	12/1/05
4 VAC 20-230-50	Amended	22:4 VA.R. 576	12/1/05
4 VAC 20-252-30 emer	Amended	22:4 VA.R. 627	9/29/05-10/28/05
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 20-270-30	Amended	21:25 VA.R. 3469	7/29/05
4 VAC 20-310-15	Added	22:4 VA.R. 582	10/1/05
4 VAC 20-310-20	Amended	22:4 VA.R. 582	10/1/05
4 VAC 20-310-40	Amended	22:4 VA.R. 583	10/1/05
4 VAC 20-310-50	Amended	22:4 VA.R. 583	10/1/05
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 20-610-40	Amended	22:4 VA.R. 576	12/1/05
4 VAC 20-610-50	Amended	22:4 VA.R. 577	12/1/05
4 VAC 20-650-10 through 4 VAC 20-650-40 emer	Amended	22:4 VA.R. 628	10/1/05-10/30/05
4 VAC 20-650-20	Amended	22:6 VA.R. 893	10/28/05
4 VAC 20-670-20	Amended	22:4 VA.R. 577	12/1/05
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 20-720-20	Amended	22:4 VA.R. 584	10/1/05
4 VAC 20-720-40	Amended	22:4 VA.R. 585	10/1/05
4 VAC 20-720-50	Amended	22:4 VA.R. 586	10/1/05
4 VAC 20-720-60	Amended	22:4 VA.R. 586	10/1/05
4 VAC 20-720-70	Amended	22:4 VA.R. 586	10/1/05
4 VAC 20-720-75	Amended	22:4 VA.R. 587	10/1/05
4 VAC 20-720-80	Amended	22:4 VA.R. 587	10/1/05
4 VAC 20-720-100	Amended	22:4 VA.R. 587	10/1/05

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
4 VAC 20-730-20	Repealed	22:4 VA.R. 577	12/1/05
4 VAC 20-751-20	Amended	22:6 VA.R. 893	11/1/05
4 VAC 20-890-25	Amended	22:4 VA.R. 577	12/1/05
4 VAC 20-900-30	Amended	22:4 VA.R. 578	12/1/05
4 VAC 20-920-30	Amended	22:4 VA.R. 578	12/1/05
4 VAC 20-920-40	Amended	22:4 VA.R. 578	12/1/05
4 VAC 20-950-46 emer	Amended	22:4 VA.R. 628	10/1/05-10/30/05
4 VAC 20-950-46	Amended	22:6 VA.R. 894	11/1/05
4 VAC 20-950-48 emer	Amended	22:4 VA.R. 629	10/1/05-10/30/05
4 VAC 20-950-48	Amended	22:6 VA.R. 894	11/1/05
4 VAC 20-950-48.2 emer	Added	22:4 VA.R. 629	10/1/05-10/30/05
4 VAC 20-950-48.2	Added	22:6 VA.R. 895	11/1/05
4 VAC 20-950-49 emer	Amended	22:4 VA.R. 630	10/1/05-10/30/05
4 VAC 20-950-49	Amended	22:6 VA.R. 895	11/1/05
4 VAC 20-1090-10 through 4 VAC 20-1090-40	Added	22:4 VA.R. 579-582	12/1/05
4 VAC 25-10-90	Added	22:6 VA.R. 896	12/28/05
4 VAC 25-20 (Forms)	Amended	22:5 VA.R. 720	--
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
Title 6. Criminal Justice and Corrections			
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
Title 8. Education			
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 20-21-660	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 40-30	Repealed	22:6 VA.R. 925	11/8/05-11/7/06
8 VAC 40-31-10 through 8 VAC 40-31-320	Added	22:6 VA.R. 925-939	11/8/05-11/7/06
Title 9. Environment			
9 VAC 5-50-400	Amended	22:4 VA.R. 588	12/1/05
9 VAC 5-60-60	Amended	22:4 VA.R. 588	12/1/05
9 VAC 5-60-90	Amended	22:4 VA.R. 588	12/1/05
9 VAC 5-60-100	Amended	22:4 VA.R. 588	12/1/05
9 VAC 10-10-10	Amended	22:5 VA.R. 709	12/14/05
9 VAC 10-10-20	Amended	22:5 VA.R. 710	12/14/05
9 VAC 10-10-30	Amended	22:5 VA.R. 710	12/14/05
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 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
9 VAC 25-110-10	Amended	22:4 VA.R. 595	11/30/05
9 VAC 25-110-20	Amended	22:4 VA.R. 595	11/30/05
9 VAC 25-110-60	Amended	22:4 VA.R. 596	11/30/05
9 VAC 25-110-70	Amended	22:4 VA.R. 596	11/30/05

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
9 VAC 25-110-80	Amended	22:4 VA.R. 597	11/30/05
9 VAC 25-260-30	Amended	22:3 VA.R. 381	*
9 VAC 25-180-10 through 9 VAC 25-180-70	Repealed	22:4 VA.R. 605	11/30/05
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	22:2 VA.R. 236	11/2/05
9 VAC 25-720-50	Amended	22:3 VA.R. 376	11/16/05
9 VAC 25-720-50	Amended	22:6 VA.R. 896	12/28/05
9 VAC 25-720-70	Amended	22:3 VA.R. 378	11/16/05
9 VAC 25-720-80	Amended	22:6 VA.R. 897	12/28/05
9 VAC 25-720-90	Amended	22:2 VA.R. 237	11/2/05
9 VAC 25-720-90	Amended	22:6 VA.R. 899	12/28/05
9 VAC 25-720-110	Amended	22:3 VA.R. 380	11/16/05
9 VAC 25-720-130	Amended	22:2 VA.R. 238	11/2/05
9 VAC 25-720-130	Amended	22:6 VA.R. 900	12/28/05
9 VAC 25-750-10 through 9 VAC 25-750-50	Repealed	22:4 VA.R. 605	11/30/05
9 VAC 25-780-30	Erratum	22:4 VA.R. 660	--
9 VAC 25-780-50	Erratum	22:4 VA.R. 660	--
9 VAC 25-780-90	Erratum	22:4 VA.R. 660	--
9 VAC 25-780-140	Erratum	22:4 VA.R. 660	--
9 VAC 25-780-10 through 9 VAC 25-780-190	Added	22:2 VA.R. 238-246	11/2/05
Title 10. Finance and Financial Institutions			
10 VAC 5-20-50	Added	22:3 VA.R. 383	9/30/05
Title 11. Gaming			
11 VAC 15-22-10 through 11 VAC 15-22-120	Amended	22:6 VA.R. 901-915	12/28/05
11 VAC 15-22-35	Added	22:6 VA.R. 906	12/28/05
11 VAC 15-31-10	Amended	22:6 VA.R. 915	1/1/06
11 VAC 15-31-20	Amended	22:6 VA.R. 917	1/1/06
11 VAC 15-31-30	Amended	22:6 VA.R. 919	1/1/06
11 VAC 15-31-50	Amended	22:6 VA.R. 922	1/1/06
11 VAC 15-31-60	Amended	22:6 VA.R. 922	1/1/06
Title 12. Health			
12 VAC 5-70-10 through 12 VAC 5-70-50 emer	Repealed	22:5 VA.R. 713	3/1/06-2/28/07
12 VAC 5-71-10 through 12 VAC 5-71-170 emer	Added	22:5 VA.R. 713-719	3/1/06-2/28/07
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 5-381-120	Erratum	22:4 VA.R. 659	--
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 30-80-40	Amended	22:3 VA.R. 414	11/16/05
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

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

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
12 VAC 30-141-200 emer	Amended	21:25 VA.R. 3560	8/1/05-7/31/06
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
Title 13. Housing			
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 5-21-61	Erratum	22:5 VA.R. 734	--
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 5-51-51	Erratum	22:5 VA.R. 734	--
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 5-63-120	Erratum	22:5 VA.R. 734	--
13 VAC 5-63-210	Erratum	22:5 VA.R. 734	--
13 VAC 5-63-270	Erratum	22:5 VA.R. 734	--
13 VAC 5-63-300	Erratum	22:5 VA.R. 734	--
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
13 VAC 5-112-10 through 13 VAC 5-112-560 emer	Added	22:4 VA.R. 630-649	9/30/05-9/29/06
Title 14. Insurance			
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

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
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
Title 16. Labor and Employment			
16 VAC 15-21-20	Amended	22:4 VA.R. 606	12/1/05
16 VAC 15-21-30	Amended	22:4 VA.R. 606	12/1/05
Title 18. Professional and Occupational Licensing			
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 47-20-70	Amended	22:6 VA.R. 923	1/1/06
18 VAC 47-20-140 emer	Amended	21:25 VA.R. 3575	8/1/05-7/31/06
18 VAC 47-20-140	Amended	22:6 VA.R. 923	1/1/06
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 60-20-10 emer	Amended	22:1 VA.R. 106	9/1/05-8/31/06
18 VAC 60-20-20 emer	Amended	22:1 VA.R. 107	9/1/05-8/31/06
18 VAC 60-20-71 emer	Amended	22:1 VA.R. 107	9/1/05-8/31/06
18 VAC 60-20-105 emer	Amended	22:1 VA.R. 107	9/1/05-8/31/06
18 VAC 60-20-106 emer	Amended	22:1 VA.R. 108	9/1/05-8/31/06
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 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 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 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	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	22:1 VA.R. 85	10/19/05
18 VAC 85-20-105	Amended	22:1 VA.R. 85	10/19/05
18 VAC 85-40-85 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 85-80-120 through 18 VAC 85-80-125	Added	22:1 VA.R. 92-93	10/19/05
18 VAC 85-80-120 through 18 VAC 85-80-125	Erratum	22:4 VA.R. 659	--
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
18 VAC 105-20-5	Added	22:4 VA.R. 607	11/30/05
18 VAC 105-20-10	Amended	22:4 VA.R. 607	11/30/05
18 VAC 105-20-15	Amended	22:4 VA.R. 607	11/30/05
18 VAC 105-20-16	Added	22:4 VA.R. 608	11/30/05

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
18 VAC 105-20-20	Amended	22:4 VA.R. 608	11/30/05
18 VAC 105-20-70	Amended	22:4 VA.R. 608	11/30/05
18 VAC 105-30-10 through 18 VAC 105-30-120	Repealed	22:4 VA.R. 606	11/30/05
18 VAC 110-20-20	Amended	22:2 VA.R. 246	11/2/05
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 115-20-20	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 150-20-100	Amended	21:26 VA.R. 3701	10/5/05
Title 20. Public Utilities and Telecommunications			
20 VAC 5-400-80	Repealed	22:4 VA.R. 612	11/1/05
20 VAC 5-427-10	Erratum	22:1 VA.R. 114	--
20 VAC 5-427-10 through 20 VAC 5-427-170	Added	22:4 VA.R. 613-625	11/1/05
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	--
Title 22. Social Services			
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 40-71-485	Erratum	22:4 VA.R. 659	--
22 VAC 40-71-630 emer	Amended	22:2 VA.R. 278	12/28/05-12/27/06
22 VAC 40-71-630	Erratum	22:4 VA.R. 660	--
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
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 40-730-10	Amended	22:2 VA.R. 251	11/2/05
22 VAC 40-730-115	Amended	22:2 VA.R. 252	11/2/05

NOTICES OF INTENDED REGULATORY ACTION

Symbol Key

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

TITLE 2. AGRICULTURE

VIRGINIA PESTICIDE CONTROL BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Virginia Pesticide Control Board intends to consider amending regulations entitled **2 VAC 20-20, Rules and Regulations for Enforcement of the Virginia Pesticide Law**, and promulgating regulations entitled **2 VAC 20-25, Rules and Regulations for the Registration of Pesticides and Pesticide Products Under Authority of the Virginia Pesticide Control Act**. The purpose of the proposed action is to promulgate a new regulation that deals solely with all processes and procedures relating to the registration and subsequent sale and use of pesticides and pesticide products in Virginia as well as to review 2 VAC 20-20 for effectiveness and continued need. The agency invites comment on whether there should be an advisor.

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

Statutory Authority: § 3.1-249.30 of the Code of Virginia.

Public comments may be submitted until January 20, 2006.

Contact: Dr. W. Wayne Surles, Program Manager, Virginia Pesticide Control Board, P.O. Box 1163, Richmond, VA 23218, telephone (804) 371-6558, FAX (804) 786-9149 or e-mail wayne.surles@vdacs.virginia.gov.

VA.R. Doc. No. R06-110; Filed November 8, 2005, 3:51 p.m.

TITLE 6. CRIMINAL JUSTICE AND CORRECTIONS

STATE BOARD OF JUVENILE JUSTICE

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Juvenile Justice intends to consider promulgating regulations entitled **6 VAC 35-180, Regulations Governing Mental Health Services Transition Plans for Incarcerated Juveniles**. The purpose of the proposed action is to ensure continuity of necessary treatment and services for juveniles being released from incarceration.

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

Statutory Authority: § 16.1-293.1 of the Code of Virginia.

Public comments may be submitted until December 30, 2005.

Contact: Donald R. Carignan, Regulatory Coordinator, Department of Juvenile Justice, 700 E. Franklin St., P.O. Box 1110, Richmond, VA 23218-1110, telephone (804) 371-0743, FAX (804) 371-0773 or e-mail don.carignan@djj.virginia.gov.

VA.R. Doc. No. R06-104; Filed November 3, 2005, 12:55 p.m.

TITLE 8. EDUCATION

STATE BOARD OF EDUCATION

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Education intends to consider amending regulations entitled **8 VAC 20-160, Regulations Governing Secondary School Transcripts**. The purpose of the proposed action is to provide definitions, format options for transcripts and profile data sheets, and the elements for weighing advanced, accelerated, advanced placement and honors level courses. The proposed revisions remove the 1988-89 effective date provisions, revise the definitions as necessary to comport with those in other Board of Education regulations, and revise the format options for the transcript and profile data sheets to reflect both Board of Education regulations and state and federal law. The sections concerning class rankings, advanced placement courses and the elements of weighing advanced, accelerated, advanced placement, and honors level courses also need to be reviewed to ensure that they comport with best instructional practices, as well as other state requirements.

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

Statutory Authority: §§ 22.1-16 and 22.1-253.13:3 of the Code of Virginia.

Public comments may be submitted until December 29, 2005.

Contact: Dr. Margaret N. Roberts, Office of Policy and Communications, Department of Education, P.O. Box 2120, 101 N. 14th St., 25th Floor, Richmond, VA 23219, telephone (804) 225-2540, FAX (804) 225-2524 or e-mail margaret.roberts@doe.virginia.gov.

VA.R. Doc. No. R06-111; Filed November 9, 2005, 9:50 a.m.

Notices of Intended Regulatory Action

TITLE 9. ENVIRONMENT

STATE AIR POLLUTION CONTROL BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Air Pollution Control Board intends to consider amending regulations entitled **9 VAC 5-50, New and Modified Stationary Sources** and **9 VAC 5-80, Permits for Stationary Sources (Rev. H05)**. The purpose of the proposed action is to simplify the minor new source review program requirements and reduce the complexity of the permit program as well as revise program requirements based on implementation experience. This action replaces Rev. K04 that was withdrawn.

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

Statutory Authority: §§ 10.1-1308 of the Code of Virginia; §§ 110, 112, 165, 173, 182 and Title V of the Clean Air Act; 40 CFR Parts 51, 61, 63, 70 and 72.

Public comments may be submitted until January 5, 2006.

Contact: Gary Graham, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4103, FAX (804) 698-4510 or e-mail gegraham@deq.virginia.gov.

VA.R. Doc. No. R06-106; Filed November 7, 2005, 2:11 p.m.

TITLE 12. HEALTH

STATE BOARD OF HEALTH

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Health intends to consider repealing regulations entitled **12 VAC 5-70, Regulations Governing the Newborn Screening and Treatment Program**, and promulgating regulations entitled **12 VAC 5-71, Regulations for Virginia Newborn Screening Services**. The purpose of the proposed action is repeal the existing newborn screening regulations (12 VAC 5-70) and adopt new regulations for Virginia Newborn Screening Services, 12 VAC 5-71. The new regulation will replace 12 VAC 5-70 and expand the program by which newborn infants are screened for certain conditions, enabling treatment and services to address those conditions.

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

Statutory Authority: §§ 32.1-12 and 32.1-67 (effective March 1, 2006) of the Code of Virginia.

Public comments may be submitted until December 14, 2005.

Contact: Nancy Ford, MHP, R.N., Director, Pediatric Screening and Genetic Services, Division of Child and Adolescent Health, Department of Health, 109 Governor St., 8th Floor, Richmond, VA 23219, telephone (804) 864-7691, FAX (804) 864-7722 or e-mail nancy.ford@vdh.virginia.gov.

VA.R. Doc. No. R06-97; Filed October 26, 2005, 11:20 a.m.

STATE MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Mental Health, Mental Retardation and Substance Abuse Services Board intends to consider amending regulations entitled **12 VAC 35-105, Rules and Regulations for the Licensing of Providers of Mental Health, Mental Retardation and Substance Abuse Services**. The purpose of the proposed action is to add standards for the evaluation of the need and appropriateness for the issuance of new licenses for providers of treatment for persons with opioid addiction.

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

Statutory Authority: § 37.2-203 of the Code of Virginia and Chapter 7 of the 2005 Acts of Assembly.

Public comments may be submitted until December 16, 2005.

Contact: Leslie Anderson, Director, Office of Licensing, Department Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, 1220 Bank St., Richmond, VA 23218, telephone (804) 371-6885, FAX (804) 692-0066 or e-mail landerson@co.dmhmrzasas.virginia.gov.

VA.R. Doc. No. R06-88; Filed October 18, 2005, 2:31 p.m.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD FOR ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS, CERTIFIED INTERIOR DESIGNERS AND LANDSCAPE ARCHITECTS

Notice of Intended Regulatory Action

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 consider amending regulations entitled **18 VAC 10-20, Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects Rules and Regulations**. The purpose of the proposed action is to develop necessary regulations to implement a regulatory

Notices of Intended Regulatory Action

program for photogrammetrists, including standards for determination of topography, as permitted by HB 2863 from the 2005 session of the General Assembly. Other changes that may be necessary may also be considered.

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

Statutory Authority: §§ 54.1-404 and 54.1-411 of the Code of Virginia.

Public comments may be submitted until December 14, 2005.

Contact: Mark 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 or e-mail apelscidla@dpor.virginia.gov.

VA.R. Doc. No. R06-86; Filed October 13, 2005, 2:30 p.m.

AUCTIONEERS BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Auctioneers Board intends to consider amending regulations **18 VAC 25-21, Rules and Regulations of the Virginia Auctioneers Board**. The purpose of the proposed action is to perform a general review of the existing regulations to clarify the basic qualifications for license by examination and license by reciprocity, modify the examination application procedures, and establish and modify standards of practice and standards of conduct to identify requirements that affect the administration of, and compliance with, the board's regulations. The proposed changes will improve clarity that will enhance compliance by the board's licensees and thereby better protect the citizens of the Commonwealth. Other changes that may be necessary may also be considered.

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

Statutory Authority: §§ 54.1-201 and 54.1-602 of the Code of Virginia.

Public comments may be submitted until December 14, 2005.

Contact: Marian H. Brooks, Board Administrator, Auctioneers Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-2475 or e-mail auctioneers@dpor.virginia.gov.

VA.R. Doc. No. R06-87; Filed October 18, 2005, 3:09 p.m.

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Funeral Directors and Embalmers intends to consider amending regulations entitled

18 VAC 65-20, Regulations of the Board of Funeral Directors and Embalmers. The purpose of the proposed action is to adopt recommendations of the periodic review to include clarification of the responsibility of the manager of record, consistency in renewal dates, and other technical changes.

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

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

Public comments may be submitted until December 14, 2005.

Contact: Elizabeth Young, Executive Director, Board of Funeral Directors and Embalmers, 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9907, FAX (804) 662-9943 or e-mail elizabeth.young@dhp.virginia.gov.

VA.R. Doc. No. R06-91; Filed October 25, 2005, 9:39 a.m.

BOARD OF NURSING

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Nursing intends to consider amending regulations entitled **18 VAC 90-20, Regulations Governing the Practice of Nursing**. The purpose of the proposed action is to consider an inactive licensure status with a reduced renewal fee and certain requirements for reactivation.

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

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

Public comments may be submitted until December 14, 2005.

Contact: Jay P. Douglas, R.N., Executive Director, Board of Nursing, 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9909, FAX (804) 662-9512 or e-mail jay.douglas@dhp.virginia.gov.

VA.R. Doc. No. R05-255; Filed October 25, 2005, 9:39 a.m.

TITLE 22. SOCIAL SERVICES

STATE BOARD OF SOCIAL SERVICES

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Social Services intends to consider adopting regulations entitled **22 VAC 40-221, Interstate Compact on the Placement of Children**. The purpose of the proposed action is to promulgate regulations that shall be used as authority for judges, licensed placing agencies and other interested parties when addressing issues

Notices of Intended Regulatory Action

related to children who are placed across state lines for foster care or adoption.

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

Statutory Authority: § 63.2-1105 of the Code of Virginia.

Public comments may be submitted until December 14, 2005.

Contact: RoseMarie Keith, Program Administration Manager III, Department of Social Services, 7 N. 8th St., Richmond, VA 23219, telephone (804) 726-7581, FAX (804) 726-7498 or e-mail rosemarie.keith@dss.virginia.gov.

VA.R. Doc. No. R06-89; Filed October 18, 2005, 1:22 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 12. HEALTH

STATE BOARD OF HEALTH

Notice of Additional Public Comment Period

Title of Regulation: 12 VAC 5-230. State Medical Facilities Plan (amending 12 VAC 5-230-10, 12 VAC 5-230-20 and 12 VAC 5-230-30; adding 12 VAC 5-230-40 through 12 VAC 5-230-710).

The State Board of Health noticed a public comment period on the above-referenced proposed regulation (12 VAC 5-230) in the October 4, 2004, issue of the *Virginia Register of Regulations* (21:2 VA.R. 94-118 October 4, 2004).

The board is announcing an additional comment period beginning December 12, 2005, and ending January 13, 2006, at 5 p.m. Copies of the proposed draft are available from the Center for Quality Health Care Services and Consumer Protection upon request or at the Department of Health's website at <http://www.vdh.virginia.gov/quality>.

Agency Contact: Carrie Eddy, Senior Policy Analyst, Department of Health, Center for Quality Health Care, 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. R03-117; Filed November 15, 2005, 11:12 a.m.



TITLE 16. LABOR AND EMPLOYMENT

VIRGINIA SAFETY AND HEALTH CODES BOARD

Title of Regulation: 16 VAC 25-60. Administrative Regulation for the Virginia Occupational Safety and Health Program (amending 16 VAC 25-60-10, 16 VAC 25-60-30, 16 VAC 25-60-40, 16 VAC 25-60-80, 16 VAC 25-60-90, 16 VAC 25-60-100, 16 VAC 25-60-120, 16 VAC 25-60-130, 16 VAC 25-60-140, 16 VAC 25-60-150, 16 VAC 25-60-190, 16 VAC 25-60-260, 16 VAC 25-60-300, 16 VAC 25-60-320, 16 VAC 25-60-340).

Statutory Authority: §§ 40.1-6 and 40.1-22 of the Code of Virginia.

Public Hearing Date: N/A -- Public comments may be submitted until February 13, 2006.

(See Calendar of Events section for additional information)

Agency Contact: John J. Crisanti, Policy and Planning Manager, Department of Labor and Industry, Powers-Taylor

Building, 13 South Thirteenth Street, Richmond, VA 23219, telephone (804) 786-4300, FAX (804) 786-8418, or e-mail john.crisanti@doli.virginia.gov.

Basis: The Safety and Health Codes Board is authorized by § 40.1-22(5) of the Code of Virginia "to adopt, alter, amend, or repeal rules and regulations to further, protect and promote the safety and health of employees in places of employment over which it has jurisdiction and to effect compliance with the Federal Occupational Safety and Health Act of 1970"...as may be necessary to carry out its functions established under this title.

In making such rules and regulations to protect the occupational safety and health of employees, the Board shall adopt the standard which most adequately assures, to the extent feasible, on the basis of the best available evidence that no employee will suffer material impairment of health or functional capacity.

However, such standards shall be at least as stringent as the standards promulgated by the Federal Occupational Safety and Health Act of 1970 (P.L.91-596). In addition to the attainment of the highest degree of health and safety protection for the employee, other considerations shall be the latest available scientific data in the field, the feasibility of the standards, and experiences gained under this and other health and safety laws."

Purpose: The Administrative Regulations lay out the rules and basic parameters of employer and employee responsibilities and how to redress issues with the VOSH Program in cases of disagreement. The purpose of the amendments is to provide greater specificity and clarity of regulatory intent; to comply with changes to statutory law, address procedural, jurisdictional, or other administrative changes, and respond to judicial decisions that have occurred since the Administrative Regulations were revised.

These amendments are necessary from the standpoint of public health, safety or welfare as they update the regulation to reflect statutory changes and allow for a greater level of occupational safety and health for the workers of the Commonwealth.

Substance: The proposed amendments to 16 VAC 25-60-30, Applicability to Public Employers, clarify that public sector employers and employees are subject to the same potential criminal sanctions as private sector employers and employees under § 40.1-10 of the Code of Virginia for not cooperating with or otherwise obstructing a VOSH inspection or investigation. The proposed amendment will provide the VOSH program with an enforcement tool to compel a political subdivision to allow the department to conduct an enforcement inspection, were the political subdivision to refuse its consent to allow an inspection. In 16 VAC 25-60-120, 16 VAC 25-60-130, 16 VAC 25-60-140 and 16 VAC 25-60-150, the proposed amendment will provide an additional

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enforcement tool for the commissioner to prevent the recurrence of accidents by requiring employers to comply with manufacturer's specifications and limitations during operation and use of machinery, vehicles, tools, materials and equipment, and assuring that such items, when not functioning properly, are removed from service until the condition is corrected. In 16 VAC 25-60-140 the proposed amendment clarifies what constitutes "agricultural operations" in the agricultural industry. In 16 VAC 25-60-260, Issuance of Citation and Proposed Penalty, guidance on how to apply the requirement in § 40.1-49.4 A 3 of the Code of Virginia (calculating the six months time frame) is provided. Lastly, the proposed amendment adds new subsections F and G to 16 VAC 25-60-260 to codify the department's longstanding multi-employer worksite citation policy and multi-employer defense.

Issues: There are no significant advantages or disadvantages to the regulated community, the public or the department as the proposed regulation primarily codifies current and longstanding VOSH policies, interpretations and procedures. With respect to the proposed amendments to 16 VAC 25-60-260, codifying the multi-employer citation policy and defense, there will be an impact only on employers that fall into the category of a "controlling" employer, as the current policy does not apply to them by virtue of the Court of Appeals decision in *C. Ray Davenport v. Summit Contractors* referenced in the briefing package of this proposed regulation. It is estimated that 1.0% or less of the more than 3,000 VOSH inspections conducted on an annual basis concern the application of the multi-employer citation policy to "controlling" employers.

Department of Planning and Budget's Economic Impact Analysis: The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007 H of the Administrative Process Act and Executive Order Number 21 (02). Section 2.2-4007 H requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. The analysis presented below represents DPB's best estimate of these economic impacts.

Summary of the proposed regulation. The Safety and Health Codes Board proposes to amend the Administrative Regulations for the Virginia Occupational Safety and Health Program (VOSH) in several substantive ways:

1. This proposed regulation will allow the Department of Labor and Industry (DOLI) enforcement tools for cases involving public sector workplaces. Specifically, public employers and employees will be subject to the same civil and criminal penalties for obstructing a VOSH investigation as are their private sector counterparts.
2. To reflect changes in Federal Occupational Safety and Health Administration (OSHA) regulations, the distinction in

VOSH between formal and informal complaints is being eliminated.

3. The proposed regulation will allow public access, subject to restrictions enumerated in the Freedom of Information Act (FOIA), to file documents in contested complaint cases once those documents have been subpoenaed or requested during discovery.

4. In response to judicial findings in *C. Ray Davenport, Commissioner of Labor and Industry v. Summit Contractors*, DOLI's longstanding multi-employer worksite policy is being promulgated as a part of the Virginia Administrative Code.

Estimated economic impact. Although both private and public sector worksites are subject to current VOSH regulation, DOLI VOSH inspectors are limited in their ability to compel compliance at worksites in the public sector. DOLI inspectors cannot use the threat of criminal and civil penalties to encourage public sector employers to correct violations of VOSH regulations nor can they obtain a court order compelling public sector employers and employees to cooperate with VOSH complaint investigations.

This regulatory change subjects public sector employers and employees to the same civil and criminal penalties as are private sector employers and employees who obstruct a VOSH complaint investigation or who willfully fail to correct a cited violation of VOSH regulation. DOLI will be able to issue fines to non-compliant public sector employers or employees that will be paid out of their publicly funded budget. These fines will likely focus any affected department's attention on both the need for compliance and the advisability of continuing the employment of individuals who are responsible for creating or continuing violative work conditions. Additionally, DOLI will no longer have to rely strictly on the voluntary cooperation of political entities to investigate complaints involving public worksites. The proposed regulation will allow DOLI to seek administrative search warrants from local court systems that will compel the release of information.

The citizens of the Commonwealth are likely to benefit from this regulatory change both directly and indirectly. Directly, citizens who work for political entities will likely enjoy a safer workplace. Indirectly, citizens who collectively pay for public sector worksites will likely benefit as fewer costly accidents occur on those worksites.

Language in the current VOSH regulation that differentiates between formal complaints and informal complaints is obsolete as DOLI changed complaint policies approximately 8 years ago to reflect policy changes at OSHA. This proposed regulation codifies longstanding DOLI practice with regard to allegations of violative worksite conditions. Because of this, there will likely be no additional economic implications, positive or negative, attached to dropping the obsolete language.

Current regulation specifically states that all case documents except for orders of abatement, issued citations, and proposed penalties are not available for public dissemination until final disposition of the case by either the Commissioner of DOLI or by a court of competent jurisdiction. The board proposes to allow DOLI to release all case documents, subject

to FOIA restrictions, upon written request but only if the documents in question have been previously subpoenaed or have been the subject of a discovery request.

This regulatory change will benefit the families of those killed or incapacitated by accidents that involved VOSH worksite violations because they will no longer have to wait until the final disposition of any open VOSH complaint before getting full information about their family member's death or incapacity. More generally, the public at large will also benefit from being able to get information VOSH violations or accidents caused by VOSH violations.

Currently, VOSH is silent as to how multi-employer worksite violations will be cited; although DOLI policy mirrors OSHA regulation in holding general contractors responsible for dangerous working conditions at worksites over which they have care and control. A general contractor bears responsibility for any unsafe conditions at a construction site he controls even if his subcontractor actually created those unsafe conditions and even if none of the general contractor's own employees are affected by those conditions. This is true so long as the general contractor could have reasonably known of the violative conditions but did nothing to address them. In May 2005, the Virginia Court of Appeals held that DOLI could not enforce its multi-employer worksite policy because it had not been formally promulgated into VOSH. The board proposes to amend VOSH to specifically include regulation of multi-employer worksites and to reflect DOLI's longstanding multi-employer worksite policy.

The proposed regulation simply codifies longstanding DOLI practice with regard to multi-employer worksites so there will likely be no additional economic implications, positive or negative, attached to the formal promulgation of this practice. DOLI does estimate, however, that if they had not already implemented multi-employer worksite policies, general contractors would incur approximately \$47,000 in fines per year (based on current violation trends for multi-employer worksites) because of the codified requirements in the proposed regulation. In addition, if this promulgated change reflected a change in policy, general contractors would likely incur greater insurance costs as they would then be at greater risk for being held liable for the actions of their subcontractors.

Businesses and entities affected. The proposed regulation affects all private worksites in the Commonwealth except for those that are physically located in federal enclaves. All state and local public worksites are also subject to VOSH. DOLI reports that 197,730 businesses with 3,375,318 employees are subject to regulation under VOSH.

Localities particularly affected. The proposed regulation will affect all localities in the Commonwealth.

Projected impact on employment. The proposed regulation will likely have no impact on private employment in the Commonwealth since all substantive changes to VOSH have already been DOLI policy for some time. The regulatory changes that affect public employers and employees will likely have no impact on the number of people employed in the public sector. These changes may, however, have an adverse impact on the continued employment of specific employees

that willfully violate VOSH regulations as their public sector employer will be responsible for paying their fines.

Effects on the use and value of private property. The proposed regulation will likely have no impact on the use or value of private property.

Small businesses: costs and other effects. DOLI reports that 197,730 businesses with 3,375,318 employees are subject to regulation under VOSH; Approximately 95% of these are small businesses. Since the proposed regulation does not change DOLI practice regarding these businesses, there are likely to be no added bookkeeping or implementation costs for which small businesses would be responsible.

Small businesses: alternative method that minimizes adverse impact. The proposed regulation is not likely to have a practical impact on small businesses.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The agency concurs with the EIA in general, but wishes to express the following clarification. It is the agency's position that any penalties or fines to be assessed against a public employer would be assessed by the courts and not by the Department of Labor and Industry.

Summary:

This proposed amendments (i) clarify definitions and other procedural actions listed in the regulation; (ii) add statutory references applicable to public sector employers and employees and correct omissions in listing of documents covered under notification and posting requirements; (iii) clarify the disclosability of file documents in contested cases prior to the issuance of a final order; (iv) clarify the eligibility of a person to file a complaint and modify requirements for classifying and responding to complaints to correspond with the parallel procedures of federal OSHA; (v) require employers to comply with manufacturer's specifications, requirements and limitations on all machinery, equipment, vehicles, materials and tools where not superseded by specific and more stringent VOSH regulations; (vi) clarify what constitutes "agricultural operations" in the agricultural industry; (vii) clarify application of the statutory requirement to issue citations within six months of the occurrence of any alleged violation; (viii) codify in regulation the multi-employer worksite citation policy and multi-employer defense; and (ix) remove the direct involvement of the Commissioner of Labor and Industry in the determination of extension of abatement times.

16 VAC 25-60-10. Definitions.

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

"Abatement period" means the period of time ~~permitted~~ defined or set out in the citation for correction of a violation.

"Board" means the Safety and Health Codes Board.

"Bureau of Labor Statistics" means the Bureau of Labor Statistics of the United States Department of Labor.

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"Citation" means the notice to an employer that the commissioner has found a condition or conditions that violate Title 40.1 of the Code of Virginia or the standards, rules or regulations established by the commissioner or the board.

~~"Board" means the Safety and Health Codes Board.~~

"Commissioner" means the Commissioner of Labor and Industry. Except where the context clearly indicates the contrary, any *such* reference to the commissioner shall include his authorized representatives.

"Commissioner of Labor and Industry" means only the *individual who is* Commissioner of Labor and Industry.

"Department" means the Virginia Department of Labor and Industry.

"De minimis violation" means a violation which has no direct or immediate relationship to safety and health.

"Employee" means an employee of an employer who is employed in a business of his employer.

"Employee representative" means a person specified by employees to serve as their representative.

"Employer" means any person or entity engaged in business who has employees but does not include the United States.

"Establishment" means, for the purpose of record keeping requirements, a single physical location where business is conducted or where services or industrial operations are performed, e.g., factory, mill, store, hotel, restaurant, movie theater, farm, ranch, bank, sales office, warehouse, or central administrative office. Where distinctly separate activities are performed at a single physical location, such as contract activities operated from the same physical location as a lumberyard; each activity is a separate establishment. In the public sector, an establishment is either (i) a single physical location where a specific governmental function is performed; or (ii) that location which is the lowest level where attendance or payroll records are kept for a group of employees who are in the same specific organizational unit, even though the activities are carried on at more than a single physical location.

"Failure to abate" means that the employer has failed to correct a cited violation within the period permitted for its correction.

"FOIA" means the Freedom of Information Act.

"Imminent danger condition" means any condition or practice in any place of employment such that a danger exists which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such danger can be eliminated through standard enforcement procedures provided by Title 40.1 of the Code of Virginia.

"OSHA" means the Occupational Safety and Health Administration of the United States Department of Labor.

"Other violation" means a violation which is not, by itself, a serious violation within the meaning of the law but which has a direct or immediate relationship to occupational safety or health.

~~"Person" means one or more individuals, partnerships, associations, corporations, business trusts, legal representatives, or any organized group of persons 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.~~

"Public employer" means the Commonwealth of Virginia, including its agencies, *authorities*, or *instrumentalities* or any political subdivision or public body.

"Public employee" means any employee of a public employer. Volunteer members of volunteer fire departments, pursuant to § 27-42 of the Code of Virginia, members of volunteer rescue squads who serve without pay, and other volunteers pursuant to the Virginia State Government Volunteers Act are not public employees. Prisoners confined in jails controlled by any political subdivision of the Commonwealth and prisoners in institutions controlled by the Department of Corrections are not public employees unless employed by a public employer in a work-release program pursuant to § 53.1-60 or § 53.1-131 of the Code of Virginia.

"Recordable occupational injury and illness" means (i) a fatality, regardless of the time between the injury and death or the length of illness; (ii) a nonfatal case that results in lost work days; or (iii) a nonfatal case without lost work days which results in transfer to another job or termination of employment, which requires medical treatment other than first aid, or involves loss of consciousness or restriction of work or motion. This category also includes any diagnosed occupational illness which is reported to the employer but is not otherwise classified as a fatality or lost work day case.

"Repeated violation" means a violation deemed to exist in a place of employment that is substantially similar to a previous violation of a law, standard or regulation that was the subject of a prior final order against the same employer. A repeated violation results from an inadvertent or accidental act, since a violation otherwise repeated would be willful.

"Serious violation" means a violation deemed to exist in a place of employment if there is a substantial probability that death or serious physical harm could result from a condition which exists, or from one or more practices, means, methods, operations, or processes which have been adopted or are in use, in such place of employment, unless the employer did not, and could not with the exercise of reasonable diligence, know of the presence of the violation. The term "substantial probability" does not refer to the likelihood that illness or injury will result from the violative condition but to the likelihood that, if illness or injury does occur, death or serious physical harm will be the result.

"Standard" means an occupational safety and health standard which requires conditions, or the adoption or use of one or more practices, means, methods, operations, or processes, reasonably necessary or appropriate to provide safe or healthful employment and places of employment.

"VOSH" means Virginia Occupational Safety and Health.

"Willful violation" means a violation deemed to exist in a place of employment where (i) the employer committed an intentional and knowing, as contrasted with inadvertent, violation and the employer was conscious that what he was doing constituted a violation; or (ii) the employer, even though not consciously committing a violation, was aware that a hazardous condition existed and made no reasonable effort to eliminate the condition.

"Working days" means Monday through Friday, excluding legal holidays, Saturday, and Sunday.

16 VAC 25-60-30. Applicability to public employers.

A. All occupational safety and health standards adopted by the board shall apply to public employers and their employees in the same manner as to private employers.

B. All sections of this chapter shall apply to public employers and their employees. Where specific procedures are set out for the public sector, such procedures shall take precedence.

C. The following portions of Title 40.1 of the Code of Virginia shall apply to public employers: §§ 40.1-10, 40.1-49.4.A(1), 40.1-49.8, 40.1-51, 40.1-51.1, 40.1-51.2, 40.1-51.2:1, 40.1-51.3, 40.1-51.3:2, and 40.1-51.4:2.

D. Section 40.1-51.2:2 A of the Code of Virginia shall apply to public employers except that the commissioner shall not bring action in circuit court in the event that a voluntary agreement cannot be obtained.

E. Sections 40.1-49.4 F, 40.1-49.9, 40.1-49.10, 40.1-49.11, 40.1-49.12, and 40.1-51.2:2 of the Code of Virginia shall apply to public employers other than the Commonwealth and its agencies.

F. If the commissioner determines that an imminent danger situation, as defined in § 40.1-49.4 F of the Code of Virginia, exists for an employee of the Commonwealth or one of its agencies, and if the employer does not abate that imminent danger immediately upon request, the Commissioner of Labor and Industry shall forthwith petition the governor to direct that the imminent danger be abated.

G. If the commissioner is unable to obtain a voluntary agreement to resolve a violation of § 40.1-51.2:1 of the Code of Virginia by the Commonwealth or one of its agencies, the Commissioner of Labor and Industry shall petition for redress in the manner provided in this chapter.

16 VAC 25-60-40. Notification and posting requirements.

Every employer shall post and keep posted any notice or notices, as required by the commissioner, including the Job Safety and Health Protection Poster which shall be available from the department. Such notices shall inform employees of their rights and obligations under the safety and health provisions of Title 40.1 of the Code of Virginia and this chapter. Violations of notification or posting requirements are subject to citation and penalty.

1. Such notice or notices, including all citations, *notices of contest*, petitions for variances or extensions of abatement periods, orders, and other documents of which employees are required to be informed by the employer under statute

or by this chapter, shall be delivered by the employer to any authorized employee representative, and shall be posted at a conspicuous place where notices to employees are routinely posted and shall be kept in good repair and in unobstructed view. The document must remain posted for 10 working days unless a different period is prescribed elsewhere in Title 40.1 of the Code of Virginia or this chapter.

2. A citation issued to an employer, or a copy of it, shall remain posted in a conspicuous place and in unobstructed view at or near each place of alleged violation for three working days or until the violation has been abated, whichever is longer.

3. A copy of any written notice of contest shall remain posted until all proceedings concerning the contest have been completed.

4. Upon receipt of a subpoena, the employer shall use the methods set forth in this section to further notify his employees and any authorized employee representative of their rights to party status. This written notification shall include both the date, time and place set for court hearing, and any subsequent changes to hearing arrangements. The notification shall remain posted until commencement of the hearing or until an earlier disposition.

16 VAC 25-60-80. Access to employee medical and exposure records.

A. An employee and his authorized representative shall have access to his exposure and medical records required to be maintained by the employer.

B. When required by a standard, a health care professional under contract to the employer or employed by the employer shall have access to the exposure and medical records of an employee only to the extent necessary to comply with the requirements of the standard and shall not disclose or report without the employee's express written consent to any person within or outside the workplace except as required by the standard.

C. Under certain circumstances it may be necessary for the commissioner to obtain access to employee exposure and medical records to carry out statutory and regulatory functions. However, due to the substantial personal privacy interests involved, the commissioner shall seek to gain access to such records only after a careful determination of the need for such information and only with appropriate safeguards described at 29 CFR 1913.10(i) in order to protect individual privacy. In the event that the employer requests the commissioner to wait 24 hours for the presence of medical personnel to review the records, the commissioner will do so on presentation of an affidavit that the employer has not and will not modify or change any of the records. The commissioner's examination and use of this information shall not exceed that which is necessary to accomplish the purpose for access. Personally identifiable medical information shall be retained only for so long as is needed to carry out the function for which it was sought. Personally identifiable information shall be kept secure while it is being used and shall not be released to other agencies or to the public except under

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certain narrowly defined circumstances outlined at 29 CFR 1913.10(m).

D. In order to implement the policies described in subsection C of this section, the rules and procedures of 29 CFR Part 1913.10, Rules of Agency Practice and Procedure Concerning Access to Employee and Medical Records, are hereby expressly incorporated by reference. When these rules and procedures are applied to the commissioner the following federal terms should be considered to read as below:

FEDERAL TERM	VOSH EQUIVALENT
AGENCY	VIRGINIA DEPARTMENT OF LABOR AND INDUSTRY
OSHA	VOSH
ASSISTANT SECRETARY	COMMISSIONER
OFFICE OF THE SOLICITOR OF LABOR	OFFICE OF THE ATTORNEY GENERAL
DEPARTMENT OF JUSTICE	Office of the Attorney General
PRIVACY ACT	§§ 2-1-377 through 2-1-386 2.2-3800 to 2.2-3809 OF THE CODE OF VIRGINIA

16 VAC 25-60-90. Release of information and disclosure pursuant to requests under the Virginia Freedom of Information Act and subpoenas.

A. Pursuant to the Virginia Freedom of Information Act (FOIA) and with the exceptions stated in subsections B through H of this section, employers, employees and their representatives shall have access to information gathered in the course of an inspection.

B. Interview statements of employers, owners, operators, agents, or employees given to the commissioner in confidence pursuant to § 40.1-49.8 of the Code of Virginia shall not be disclosed for any purpose, except to the individual giving the statement.

C. All file documents contained in case files which are under investigation, and where a citation has not been issued, are not disclosable until:

1. The decision has been made not to issue citations; or
2. Six months has lapsed following the occurrence of an alleged violation.

D. Issued citations, orders of abatement and proposed penalties are public documents and are releasable upon a written request. All other file documents in cases where a citation has been issued are not disclosable until the case is a final order of the commissioner or the court, *except that once a copy of file documents in a contested case has been provided to legal counsel for the employer in response to a request for discovery, or to a third party in response to a subpoena duces tecum, such documents shall be releasable upon a written request, subject to the exclusions in this regulation and the Virginia Freedom of Information Act.*

E. Information required to be kept confidential by law shall not be disclosed by the commissioner or by any employee of the

department. In particular, the following specific information is deemed to be nondisclosable:

1. The identity of and statements of an employee or employee representative who has complained of hazardous conditions to the commissioner;
2. The identities of employers, owners, operators, agents or employees interviewed during inspections and their interview statements;
3. Employee medical and personnel records obtained during VOSH inspections. Such records may be released to the employee or his duly authorized representative upon a written, and endorsed request; and
4. Employer trade secrets, commercial, and financial data.

F. The commissioner may decline to disclose a document that is excluded from the disclosure requirements of the Virginia FOIA, particularly documents and evidence related to criminal investigations, writings protected by the attorney-client privilege, documents compiled for use in litigation and personnel records.

G. An effective program of investigation and conciliation of complaints of discrimination requires confidentiality. Accordingly, disclosure of records of such complaints, investigations, and conciliations will be presumed to not serve the purposes of Title 40.1 of the Code of Virginia, except for statistical and other general information that does not reveal the identities of particular employers or employees.

H. All information gathered through participation in consultation services or training programs of the department shall be withheld from disclosure except for statistical data which does not identify individual employers.

I. The commissioner, in response to a subpoena, order, or other demand of a court or other authority in connection with a proceeding to which the department is not a party, shall not disclose any information or produce any material acquired as part of the performance of his official duties or because of his official status without the approval of the Commissioner of Labor and Industry.

J. The commissioner shall disclose information and statistics gathered pursuant to the enforcement of Virginia's occupational safety and health laws, standards, and regulations where it has been determined that such a disclosure will serve to promote the safety, health, and welfare of employees. Any person requesting disclosure of such information and statistics should include in his written request any information that will aid the commissioner in this determination.

16 VAC 25-60-100. Complaints.

A. ~~Any~~ An employee or other person who believes that a safety or health hazard exists in a workplace may request an inspection by giving notice to the commissioner. ~~Written complaints signed by an employee or an authorized representative will be treated as formal complaints. Complaints by persons other than employees and authorized representatives and unsigned complaints by employees or authorized representatives shall be treated as nonformal~~

~~complaints. Nonformal complaints will generally be handled by letter and formal complaints will generally result in an inspection.~~

B. For purposes of this section and § 40.1-51.2(b) of the Code of Virginia, the representative(s) that will be recognized as authorized ~~by to act for employees for such action shall can~~ be:

1. A representative of the employee bargaining unit;
2. Any member of the employee's immediate family acting on behalf of the employee; or
3. A lawyer or physician retained by the employee.

C. A written complaint may be preceded by an oral complaint at which time the commissioner will either give instructions for filing the written complaint or provide forms for that purpose. Section 40.1-51.2(b) of the Code of Virginia stipulates that the written complaint follow an oral complaint by no more than two working days. However, if an oral complaint gives the commissioner reasonable grounds to believe that a serious condition or imminent danger situation exists, the commissioner may cause an inspection to be conducted as soon as possible without waiting for a written complaint.

D. A complaint should allege that a violation of safety and health laws, standards, rules, or regulations has taken place. The violation or hazard should be described with reasonable particularity.

E. A complaint will be ~~classified as formal or nonformal and be~~ evaluated to determine whether there are reasonable grounds to believe that the violation or hazard complained of exists.

1. If the commissioner determines that there are no reasonable grounds for believing that the violation or hazard exists, the employer and the complainant shall be informed in writing of the reasons for this determination.

2. An employee or authorized representative may obtain review of the commissioner's determination that no reasonable grounds for believing that the violation or hazard exists by submitting a written statement of his position with regard to the issue. Upon receipt of such written statement a further review of the matter will be made which may include a requested written statement of position from the employer, further discussions with the complainant or an informal conference with complainant or employer if requested by either party. After review of the matter, the commissioner shall affirm, modify or reverse the original determination and furnish the complainant and the employer written notification of his decision.

~~F. If the commissioner determines that the complaint is formal and offers reasonable grounds to believe that a hazard or violation exists, then an inspection will be conducted as soon as possible. Valid nonformal complaints may be resolved by letter or may result in an inspection if the commissioner determines that such complaint establishes probable cause to conduct an inspection. The commissioner's response to a complaint will either be in the form of an onsite inspection or an investigation that does not involve onsite response by the commissioner.~~

1. Onsite inspections will normally be conducted in response to complaints alleging the following:

- a. The complaint was reduced to writing, is signed by a current employee or employee representative, and states the reason for the inspection request with reasonable particularity. In addition, there are reasonable grounds to believe that a violation of a safety or health standard has occurred;
- b. Imminent danger hazard;
- c. Serious hazard, which in the discretion of the commissioner requires an onsite inspection;
- d. Permanently disabling injury or illness related to a hazard potentially still in existence;
- e. The establishment has a significant history of noncompliance with VOSH laws and standards;
- f. The complaint identifies an establishment or an alleged hazard covered by a local or national emphasis inspection program;
- g. A request from a VOSH/OSHA discrimination investigator to conduct an inspection in response to a complaint initially filed with the investigator; or
- h. The employer fails to provide an adequate response to a VOSH investigation contact, or the complainant provides evidence that the employer's response is false, incorrect, incomplete or does not adequately address the hazard.

2. A complaint investigation, which does not involve onsite activity, shall normally be conducted for all complaints that do not meet the criteria listed in subdivision 1 of this subsection.

3. The commissioner reserves the right, for good cause shown, to initiate an inspection with regard to certain complaints that do not meet the criteria listed in subdivision 1 of this subsection; as well as to decline to conduct an inspection and instead conduct an investigation, for good cause shown, when certain complaints are found to otherwise meet the criteria listed in subdivision 1 of this subsection.

G. If there are several complaints to be investigated, the commissioner may prioritize them by considering such factors as the gravity of the danger alleged and the number of exposed employees.

H. At the beginning of the inspection the employer shall be provided with a copy of the written complaint. The complainant's name shall be deleted and any other information which would identify the complainant shall be reworded or deleted so as to protect the complainant's identity.

I. An inspection pursuant to a complaint may cover the entire operation of the employer, particularly if it appears to the commissioner that a full inspection is warranted. However, if there has been a recent inspection of the worksite or if there is reason to believe that the alleged violation or hazard concerns

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only a limited area or aspect of the employer's operation, the inspection may be limited accordingly.

J. After an inspection based on a complaint, the commissioner shall inform the complainant in writing whether a citation has been issued and briefly set forth the reasons if not. The commissioner shall provide the complainant with a copy of any resulting citation issued to the employer.

16 VAC 25-60-120. General industry standards.

The occupational safety or health standards adopted as rules or regulations by the board either directly or by reference, from 29 CFR Part 1910 shall apply by their own terms to all employers and employees at places of employment covered by the Virginia State Plan for Occupational Safety and Health.

The employer shall comply with the manufacturer's specifications and limitations applicable to the operation, training, use, installation, inspection, testing, repair and maintenance of all machinery, vehicles, tools, materials and equipment, unless specifically superseded by a more stringent corresponding requirement in 29 CFR Part 1910. The use of any machinery, vehicle, tool, material or equipment that is not in compliance with any applicable requirement of the manufacturer is prohibited, and shall either be identified by the employer as unsafe by tagging or locking the controls to render them inoperable or be physically removed from its place of use or operation.

16 VAC 25-60-130. Construction industry standards.

The occupational safety or health standards adopted as rules or regulations by the Virginia Safety and Health Codes Board either directly, or by reference, from 29 CFR Part 1926 shall apply by their own terms to all employers and employees engaged in either construction work or construction related activities covered by the Virginia State Plan for Occupational Safety and Health.

The employer shall comply with the manufacturer's specifications and limitations applicable to the operation, training, use, installation, inspection, testing, repair and maintenance of all machinery, vehicles, tools, materials and equipment, unless specifically superseded by a more stringent corresponding requirement in 29 CFR Part 1926. The use of any machinery, vehicle, tool, material or equipment that is not in compliance with any applicable requirement of the manufacturer is prohibited, and shall either be identified by the employer as unsafe by tagging or locking the controls to render them inoperable or be physically removed from its place of use or operation.

1. For the purposes of the applicability of such Part 1926 standards, the key criteria utilized to make such a decision shall be the activities taking place at the worksite, not the primary business of the employer. Construction work shall generally include any building, altering, repairing, improving, demolishing, painting or decorating any structure, building, highway, or roadway; and any draining, dredging, excavation, grading or similar work upon real property. Construction also generally includes work performed in traditional construction trades such as carpentry, roofing, masonry work, plumbing, trenching and excavating, ~~tunnelling~~ tunneling, and electrical work. Construction does

not include maintenance, alteration or repair of mechanical devices, machinery, or equipment, even when the mechanical device, machinery or equipment is part of a pre-existing structure.

2. Certain standards of 29 CFR Part 1910 have been determined by federal OSHA to be applicable to construction and have been adopted for this application by the board.

3. The standards adopted from 29 CFR Part 1910.19 and 29 CFR Part 1910.20 containing respectively, special provisions regarding air contaminants and requirements concerning access to employee exposure and medical records shall apply to construction work as well as general industry.

16 VAC 25-60-140. Agriculture standards.

The occupational safety or health standards adopted as rules or regulations by the board either directly, or by reference, from 29 CFR Part 1910 and 29 CFR Part 1928 shall apply by their own terms to all employers and employees engaged in either agriculture or agriculture related activities covered by the Virginia State Plan for Occupational Safety and Health.

For the purposes of applicability of such Part 1910 and Part 1928 standards, the key criteria utilized to make a decision shall be the activities taking place at the worksite, not the primary business of the employer. Agricultural operations shall generally include any operation involved in the growing or harvesting of crops or the raising of livestock or poultry, or activities integrally related to agriculture, conducted by a farmer or agricultural employer on sites such as farms, ranches, orchards, dairy farms or similar establishments. Agricultural operations do not include construction work as described in subdivision 1 of 16 VAC 25-60-130, nor does it include operations or activities substantially similar to those that occur in a general industry setting and are therefore not unique and integrally related to agriculture.

The employer shall comply with the manufacturer's specifications and limitations applicable to the operation, training, use, installation, inspection, testing, repair and maintenance of all machinery, vehicles, tools, materials and equipment, unless specifically superseded by a more stringent corresponding requirement in 29 CFR Part 1910 or 29 CFR Part 1928. The use of any machinery, vehicle, tool, material or equipment that is not in compliance with any applicable requirement of the manufacturer is prohibited, and shall either be identified by the employer as unsafe by tagging or locking the controls to render them inoperable or be physically removed from its place of use or operation.

16 VAC 25-60-150. Maritime standards.

The occupational safety or health standards adopted as rules or regulations by the board either directly, or by reference, from 29 CFR Part 1915 and, 29 CFR Part 1917, 29 CFR Part 1918 and 29 CFR Part 1919 shall apply by their own terms to all public sector employers and employees engaged in maritime related activities covered by the Virginia State Plan for Occupational Safety and Health.

The employer shall comply with the manufacturer's specifications and limitations applicable to the operation, training, use, installation, inspection, testing, repair and maintenance of all machinery, vehicles, tools, materials and equipment, unless specifically superseded by a more stringent corresponding requirement in Part 1915, 1917, 1918 or 1919. The use of any machinery, vehicle, tool, material or equipment that is not in compliance with any applicable requirement of the manufacturer is prohibited, and shall either be identified by the employer as unsafe by tagging or locking the controls to render them inoperable or be physically removed from its place of use or operation.

16 VAC 25-60-190. General provisions.

A. Any employer or group of employers desiring a permanent or temporary variance from a standard or regulation pertaining to occupational safety and health may file with the commissioner a written application which shall be subject to the following policies:

1. A request for a variance shall not preclude or stay a citation or bill of complaint for violation of a safety or health standard;
2. No variances on record keeping requirements required by the U.S. Department of Labor shall be granted by the commissioner;
3. An employer, or group of employers, who has applied for a variance from the U.S. Department of Labor, and whose application has been denied on its merits, shall not be granted a variance by the commissioner unless there is a showing of changed circumstances significantly affecting the basis upon which the variance was originally denied;
4. An employer to whom the U.S. Secretary of Labor has granted a variance under OSHA provisions shall document this variance to the commissioner. In such cases, unless compelling local circumstances dictate otherwise, the variance shall be honored by the commissioner without the necessity of following the formal requirements which would otherwise be applicable. In addition, the commissioner will not withdraw a citation for violation of a standard for which the Secretary of Labor has granted a variance unless the commissioner previously received notice of and decided to honor the variance; and
5. Incomplete applications will be returned within 30 days to the applicant with a statement indicating the reason or reasons that the application was found to be incomplete.

B. In addition to the information specified in 16 VAC 25-60-200 A and 16 VAC 25-60-210 A, every variance application shall contain the following:

1. A statement that the applicant has informed affected employees of the application by delivering a copy of the application to their authorized representative, if there is one, as well as having posted, in accordance with 16 VAC 25-60-40, a summary of the application which indicates where a full copy of the application may be examined;
2. A statement indicating that the applicant has posted, with the summary of the application described above, the following notice: "Affected employees or their

representatives have the right to petition the Commissioner of Labor and Industry for an opportunity to present their views, data, or arguments on the requested variance, or they may submit their comments to the commissioner in writing. Petitions for a hearing or written comments should be addressed to the Commissioner of Labor and Industry, Powers-Taylor Building, 13 South Thirteenth Street, Richmond, VA 23219-4101. Such petitions will be accepted if they are received within 30 days from the posting of this notice or within 30 days from the date of publication of the commissioner's notice that public comments concerning this matter will be accepted, whichever is later."

3. A statement indicating whether an application for a variance from the same standard or rule has been made to any federal agency or to an agency of another state. If such an application has been made, the name and address of each agency contacted shall be included.

C. Upon receipt of a complete application for a variance, the commissioner shall publish a notice of the request in a newspaper of statewide circulation within 30 days after receipt, advising that public comments will be accepted for 30 days and that an informal hearing may be requested in conformance with subsection D of this section. Further, the commissioner may initiate an inspection of the establishment in regard to the variance request.

D. If within 30 days of the publication of notice the commissioner receives a request to be heard on the variance from the employer, affected employees, the employee representative, or other employers affected by the same standard or regulation, the commissioner will schedule a hearing with the party or parties wishing to be heard and the employer requesting the variance. The commissioner may also schedule a hearing upon his own motion. The hearing will be held within a reasonable time and will be conducted informally in accordance with §§ 2.2-4019 and 2.2-4021 of the Code of Virginia unless the commissioner finds that there is a substantial reason to proceed under the formal provisions of § 2.2-4020 of the Code of Virginia.

E. If the commissioner has not been petitioned for a hearing on the variance application, a decision on the application may be made promptly after the close of the period for public comments. This decision will be based upon the information contained in the application, the report of any variance inspection made concerning the application, any other pertinent staff reports, federal OSHA comments or public records, and any written data and views submitted by employees, employee representatives, other employers, or the public.

F. The commissioner will grant a variance request only if it is found that the employer has met by a preponderance of the evidence, the requirements of either 16 VAC 25-60-200 B 4 or 16 VAC 25-60-210 B 4.

1. The commissioner shall advise the employer in writing of the decision and shall send a copy to the employee representative if applicable. If the variance is granted, a notice of the decision will be published in a newspaper of statewide circulation.

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2. The employer shall post a copy of the commissioner's decision in accordance with 16 VAC 25-60-40.

G. Any party may within 15 days of the commissioner's decision file a notice of appeal to the board. Such appeal shall be in writing, addressed to the board, and include a statement of how other affected parties have been notified of the appeal. Upon notice of a proper appeal, the commissioner shall advise the board of the appeal and arrange a date for the board to consider the appeal. The commissioner shall advise the employer and employee representative of the time and place that the board will consider the appeal. Any party that submitted written or oral views or participated in the hearing concerning the original application for the variance shall be invited to attend the appeal hearing. If there is no employee representative, a copy of the commissioner's letter to the employer shall be posted by the employer in accordance with the requirements of 16 VAC 25-60-40.

H. The board shall sustain, reverse, or modify the commissioner's decision based upon consideration of the evidence in the record upon which the commissioner's decision was made and the views and arguments presented as provided above. The burden shall be on the party filing the appeal to designate and demonstrate any error by the commissioner which would justify reversal or modification of the decision. The issues to be considered by the board shall be those issues that could be considered by a court reviewing agency action in accordance with § 2.2-4027 of the Code of Virginia. All parties involved shall be advised of the board's decision within 10 working days after the hearing of the appeal.

16 VAC 25-60-260. Issuance of citation and proposed penalty.

A. Each citation shall be in writing and describe with particularity the nature of the violation or violations, including a reference to the appropriate safety or health provision of Title 40.1 of the Code of Virginia or the appropriate rule, regulation, or standard. In addition, the citation must fix a reasonable time for abatement of the violation. The citation will contain substantially the following: "NOTICE: This citation will become a final order of the commissioner unless contested within fifteen working days from the date of receipt by the employer." The citation may be delivered to the employer or his agent by the commissioner or may be sent by certified mail or by personal service to an officer or agent of the employer or to the registered agent if the employer is a corporation.

1. No citation may be issued after the expiration of six months following the occurrence of any alleged violation. The six-month time frame is deemed to be tolled on the date the citation is issued by the commissioner, without regard for when the citation is received by the employer. For purposes of calculating the six-month time frame for citation issuance, the following requirements shall apply:

a. The six-month time frame begins to run on the day after the incident or event occurred or notice was received by the commissioner (as specified below), in accordance with § 1-210 A of the Code of Virginia. The word "month" shall be construed to mean one calendar month in accordance with § 1-223 of the Code of Virginia.

b. An alleged violation is deemed to have "occurred" on the day it was initially created by commission or omission on the part of the creating employer, and every day thereafter that it remains in existence uncorrected.

c. Notwithstanding subdivision 1 b of this subsection, if an employer fails to notify the commissioner of any work-related incident resulting in a fatality or in the in-patient hospitalization of three or more persons within eight hours of such occurrence as required by § 40.1-51.1 D of the Code of Virginia, the six-month time frame shall not be deemed to commence until the commissioner receives actual notice of the incident.

d. Notwithstanding subdivision 1 b of this subsection, if the commissioner is first notified of a work-related incident resulting in an injury or illness to an employee(s) through receipt of an Employer's Accident Report (EAR) form from the Virginia Workers' Compensation Commission as provided in § 65.2-900 of the Code of Virginia, the six-month time frame shall not be deemed to commence until the commissioner actually receives the EAR form.

e. Notwithstanding subdivision 1 b of this subsection, if the commissioner is first notified of a work-related hazard, or incident resulting in an injury or illness to an employee(s), through receipt of a complaint in accordance with 16 VAC 25-60-100 or referral, the six-month time frame shall not be deemed to commence until the commissioner actually receives the complaint or referral.

B. A citation issued under subsection A to an employer who violates any VOSH law, standard, rule or regulation shall be vacated if such employer demonstrates that:

1. Employees of such employer have been provided with the proper training and equipment to prevent such a violation;
2. Work rules designed to prevent such a violation have been established and adequately communicated to employees by such employer and have been effectively enforced when such a violation has been discovered;
3. The failure of employees to observe work rules led to the violation; and
4. Reasonable steps have been taken by such employer to discover any such violation.

C. For the purposes of subsection B only, the term "employee" shall not include any officer, management official or supervisor having direction, management control or custody of any place of employment which was the subject of the violative condition cited.

D. The penalties as set forth in § 40.1-49.4 of the Code of Virginia shall also apply to violations relating to the requirements for record keeping, reports or other documents filed or required to be maintained and to posting requirements.

E. In determining the amount of the proposed penalty for a violation the commissioner will ordinarily be guided by the system of penalty adjustment set forth in the VOSH Field Operations Manual. In any event the commissioner shall

consider the gravity of the violation, the size of the business, the good faith of the employer, and the employer's history of previous violations.

F. On multi-employer worksites for all covered industries, citations shall normally be issued to an employer whose employee is exposed to an occupational hazard (the exposing employer). Additionally, the following employers shall normally be cited, whether or not their own employees are exposed:

- 1. The employer who actually creates the hazard (the creating employer);*
- 2. The employer who is either:*
 - a. Responsible, by contract or through actual practice, for safety and health conditions on the entire worksite, and has the authority for ensuring that the hazardous condition is corrected (the controlling employer); or*
 - b. Responsible, by contract or through actual practice, for safety and health conditions for a specific area of the worksite, or specific work practice, or specific phase of a construction project, and has the authority for ensuring that the hazardous condition is corrected (the controlling employer); or*
- 3. The employer who has the responsibility for actually correcting the hazard (the correcting employer).*

G. A citation issued under subsection F of this section to an exposing employer who violates any VOSH law, standard, rule or regulation shall be vacated if such employer demonstrates that:

- 1. The employer did not create the hazard;*
- 2. The employer did not have the responsibility or the authority to have the hazard corrected;*
- 3. The employer did not have the ability to correct or remove the hazard;*
- 4. The employer can demonstrate that the creating, the controlling and/or the correcting employers, as appropriate, have been specifically notified of the hazards to which his employees were exposed;*
- 5. The employer has instructed his employees to recognize the hazard and, where necessary, informed them how to avoid the dangers associated with it;*
- 6. Where feasible, an exposing employer must have taken appropriate alternative means of protecting employees from the hazard; or*
- 7. When extreme circumstances justify it, the exposing employer shall have removed his employees from the job.*

16 VAC 25-60-300. Contest proceedings applicable to the Commonwealth.

A. Where the informal conference has failed to resolve any controversies arising from a citation issued to the Commonwealth or one of its agencies, and a timely notice of contest has been received, the Commissioner of Labor and Industry shall refer the case to the ~~Attorney General~~ Governor,

whose written decision on the contested matter shall become a final order of the commissioner.

B. Whenever the Commonwealth or any of its agencies fails to abate a violation within the time provided in an appropriate final order, the Commissioner of Labor and Industry shall formally petition for redress as follows: For violations in the Department of Law, to the Attorney General; for violations in the Office of the Lieutenant Governor, to the Lieutenant Governor; for violations otherwise in the executive branch, to the appropriate cabinet secretary; for violations in the State Corporation Commission, to a judge of the commission; for violations in the Department of Workers' Compensation, to the Chairman of the Workers' Compensation Commission; for violations in the legislative branch of government, to the Chairman of the Senate Committee on Commerce and Labor; for violations in the judicial branch, to the chief judge of the circuit court or to the Chief Justice of the Supreme Court. Where the violation cannot be timely resolved by this petition, the commissioner shall bring the matter to the Governor for resolution.

C. Where abatement of a violation will require the appropriation of funds, the commissioner shall cooperate with the appropriate agency head in seeking such an appropriation; where the commissioner determines that an emergency exists, the commissioner shall petition the governor for funds from the Civil Contingency Fund or other appropriate source.

16 VAC 25-60-320. Extension of abatement time.

A. Where an extension of abatement is sought concerning a final order of the commissioner or of a court, the extension can be granted as an exercise of the enforcement discretion of the commissioner. While the extension is in effect the commissioner will not seek to cite the employer for failure to abate the violation in question. The employer shall carry the burden of proof to show that an extension should be granted.

B. The commissioner will consider a written petition for an extension of abatement time if the petition is mailed to or received by the commissioner prior to the expiration of the established abatement time.

C. A written petition requesting an extension of abatement time shall include the following information:

1. All steps taken by the employer, and the dates such actions were taken, in an effort to achieve compliance during the prescribed abatement period;
2. The specific additional abatement time necessary in order to achieve compliance;
3. The reasons such additional time is necessary, such as the unavailability of professional or technical personnel or of materials and equipment, or because necessary construction or alteration of facilities cannot be completed by the original abatement date;
4. All available interim steps being taken to safeguard the employees against the cited hazard during the abatement period; and

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5. A certification that a copy of the petition has been posted and served on the authorized representative of affected employees, if there is one, in accordance with 16 VAC 25-60-40, and a certification of the date upon which such posting and service was made.

D. A written petition requesting an extension of abatement which is filed with the commissioner after expiration of the established abatement time will be accepted only if the petition contains an explanation satisfactory to the commissioner as to why the petition could not have been filed in a timely manner.

1. The employer is to notify the commissioner as soon as possible.

2. Notification of the exceptional circumstances which prevents compliance within the original abatement period shall accompany a written petition which includes all information required in subsection C of this section.

E. The commissioner will not make a decision regarding such a petition until the expiration of 15 working days from the date the petition was posted or served.

F. Affected employees, or their representative, may file a written objection to a petition for extension of abatement time. Such objections must be received by the commissioner within 10 working days of the date of posting of the employer's petition. Failure to object within the specified time period shall constitute a waiver of any right to object to the request.

G. When affected employees, or their representatives object to the petition, the commissioner will attempt to resolve the issue in accordance with 16 VAC 25-60-330 of this chapter. If the matter is not settled or settlement does not appear probable, ~~the Commissioner of Labor and Industry will hear the objections will be heard~~ in the manner set forth at in subsection I ~~below of this section~~.

H. The employer or an affected employee may seek review of an adverse decision regarding the petition for extension of abatement to the Commissioner of Labor and Industry within five working days after receipt of the commissioner's decision.

I. An employee's objection not resolved under subsection G of this section or an employer or employee appeal under subsection H of this section will be heard by the ~~Commissioner of Labor and Industry~~ using the procedures of §§ 2.2-4019 and 2.2-4021 of the Code of Virginia. Burden of proof for a hearing under subsection G of this section shall lie with the employer. Burden of proof for an appeal under subsection H of this section shall lie with the party seeking review.

1. All parties shall be advised of the time and place of the hearing by the commissioner.

2. ~~Within 15 working days of the hearing,~~ All parties will be advised of the ~~Commissioner of Labor and Industry's~~ decision *within 15 working days of the hearing*.

3. ~~Since the issue is whether the Commissioner of Labor and Industry will exercise his enforcement discretion, no further appeal is available.~~

16 VAC 25-60-340. Settlement.

A. Settlement negotiations may be held for the purpose of resolving any dispute regarding an inspection, citation, order of abatement, proposed penalty, or any other matter involving potential litigation. Settlement is encouraged at any stage of a proceeding until foreclosed by an order becoming final. It is the policy of the commissioner that the primary goal of all occupational safety and health activity is the protection of worker safety, health and welfare; all settlements shall be guided by this policy.

B. Settlement negotiations will ordinarily take place in the medium of an informal conference. Employees shall be given notice of scheduled settlement discussions and shall be given opportunity to participate in the manner provided for in 16 VAC 25-60-330 E.

C. Where a settlement with the employer is reached before the 15th working day after receipt of a citation, order of abatement, or proposed civil penalty, and no notice of contest has been filed, the commissioner shall forthwith ~~amend~~ *prepare a settlement agreement noting any changes to the citation, order of abatement, or proposed civil penalty, as agreed. The amended citation shall bear a title to indicate that it has been amended and the amended citation or an accompanying agreement shall contain a statement to the following effect: "This citation has been amended by agreement between the commissioner and the employer named above. As part of the written agreement, the employer has waived his right to file a notice of contest to this order. This agreement shall not be construed as an admission by the employer of civil liability for any violation alleged by the commissioner."*

D. Following receipt of an employer's timely notice of contest, the commissioner will immediately notify the appropriate Commonwealth's Attorney and may delay the initiation of judicial proceedings until settlement opportunities have been exhausted.

1. During this period, the commissioner may *agree to amend the citation, order of abatement, or proposed civil penalty through the issuance of an amended citation. Every such amended citation shall bear a title to indicate that it has been amended and the amended citation or the accompanying. The settlement agreement shall contain a statement to the following effect: "This amended citation is being issued as a result of a settlement between the commissioner and the employer. The employer, by his signature below, agrees to withdraw his notice of contest filed in this matter and not to contest the amended citation. This agreement shall not be construed as an admission by the employer of civil liability for any violation alleged by the commissioner."*

2. At the end of this period, if settlement negotiations are not successful, the commissioner will initiate judicial proceedings by causing a bill of complaint to be filed and turning over the contested case to the Commonwealth's Attorney.

E. Employees or their representative have the right to contest abatement orders arising out of settlement negotiations if the notice is timely filed with the commissioner within 15 working

days of issuance of the ~~amended citation~~ *agreement* and abatement order. Upon receipt of a timely notice of contest the commissioner will initiate judicial proceedings.

F. After a bill of complaint has been filed, any settlement shall be handled through the appropriate Commonwealth's Attorney and shall be embodied in a proposed order and presented for approval to the court before which the matter is pending. Every such order shall bear the signatures of the parties or their counsel; shall provide for abatement of any violation for which the citation is not vacated; shall provide that the employer's agreement not be construed as an admission of civil liability; and may permit the commissioner, when good cause is shown by the employer, to extend any abatement period contained within the order.

VA.R. Doc. No. R05-256; Filed November 18, 2005, 3:50 p.m.

FINAL REGULATIONS

For information concerning Final Regulations, see Information Page.

Symbol Key

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

TITLE 4. CONSERVATION AND NATURAL RESOURCES

DEPARTMENT OF CONSERVATION AND RECREATION

Title of Regulation: **4 VAC 5-15. Nutrient Management Training and Certification Regulations (amending 4 VAC 5-15-10, 4 VAC 5-15-40, 4 VAC 5-15-60, 4 VAC 5-15-80, 4 VAC 5-15-100, 4 VAC 5-15-110, 4 VAC 5-15-140, 4 VAC 5-15-150; repealing 4 VAC 5-15-130).**

Statutory Authority: § 10.1-104.2 of the Code of Virginia.

Effective Date: January 11, 2006.

Agency Contact: David C. Dowling, Policy, Planning, and Budget Director, Department of Conservation and Recreation, 203 Governor Street, Suite 302, Richmond, VA 23219, telephone (804) 786-2291, FAX (804) 786-6141, or e-mail regcord@dcr.virginia.gov.

Summary:

The amendments (i) modify phosphorous and nitrogen management criteria for nutrient management plans; (ii) expand training requirements for individuals seeking certification and individuals seeking to renew their certification as a nutrient management planner; (iii) modify the nutrient management plan content and procedures in areas other than phosphorus and nitrogen management; (iv) provide additional options to satisfy the education and experience requirements for certification or renewal of certification as a nutrient management planner; (v) modify recordkeeping and reporting requirements for certified nutrient management planners; (vi) expand conditions under which certification may be denied, suspended, or revoked; (vii) require nutrient management planners to sign all nutrient management plans prepared by them; (viii) restrict nutrient management plans for croplands to a maximum of three years; (ix) update documents incorporated by reference; and (x) specify the conditions under which nutrient management plans need to be modified immediately.

The changes to the proposed regulation (i) eliminate the scheduled reduction of the soil phosphorus saturation level of 50% where phosphorus applications would cease, (ii) allow for a minimum phosphorus application rate of crop removal until December 31, 2010, for specified types of liquid manures and liquid sewage sludges, (iii) expand the potential application times prior to spring crop planting for certain types of organic nutrient sources and provide more flexibility if a trap crop exists meeting specified performance criteria, (iv) provide a delayed implementation date until January 1, 2009, for sewage sludge applications to sites that are not environmentally sensitive to comply with certain

application timing requirements, (v) update citations to reference material to include the most recent versions, (vi) improve the technical accuracy of certain terminology based on recent scientific evidence and public comments and suggestions, and (vii) include more detailed criteria for turfgrass and forest nutrient management.

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.

4 VAC 5-15-10. Definitions.

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

"Application rate" or "nutrient rate" means the quantity of major nutrients, nitrogen as N, phosphorus as P₂O₅, and potassium as K₂O on a per acre basis to supply crop or plant nutrient needs, and to achieve realistic expected crop yields.

"Banding" or "sideband" means the placement of fertilizer approximately two inches to the side and two inches below the seed.

"Best management practice" means a conservation or pollution control practice that manages soil, nutrient losses, or other potential pollutant sources to minimize pollution of water resources, such as split applications of nitrogen, or use of cereal grain cover crops to trap available nitrogen and reduce soil erosion.

"Biosolids" means a sewage sludge that has received an established treatment for required pathogen control and is treated or managed to reduce vector attraction to a satisfactory level and contains acceptable levels of pollutants, such that it is acceptable for use for land application, marketing, or distribution in accordance with 12 VAC 5-585-40 ~~et seq.~~, Biosolids Use Regulations of the Board of Health.

"Broadcast" means the uniform application of a material over a field.

"Calibration" means the systematic determination of the operational parameters, such as speed and quantity delivered, of application equipment.

"Cereal crop" or "small grain" means barley, rye, triticale, or wheat.

"Certified nutrient management planner" or "nutrient management planner" or "planner" means ~~the person or persons who prepare nutrient management plans under these regulations~~ a person who holds a current Virginia nutrient management certificate of competence.

"Cool season grass" means grass species of temperate zone origin which exhibit the greatest rates of dry matter production in the day/night temperature range of 60°/ 50°F to

80°/ 70°F and includes fescues, bluegrasses, and ryegrasses. Examples of cool season grasses include fescue, bluegrass, and ryegrass.

"Commonwealth" means the Commonwealth of Virginia.

"Composted organic nutrient source" means the relatively stable, humus-like product resulting from the controlled aerobic, thermophilic biological decomposition of organic material that bears little physical resemblance to the raw materials from which it originated [~~and having a final carbon to nitrogen ratio of 25:1 or greater~~].

"Cover crop" means a crop including, but not limited to, cereal grains, which is planted following the harvest of the preceding crop for the purpose of:

1. Seasonal protection of soil, or
2. Assimilation of residual soil nitrogen left from a previous crop or from continued mineralization of nitrogen.

"Crop" means cultivated plants or agricultural produce such as grain, silage, forages, oilseeds, vegetables, fruit, nursery stock, or turfgrass.

"Cropland" means land used for the production of grain, oilseeds, silage, industrial crops, and any other category of crop not defined as specialty crop, hay, or pasture.

"Crop nutrient needs" means the primary nutrient requirements of a crop determined as pounds [*per acre or pounds per 1,000 square feet*] of nitrogen as N, phosphorus as P₂O₅, and potassium as K₂O required [*to support crop growth*] for production of an expected crop yield based upon soil analysis results as specified in *Virginia Nutrient Management Standards and Criteria, revised [October] 2005, or Virginia Commercial Vegetable Production Recommendations for [2004 2005]*.

"Crop nutrient removal" means the amount of nutrients per acre expected to be taken up by a plant and removed from the site in the harvested portion at the expected yield level, generally expressed as tons per acre or bushels per acre, at rates specified in *Virginia Nutrient Management Standards and Criteria, revised [October] 2005*.

"Crop rotation" means [~~a method of maintaining and renewing the fertility of a soil by the successive planting of different crops on the same land one complete sequence of one or more crops grown in succession that may assist in minimizing disease, insects and weeds. For permanent hay, pasture, or a single crop planted continuously, the crop rotation is defined as the life of the nutrient management plan~~].

"Department" means the Department of Conservation and Recreation.

"Double crop" means the production and harvesting of two crops in succession within a consecutive 12-month growing season.

"Dry manure" or "semisolid manure" means manure containing less than 85.5% moisture.

"Environmentally sensitive site" means any field which is particularly susceptible to nutrient loss to groundwater or

surface water since it contains, or drains to areas which contain, sinkholes, or where at least 33% of the area in a specific field contains one or any combination of the following features:

1. Soils with a ~~leaching index above 10~~ high potential for leaching based on soil texture or excessive drainage;
2. Sinkholes;
3. 2. Shallow soils less than 41 inches deep likely to be located over fractured or limestone bedrock;
4. 3. Subsurface tile drains;
4. [~~Soil~~ Soils] with high potential for subsurface lateral flow based on soil texture and poor drainage;
5. Floodplains as identified by soils prone to frequent flooding in county soil surveys; or
6. Lands with slopes greater than 15%.

"Expected crop yield" means a realistic crop yield for a given farm field determined by using yield records or soil productivity information.

"Fertilizer" means any organic or inorganic material of natural or synthetic origin that is added to a soil to supply certain nutrients essential to plant growth.

"Field" means a unit of contiguous nonwooded land generally used for crop production that is separated by permanent boundaries, such as fences, permanent waterways, woodlands, croplines not subject to change because of farming practices, and other similar features or as determined by the United States Department of Agriculture Farm Service Agency.

"Field identification number" means a number used by a farmer (or the United States Department of Agriculture Farm Service Agency) to distinguish or identify the location of a field on a farm.

[~~"Groundwater" means any water beneath the land surface in a water saturated layer of soil or rock.~~]

"Grid soil sampling" means a process whereby farm fields or other areas are subdivided into smaller areas or squares for the purpose of obtaining more detailed soil analysis results.

[~~"Groundwater" means any water beneath the land surface in a water saturated layer of soil or rock.~~]

"Hay" means a grass, legume, or other plants, such as clover or alfalfa, which is cut and dried for feed, bedding, or mulch.

"Hydrologic soil group" means a classification of soils into one of four groups, A, B, C, or D, according to their hydrologic properties, ranging from low runoff potential (high infiltration potential) in group A to high runoff potential (low infiltration potential) in group D.

"Incorporation" means the process whereby materials are mixed into soils and not exposed on the soil surface, such as would be achieved by disking one time to a depth of six inches.

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"Industrial waste" means liquid or other waste resulting from any process of industry, manufacture, trade or business, or from the development of any natural resources.

"Irrigation" means the application of water to land to assist in crop growth.

"Irrigation scheduling" means the time and amount of irrigation water to be applied to an area for optimum crop growth and to minimize leaching and runoff.

"Leaching" means the movement of soluble material, such as nitrate, in solution through the soil profile by means of percolation.

"Legume" means a plant capable of fixing nitrogen from the atmosphere such as peas, [~~beans~~ soybeans], peanuts, clovers, and alfalfas.

"Legume nitrogen credit" means the amount of nitrogen a legume is expected to supply to a succeeding crop.

"Liming" means the application of materials containing the carbonates, oxides, or hydroxides of calcium or magnesium in a condition and in a quantity suitable for neutralizing soil acidity.

"Liquid manure" means manure containing at least 85.5% moisture or which can be applied through subsurface injection or surface application with liquid application equipment.

"Livestock" means domesticated animals such as cattle, chickens, turkeys, hogs, and horses raised for home use or for profit.

"Manure" or "animal waste" means animal fecal and urinary excretions and waste by products which may include spilled feed, bedding litter, soil, lactase, process wastewater, and runoff water from animal confinement areas.

"Mehlich I" means [~~a specific the North Carolina Double-Acid~~] soil analysis procedure [~~developed by North Carolina State University~~] to determine extractable levels of certain nutrients in soils [~~as described in Methods of Soil Analysis, Part 3, Chemical Methods, 1996~~].

["*Mehlich III*" or "*Mehlich 3*" means a modified version of the Mehlich I method used to determine extractable levels of certain nutrients in soils as described in *Methods of Soil Analysis, Part 3, Chemical Methods, 1996* and in *Reference Soil and Media Diagnostic Procedures for the Southern Region of the United States, Southern Cooperative Series Bulletin No. 374*.]

"Micronutrient" means a nutrient necessary only in extremely small amounts for plant growth.

"Mineralization" means the process when plant unavailable organic forms of nutrients are converted to a plant available inorganic state as a result of soil microbial decomposition.

"No-till" means the soil is left undisturbed from the time of harvest or the [~~chemical~~] killing of the preceding crop or cover crop until and including the time of planting of the current crop except for strips up to 1/3 of the row width that are disturbed by coulters or disk openers during the planting operation.

"NRCS" means the United States Department of Agriculture, Natural Resource Conservation Service, formerly the Soil Conservation Service (SCS).

"Nutrient" means an element or compound essential as raw materials for plant growth and development such as carbon, nitrogen, and phosphorus.

"Nutrient content" means the percentage of any primary nutrients such as nitrogen as N, phosphorus as P₂O₅, and potassium as K₂O contained in any type or source of plant nutrients.

"Nutrient management plan" or "plan" means a plan *prepared by a Virginia certified nutrient management planner* to manage the amount, placement, timing, and application of manure, fertilizer, biosolids, or other materials containing plant nutrients in order to reduce ~~pollution~~ *nutrient loss to the environment* and to produce crops.

"Nutrient Management Training and Certification Fund" means the fund established by § 10.1-104.2 of the Code of Virginia to support the department's Nutrient Management Training and Certification Program.

"Organic nutrient source" or "organic source" means manure, biosolids, sludge, *industrial waste*, green manure, compost, or other plant or animal residues which contain plant nutrients.

"Organic residuals" means nutrients released over time from manure, biosolids, industrial wastes, legumes, or other organic sources of nutrients.

"Pasture" means land which supports the grazing of animals for forages.

"Person" means an individual, corporation, partnership, association, a governmental body and its subordinate units, a municipal corporation or any other legal entity.

"*Phosphorus index*" means the *Virginia Phosphorus Index Version [1-3 2.0] Technical Guide, revised [~~March~~ October] 2005*.

["*Phosphorus saturation level*" means the ratio of phosphorus to aluminum plus iron (P/(Al+Fe)) in a soil using the Acid Ammonium Oxalate in Darkness method described in *Methods of Soil Analysis, Part 3, Chemical Methods, 1996* (pp. 649-650) or estimated with another extraction procedure correlated to the Acid Ammonium Oxalate in Darkness method and approved by the department.]

"Plant available nutrients" means the portion of nutrients contained in nutrient sources which is expected to be available for potential use by plants during the growing season or the crop rotation.

"Pre-sidedress [~~nitrogen nitrate~~] test (~~PSNT~~)" or "*PSNT*" means a procedure used to help determine soil ~~nitrogen level~~ *nitrate-nitrogen levels* [~~at a specific time~~] during a [~~corn~~] crop growing season.

"Primary nutrients" means nitrogen as N, phosphorus as P₂O₅, and potassium as K₂O.

"Residual nutrients" means the level of nitrogen, phosphorus, and potassium remaining or available in the soil from

previously applied nutrient sources, or unharvested plants or plant parts, or [~~baseline~~ *naturally occurring*] nutrient levels in the soil.

"Runoff" means that part of precipitation, snow melt, or irrigation water that runs off the land into streams or other surface water which can carry pollutants from the land.

"RUSLE2" means the USDA - NRCS Revised Universal Soil Loss Equation Version 2 software package.

"Secondary nutrient" means calcium, magnesium, or sulfur.

"Sewage sludge" or "sludge" means any solid, semisolid, or liquid residues which contain materials removed from municipal or domestic wastewater during treatment including primary and secondary residues. Other residuals or solid wastes consisting of materials collected and removed by sewage treatment, septage, and portable toilet wastes are also included in this definition. Liquid sludge contains less than 15% dry residue by weight or can be applied through subsurface injection or surface application with liquid application equipment. Dewatered sludge contains 15% or more dry residue by weight.

"Shall" means a mandatory requirement.

"Should" means a recommendation.

"Slope" means the degree of deviation of a surface from horizontal, measured as a percentage, as a numerical ratio, or in degrees.

"Sidedress" means the placement of fertilizer beside or between the rows of a crop after crop emergence.

"Sinkhole" means a depression in the earth's surface caused by dissolving of underlying limestone, salt, or gypsum having drainage patterns through underground channels.

"Slowly available nitrogen" means nitrogen sources that have [~~restricted~~ *delayed plant*] availability involving compounds which dissolve slowly, materials that must be microbially decomposed, or soluble compounds coated with substances highly impermeable to water such as [*polymer coated products, methylene urea, isobutylidene diurea (IBDU),*] urea formaldehyde based [~~water insoluble nitrogen~~ (*UF*)], sulfur coated urea, and natural organics.

"Soil erosion" or "erosion" or "*soil loss*" means the wearing away of the land surface by water, wind, or waves.

"Soil management group" means a grouping of soils based on their similarity in profile characteristics which affect crop production and require specific soil and crop management practices.

~~"Soil nitrate leaching index" means the potential for a given soil to be subject to nitrate leaching below the root zone.~~

"Soil pH level" means the negative logarithm of the hydrogen-ion activity of a soil which measures the relative acidity or alkalinity of the soil. The pH level affects the availability and plant utilization of nutrients.

"Soil productivity group" means a grouping of soils based upon expected yield levels for a given crop type.

"Soil series" means a classification of a specific soil type by name based on the [*morphological,*] chemical and physical properties of the soil.

"Soil survey" means a published or [~~unpublished~~ *electronically available*] document developed by a governmental entity [~~which~~ *using the standards and protocols of the National Cooperative Soil Survey that*] includes detailed descriptions and classifications of soils, mapping of various soil series, and the interpretation of soils according to their adaptability for various crops and trees.

"Specialty crop" means vegetables, tree crops, perennial vine crops, ornamentals, horticultural crops, and other similar crops.

"Split application" means utilizing a sequence of two or more nutrient applications, separated by approximately three weeks or more, to a single crop in order to improve nutrient uptake efficiency.

"Surface water" means all water whose surface is exposed to the atmosphere.

"Tilled" means soil is disturbed between the time of harvest of the preceding crop through the time of planting of the current crop in that greater than 1/3 of the row width is disturbed by tillage implements such as moldboard plows, chisel plows, subsoilers, disks, field cultivators, roto-tillers, coulters or disk openers.

"Tillering" is the formation of lateral shoots from the auxillary buds of small grains and grasses.

"Tissue test" means an analysis of crop tissue for the percentage of nitrogen at key growth stages, and used as an intensive nutrient management technique with small grain crops.

"Topdress" means broadcast applications of fertilizer on crops such as small grains or forage after crop emergence has occurred.

"Trap crop" means a timely planted cereal crop for the purposes of capturing residual soil nitrogen and nitrogen that is released during the decomposition of manure or biosolids in order to manage limited manure or sewage sludge storage availability.

"Turfgrass" means selected grass species planted or sodded and managed for such uses as home lawns, golf courses, office parks and rights-of-way.

"Volatilization" means a process by which nitrogen is lost to the atmosphere as ammonia gas.

"Warm season grass" means a grass species of tropical origin that exhibits the highest rate of dry matter production in the day/night temperature range of 90°/79°F at a minimum to a maximum of 97°/88°F. *Examples of warm season grasses include zoysia and bermuda grasses.*

"Water insoluble nitrogen" or "WIN" means [~~a urea formaldehyde based~~ *the amount of a type of*] slowly available nitrogen listed on fertilizer bags and reported as a percentage.

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"Watershed" means a drainage area or basin in which all land and water areas drain or flow toward a central collector such as a stream, river, or lake at a lower elevation.

"Watershed code" means the letter and number used by the department to identify a watershed or hydrologic unit area.

"Zadoks' growth stage" means the numerical scale ranging from 0-93 which assigns values to small grain growth stages, e.g. Growth Stage 30 is just prior to the stem elongation phase in wheat growth.

4 VAC 5-15-40. Eligibility requirements.

A. Certification may be obtained by satisfying all of the following requirements for certification:

1. Satisfactorily completing and submitting to the department an application in the form required by the department, including a statement of any felony convictions. Such application shall be submitted to the department at least 30 days before the approved examination date set by the department. The application shall request information relating to the person's education, work experience, knowledge of nutrient management, and willingness to abide by the requirements of these regulations;

2. Supplying proof of meeting one of the following:

a. A copy of a college transcript indicating completion of a college degree with a major in an agriculturally related area *with coursework in the area of nutrient management such as soils, soil fertility, and plant science*, and one year of practical experience related to nutrient management planning *or implementation of nutrient management concepts and principles* acceptable to the department, or

b. A combination of education to include nutrient management related educational courses or training and a minimum of three years of practical experience related to nutrient management planning *or implementation of nutrient management concepts and principles* acceptable to the department;

3. Obtaining a passing score on each of the ~~essential components~~ *parts* of the nutrient management certification examination administered by the department; and

4. Submitting a \$100 certification fee by check or money order to the department.

B. Certificates shall be valid for two years and will expire on the last day of the expiration month. Certified nutrient management planners or applicants shall notify the department of any change in mailing address within 30 days of such change in address.

C. Individuals certified as nutrient management consultants by the State of Maryland or certified as nutrient management specialists by the Commonwealth of Pennsylvania will be eligible for certification in Virginia by complying with all requirements of these regulations except for subdivision A 2 of this section. These individuals may also substitute, for the requirements in 4 VAC 5-15-60 C, the attainment of a passing score on a Virginia specific examination component which

shall include at a minimum the elements listed in 4 VAC 5-15-60 C 9 and C 10. The department, upon review, may accept or approve nutrient management certification programs of other states as satisfying partial requirements for certification.

4 VAC 5-15-60. Examination.

A. The department shall administer nutrient management certification examinations at least once per year. The examinations shall require a demonstration of the ability to prepare a nutrient management plan. The department may limit the number of applicants taking the examination based upon available examination space.

B. Applicants for certification shall achieve a passing score on each of the ~~essential components~~ *parts* of the nutrient management certification examination to become eligible for certification.

C. The examinations for persons involved in agricultural nutrient management shall address the elements listed below. To address nutrient management on urban land uses, specialty specific examinations may be added to or substituted by the department for the elements below.

1. General understanding of overall nutrient management concepts such as nutrient cycling on farms, the purpose of nutrient management planning, economic aspects of nutrient use, and components of a nutrient management plan;

2. Basic soil science concepts such as soil physical and chemical properties including texture, structure, organic matter, and horizon development, and how such characteristics influence crop productivity and adaptation, water runoff, and infiltration;

3. Environmental management concepts such as the water cycle, nutrient loss mechanisms, environmental effects of nutrients in waters including Chesapeake Bay, identification of high risk sites relating to nutrient use and appropriate nutrient management practices to reduce nutrient losses;

4. Nutrient sampling, testing, and analysis such as basic sampling procedures, relationship of soil test level with the likelihood of crop response, soil nitrate testing, manure and biosolids sampling and interpretation, and determining nitrogen supplied by legumes;

5. Basic soil fertility concepts such as relationship of soil pH to nutrient availability and toxicity, essential elements for crop growth, limiting factors to crop production, cation exchange capacity and related concepts, nutrient cycles, and forms of nutrients in soils;

6. Fertilizer management concepts such as types of fertilizers, nutrient analysis of common materials and grades, basic calculations and blending, calibration of equipment, and application methods;

7. Manure management concepts such as nutrient content and volume produced, determination of plant available nutrients, selecting sites for manure application, proper timing and placement, coordination of fertilizers with manure, application methods and calibration;

8. Biosolids management concepts such as determination of plant available nutrients, nutrient content, forms of nutrients, types of sludges, coordination with fertilizer applications, and application methods;

9. Nutrient management training and certification regulatory requirements, and requirements of other nutrient management related laws, regulations, and incentive programs; and

10. Development of multiple components of nutrient management plans and completion of calculations comparable to development of nutrient management plans such as, but not limited to, determination of specific soil types in fields, determination of specific nutrient requirements based on soil productivity and soil analysis results, evaluation of field limitations based on environmental hazards or concerns, *timing of nitrogen applications, phosphorus nutrient management planning methods and assessment techniques*, and interpretation of manure analysis results.

D. An individual who is unable to take an examination at the scheduled time shall notify the department at least five days prior to the date and time of the examination; such individual will be rescheduled for the next examination. The department may consider accepting notice of less than five days due to individual hardship situations on a case-by-case basis. Failure to notify the department may require the individual to submit a new application and payment of fees in accordance with 4 VAC 5-15-40.

E. The department shall establish acceptable passing scores for the examinations based on the department's determination of the level of examination performance required to show minimal acceptable competence.

F. All applicants shall be notified of results in writing within 60 days of the completion of the examinations.

4 VAC 5-15-80. Certificate renewal.

The department will not renew a certificate if a proceeding to deny certification under 4 VAC 5-15-110 has begun, or if the department has found that the applicant violated any requirements of this chapter. A certificate is issued for two years and may be renewed on or before the expiration of a certificate by complying with all of the following requirements:

1. Submittal of a renewal application on the form the department requires;
2. Payment of a \$100 renewal fee to the department;
3. Submittal of proof of satisfactory completion of at least four hours of continuing education pre-approved by the department within the past two years. Requests for pre-approval of continuing education courses must be received at least 60 days prior to the expected course date or dates and must include a detailed syllabus indicating time to be spent on each topic area covered. Continuing education hours must be in subject matter consistent with 4 VAC 5-15-60 C. Department personnel may attend continuing education sessions to verify that the requirements are met. Proof of attendance must be verified by the course provider. The department may accept continuing education units

obtained in *Delaware*, Maryland and Pennsylvania if such continuing education units are specifically for the purpose of recertification in the state nutrient management certification program; and

4. Completion of at least one nutrient management plan or completion of four hours of continuing education pre-approved by the department within the past two years in addition to the requirements of subdivision 3 of this section.

Persons certified prior to [~~the effective date of this regulation~~ January 11, 2006,] shall attend a department approved training course in phosphorus nutrient management planning methods and assessment techniques prior to certificate renewal. The training course hours may be applied toward other continuing education requirements of this subsection.

4 VAC 5-15-100. Recordkeeping and reporting requirements.

A. Certified nutrient management planner reporting requirements. A person who holds a certificate under these regulations shall keep records and file with the department by September 30 of each year an annual activity report on a form supplied by the department covering the previous year (July 1 through June 30). The annual activity report shall contain the following information:

1. Name and certificate number of the certified nutrient management planner;
2. Any change of mailing address during the previous year;
3. Number of nutrient management plans completed;
4. Acreage covered by plans and planned acreage by county and state watershed codes *specified by plan categories of new or revised*;
5. Breakdown of planned acreage by cropland, hay, pasture, and specialty crops by county and watershed code *specified by plan categories of new or revised*; and
6. Other information indicating number of practices facilitated by the planner such as manure testing and use of the PSNT.

B. Certified nutrient management planner recordkeeping requirements. The department may periodically inspect nutrient management plans prepared by certified persons and required records for the purpose of review for compliance with 4 VAC 5-15-140 and 4 VAC 5-15-150. A certified nutrient management planner shall maintain the following plan records for a period of not less than three years from the date the plan was prepared:

1. A complete copy of each nutrient management plan prepared and shall make such plans available for inspection by department personnel upon request within ~~two weeks~~ *one week* of receiving such request;
2. Records for each plan with all of the following information if the information is not already contained in the plan:
 - a. Representative soil analysis results for fields, or field grids if grid soil sampling is used, dated not more than three years prior to the date the nutrient management

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plan was completed to include information on soil fertility levels for phosphorus and potassium, and pH level;

b. Copies of soil survey maps or a soil survey book containing maps for each field unless a soil survey has not been published for the county;

c. Yield records for each field to include calculations used to determine the planning yield if upward adjustments to soil productivity based yields were made to more than 20% of the fields covered by the plan;

d. Type and number of livestock, if any, as well as a description of the livestock to include average weight;

e. Calculations or records indicating annual quantity of manure produced or expected to be produced; and

f. Organic nutrient source analysis, if applicable, to include information on percentage of moisture, total nitrogen or total Kjeldahl nitrogen, *ammonium nitrogen*, total phosphorus, and total potassium.

3. A summary listing of all plans prepared to include landowner or operator's name and the date the plan was prepared or revised.

[*C. Certified nutrient management planners shall provide the department with a copy of a nutrient management plan within two weeks following the modification of any plan required by regulations promulgated under § 32.1-164.5 for sewage sludge, § 62.1-44.17:1 for animal waste, and § 62.1-44.17:1.1 for poultry waste.*]

4 VAC 5-15-110. Compliance with regulations and disciplinary action.

If the department finds that a certified person or an applicant for certification violated any requirements of this chapter, including the circumstances listed below, the department may deny, suspend or revoke certification, following the informal fact-finding procedures of the Virginia Administrative Process Act (§ ~~9-6-14-1~~ 2.2-4000 et seq. of the Code of Virginia).

1. Providing misleading, false, or fraudulent information in applying for a certificate;
2. Providing the department with any misleading, false, or fraudulent report;
3. Offering or preparing a nutrient management plan claimed to be prepared by a person certified as a nutrient management planner in Virginia as provided by these regulations without a certificate;
4. Offering ~~or~~, preparing, *modifying, or revising* a nutrient management plan that does not comply with the requirements of these regulations;
5. Failing to promptly provide any report or to allow the department access to inspect any records required to be kept by these regulations;
6. *Failing to provide the department with a copy of a nutrient management plan within two weeks following the modification of any plan required by regulations promulgated under § 32.1-164.5 of the Code of Virginia for sewage sludge, § 62.1-44.17:1 of the Code of Virginia for*

animal waste, or § 62.1-44.17:1.1 of the Code of Virginia for poultry waste; or

7. Conviction of a felony related in any way to the responsibilities of a certified nutrient management planner.

4 VAC 5-15-130. Duties of other state agencies. (Repealed.)

~~The provisions of this chapter shall not limit the powers and duties of other state agencies.~~

4 VAC 5-15-140. Nutrient management plan content.

A. A certified nutrient management planner shall prepare nutrient management plans which contain the information in subsections B through G of this section. For nutrient management plans covering nonagricultural, specialty land uses, for example residential lawns, office parks, and golf courses, the department may specify additional plan elements which are critical to the management of nutrients for a particular activity, and may eliminate requirements not pertinent to nonagricultural land uses.

B. Plan identification. Each plan shall be identified by a single cover sheet indicating:

1. Farmer/operator name and address;
2. Name ~~and~~, certificate number, *and signature of the certified nutrient management planner that prepared the plan;*
3. County and watershed code of land under the nutrient management plan;
4. Total acreage under the plan with double cropped acreage accounted for only once;
5. Acreage of cropland, hay, pasture, and specialty crops included in the plan for the first year of the plan;
6. Date the plan was prepared or revised; and
7. Type and approximate number of livestock, if applicable.

C. Map or aerial photograph.

1. Each plan shall contain a map or aerial photograph to identify:
 - a. The farm location and boundaries;
 - b. Individual field boundaries *where nutrients will be applied; and*
 - c. Field numbers and acreages *where nutrients will be applied;*
 - d. *Environmentally sensitive sites as defined in 4 VAC 5-15-10;*
 - e. *Setback areas for nonapplication for manure and biosolids as specified in 4 VAC 5-15-150 A 5 e;*
 - f. *Location of manure, biosolids, or waste storage if any; and*
 - g. *Intermittent or perennial streams and [associated] buffers (if the phosphorus index is used to determine phosphorus application rates [for specific fields]).*

2. The map or aerial photograph shall be legible, with the features in subdivision 1 of this subsection recognizable. A farm sketch or soil survey map may be used when a map or aerial photograph is not available, if the features described in subdivision 1 of this subsection are recognizable.

D. Summary of nutrient management plan recommendations. Each plan shall contain one or more summary sheets that list the following information for each field:

1. Name of the farmer/operator;
2. Field identification numbers to include the United States Department of Agriculture Farm Service Agency tract and field numbers;
3. Field acreages;
4. Expected crops or crop rotations;
5. Crop nutrient needs per acre based on soil analysis results and soil productivity;
6. Legume nitrogen credits per acre;
7. Available nutrients in soil from previous crop and mineralization of organic residuals;
8. Recommended organic nutrient source application rates in tons per acre or 1,000 gallons per acre; plant available nitrogen as N, phosphorus as P_2O_5 , and potassium as K_2O per acre; and spreading schedule to include approximate months of application;
9. Expected [~~days for time of~~] incorporation of organic nutrient sources into the soil if organic nutrient sources will be used;
10. Commercial fertilizer rates and timing of applications, including split applications of nitrogen and the possible use of soil nitrogen test results on a field before sidedressing with nitrogen; *and*
11. Numerical phosphorus and potassium soil analysis results expressed as ppm P and K, pounds per acre P and K or pounds per acre P_2O_5 and K_2O for all fields in the plan.

E. Individual fields may be grouped together if similar soil productivity levels, soil fertility levels, and environmentally sensitive site features exist pertaining to subsection D of this section.

F. Each plan shall also contain the following information in summary or narrative form:

1. Identification and management of environmentally sensitive sites;
2. Quantities of manure produced on the farm, available manure storage capacity, and manure analysis;
3. Total manure used as crop nutrients, if any, including manure from both on farm and off farm sources based on plan recommendations and total land requirements for manure utilization;
4. Quantity of unused manure, if applicable, and recommendations on appropriate use options;

5. Liming recommendations if soil pH is below the optimal range [*or to raise soil pH to no more than the upper limit for lime stabilized sewage sludge*];

6. Recommendations or fact sheets to ensure efficient application of fertilizers and organic nutrient sources and other best management practices to reduce the potential for the degradation of surface and groundwater quality, which may include but are not limited to:

- a. Equipment calibration;
- b. Application timing and method;
- c. Crop rotation and agronomic practices;
- d. Soil nitrate testing; and
- e. Cover crop management;

7. Information on maintaining and updating a nutrient management plan. General comments about plan maintenance shall include:

- a. The length of time the plan is effective, ~~not to exceed five years from the date the plan is developed~~ *consistent with 4 VAC 5-15-150 D 1*; and
- b. Identification of circumstances or changes in the farm operation such as an increase in animal numbers that would require the plan to be updated prior to the time specified in this subdivision 7;

8. Expected crop yields for each field for the planned crop rotation;

9. *The following information for all fields where the phosphorus applications are based on the phosphorus index:*

- a. *Functioning riparian buffer widths and distances to surface waters in feet;*
- b. *Presence of any contour planting at a maximum of 1.0% row grade, strip cropping, conservation tillage with greater than 30% residue, or terraces;*
- c. *Percentage of required ground cover on pastures stated as <50% cover, 50-75% cover, or >75% cover; [and]*
- d. *Crop tillage type for each crop stated as either no-till or tilled for all cropland; and*
- e. *If expected soil erosion for the phosphorus index was developed using RUSLE2, a copy of the RUSLE2 Profile Erosion Calculation Record computerized print-out indicating: (i) crop(s) for each year in the crop rotation [~~specified by calendar year~~] to match those identified in the nutrient management plan, (ii) all mechanical field operations, and (iii) edge of field soil loss for each field; and*

9- 10. Other notes as needed pertaining to nutrient application, tillage, and other special conditions.

G. The nutrient management planner ~~should~~ *shall* incorporate additional [*more restrictive*] plan requirements ~~as appropriate~~

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if required by other specific *legislative*, regulatory or incentive programs which apply to a specific operator.

4 VAC 5-15-150. Required nutrient management plan procedures.

A. Nutrient application.

1. A certified nutrient management planner shall include, in each plan, nutrient application practices for each field in the plan. The nutrient application rates shall be calculated for nitrogen (N), phosphate (P₂O₅), and potash (K₂O). Individual field recommendations shall be made after considering nutrients contained in fertilizers, manure, biosolids, *industrial wastes*, legumes in the crop rotation, crop residues, residual nutrients, and all other sources of nutrients. Individual fields may be grouped together if similar soil productivity levels, soil fertility levels, and environmentally sensitive site features exist.

2. Nutrient application rates.

a. Determination of crop nutrient needs shall be consistent with tables and procedures contained in Virginia Nutrient Management Standards and Criteria, revised ~~November 1995~~, [October] 2005 and the Commercial Vegetable Production Recommendations, 1995 [2004 2005] (Virginia Cooperative Extension Publication 456-420), and shall be based on soil test results for P₂O₅ and K₂O.

b. Nitrogen applications rates in nutrient management plans shall not exceed crop nutrient needs in subdivision 2 a of this subsection and ~~phosphorus application rates should be managed to reduce adverse water quality impacts. Whenever possible, phosphorus applications from organic nutrient sources should not exceed crop needs based on a soil test over the duration of the crop rotation. If this is not possible, preference should be given to routing phosphorus in organic nutrient sources to fields having the lowest phosphorus soil analysis, fields to be rotated into crops such as alfalfa hay, or fields with predominately A and B slopes as identified in a soil survey.~~

~~c. The development and implementation of a comprehensive soil conservation plan or practices that meet the criteria for a conservation system contained in the United States Department of Agriculture NRCS Field Office Technical Guide shall be recommended by a nutrient management planner on sites designated as highly erodible land (HEL) by the NRCS where a soil analysis indicates a very high phosphorus level (55 parts per million or above using Mehlich I extraction procedures or other methods correlated to Mehlich I) and phosphorus applications from organic sources will exceed crop uptake. If such sites are established pastures, the certified nutrient management planner shall recommend that pasture grasses or legumes be maintained at no less than a three-inch height in order to reduce runoff potential.~~

c. Phosphorus application rates shall be managed to minimize adverse water quality impacts consistent with subdivisions 2 c (1) through [(4) (5)] of this subsection.

(1) Phosphorus applications from inorganic nutrient sources shall not exceed crop nutrient needs over the crop rotation based on a soil test.

(2) Phosphorus applications shall not be included in nutrient management plans [developed after December 31, 2005,] for soils exceeding [specified 65%] phosphorus saturation levels as listed in Virginia Nutrient Management Standards and Criteria, revised [October] 2005, regardless of the outcome of other procedures specified in this subsection [except as allowed in subdivision 2 c (4) of this subsection]. [~~The specified phosphorus saturation levels pertain to the following plan development dates: (i) 65% for plans developed after December 31, 2005 through December 31, 2010; and (ii) 50% for plans developed after December 31, 2010.~~]

(3) Whenever possible, phosphorus applications from organic nutrient sources should not exceed crop needs based on a soil test over the duration of the crop rotation. If this is not possible, maximum phosphorus application rates and phosphorus control practices contained in nutrient management plans shall be consistent with the phosphorus management provisions contained in Virginia Nutrient Management Standards and Criteria, revised [October] 2005 [except as allowed in subdivision 2 c (4) of this subsection].

[(4) Fields controlled by existing operations that receive phosphorus applications only from on-farm or on-site generated liquid dairy manure, liquid swine manure, or liquid sewage sludge shall be limited to a maximum of crop removal amounts of applied phosphorus until December 31, 2010, if the field exceeds 65% phosphorus saturation levels or has a phosphorus index rating that exceeds 100. New operations that begin production after December 31, 2005, or operations that expand after December 31, 2005, by increasing the total phosphorus generated in liquid dairy manure, liquid swine manure or liquid sewage sludge by more than 10% shall not be considered existing operations.]

[(4) (5)] A single phosphorus application may be recommended to address multiple crops in the crop rotation identified within the timeframe covered by the nutrient management plan consistent with 4 VAC 5-15-150 D 1 if the single application does not exceed the sum of the appropriate application rates for individual crops as determined by subdivisions 2 c (1) through (3) of this subsection.

d. Recommended application rates for potassium, secondary nutrients, and micronutrients should [~~shall~~ should] be at agronomically or economically justifiable levels for expected crop production. Potassium applications sufficient to meet crop nutrient needs shall be included in nutrient management plans for all fields consistent with recommendations contained in Virginia Nutrient Management Standards and Criteria, revised [October] 2005.

~~e. Expected crop yield shall be determined from past crop yields or soil productivity on a given field. The farmer's past experience with crop yields in specific fields may be used to make reasonable adjustments to expected crop yields in lieu of verifiable yield records provided the upward adjustments impact no more than 20% of the fields on a particular farm. The calculation of expected crop yield shall:~~

~~(1) Be an average of the three highest yielding years taken from the last five years the particular crop was grown in the specific field, or~~

~~(2) Be based on and consistent with soil productivity information contained in Virginia Nutrient Management Standards and Criteria, Revised November 1995.~~

~~e. Expected crop yield shall be determined from any of the following methods on a given field:~~

~~(1) Soil productivity group expected crop yields based on and consistent with soil productivity information contained in Virginia Nutrient Management Standards and Criteria, revised [October] 2005;~~

~~(2) The farmer's past experience with crop yields in specific fields may be used to make reasonable adjustments to expected crop yields in subdivision 2 e (1) of this subsection in lieu of verifiable yield records provided the upward adjustments impact no more than 20% of the [fields acreage of any crop] on a particular farm [and the expected crop yields do not exceed the soil productivity group rating of any soil series that directly adjoins the soils contained in the specific field as indicated in the soil survey]; or~~

~~(3) Verifiable past crop yields are utilized to determine expected crop yield. The calculation of expected crop yield shall be an average of the three highest yielding years taken from the last five years the particular crop was grown in the specific field.~~

f. Representative soil analysis results for fields shall be determined by using standard soil sampling and analysis methods according to ~~Agronomy Monograph #9, American Society of Agronomy Methods of Soil Analysis, Part 3, Chemical Methods, 1996~~ utilizing the Mehlich I extraction procedure for phosphorus or other methods and laboratories approved by the department and correlated to Mehlich I and utilizing correlation procedures contained in Virginia Nutrient Management Standards and Criteria, revised November 1995 [October] 2005. Soil analysis results shall be dated no more than three years prior to the beginning date of the nutrient management plan. A single composite soil sample should represent an area up to approximately 20 acres. Fields such as those common to strip cropping may be combined when soils, previous cropping history, and soil fertility are similar. Representative soil samples sample cores shall be obtained from the soil surface to a depth of ~~two to four inches (0-4")~~ for fields which are not tilled that have not been tilled within the past three years, and from the soil surface to a depth of six to eight inches (0-6") for fields which are tilled or have been tilled within the past

three years. Soil sampling of fields based on [grids of] subfield [areas grids or management zones] may be utilized.

g. For existing operations, the most recent organic nutrient source analysis results or an average of past nutrient analysis results should for the specific operation within the last three-year period shall be used to determine the nutrient content of organic nutrient sources. Manure analyses shall include percent moisture, total nitrogen or total Kjeldahl nitrogen, ammonium nitrogen, total phosphorus, and total potassium determined using laboratory methods consistent with Recommended Methods of Manure Analysis, publication A3769, University of Wisconsin, 2003 or other methods approved by the department. For plans on new animal waste facilities, average values analyses published in Virginia Nutrient Management Standards and Criteria, revised November 1995 [October] 2005, should be utilized unless proposed manure storage and treatment conditions warrant the use of alternative data. Plant available nutrient content shall be determined using the mineralization rates and availability coefficients found in Virginia Nutrient Management Standards and Criteria, revised November 1995 [October] 2005, for different forms and sources of organic nutrients. Mineralization of organic nutrients from previous applications shall be accounted for in the plan.

h. The expected nitrogen contributions from legumes shall be credited when determining nutrient application rates at levels which substantially conform to those listed in Virginia Nutrient Management Standards and Criteria, revised November 1995 [October] 2005.

3. Soil pH influences nutrient availability and crop nutrient utilization and should be adjusted to the level suited for the crop. Nutrient management plans shall contain lime recommendations to adjust soil pH to a level within the appropriate agronomic range for the existing crop or crop(s) to be grown. Recommendations shall address lime application if soil pH is below the optimal range. Nutrient management planners shall not recommend the application of lime, lime-amended materials, or nutrient sources that are expected to raise the soil pH to a level that exceeds the appropriate agronomic range for the growing crop or crop(s) to be grown based on recommendations contained in Virginia Nutrient Management Standards and Criteria, revised [October] 2005.

4. Nutrient application timing.

a. Timing recommendations for nutrient applications sources containing nitrogen shall be as close to plant nutrient uptake periods as reasonably possible. A certified nutrient management planner shall utilize procedures contained in Virginia Nutrient Management Standards and Criteria, revised [October] 2005, to determine the timing of nutrient applications. To reduce the potential for nutrient leaching or runoff, a certified nutrient management planner shall recommend planting an agronomically feasible crop applications of nitrogen-containing materials only to sites where an actively

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~~growing crop is in place at the time of application or where a timely planted crop will be established within 30 days of the planned nutrient application if no actively growing crop is in place. For organic nutrient sources, planned applications may be recommended between December 21 and March 16, if necessary, if a crop will be planted during the normal spring planting season and sites have low surface runoff potential due to slope or crop residue or if management practices such as injection are recommended to reduce the potential for surface runoff of organic nutrient sources. A certified nutrient management planner shall utilize procedures contained in Virginia Nutrient Management Standards and Criteria, Revised November 1995, to assist in determining the timing of nutrient applications, except as specified in subdivisions 4 b [~~or c~~ through e] of this subsection. If such nutrient applications are made to fall-seeded crops such as small grain, the crop planted shall be capable of germination and significant growth before the onset of winter so the crop is able to take up the available applied nitrogen.~~

~~b. [If necessary, organic nutrient source applications may be within 60 days of planting a spring seeded crop to sites that (i) are not environmentally sensitive sites as identified in 4 VAC 5-15-10 or Virginia Nutrient Management Standards and Criteria, revised 2005, and (ii) have at least 60% uniform ground cover from an existing actively growing crop such as a small grain trap crop or fescue with exposed plant height of three inches or more. Such nutrient applications shall not exceed application rates of the spring seeded crop. Organic nutrient source applications may be applied at differing times than specified in subdivision 4 a of this subsection in order to manage storage constraints in accordance with the following conditions:~~

~~(1) Applications of organic nutrient sources shall be within 60 days of planting a spring seeded crop to sites that are not environmentally sensitive sites as identified in 4 VAC 5-15-10 or the Virginia Nutrient Management Standards and Criteria, revised October 2005, except as specified in subdivision 4 b (2) of this subsection. Such nutrient applications shall not exceed allowable application rates of the spring seeded crop;~~

~~(2) Applications shall be within 90 days of planting a spring seeded crop to sites that meet all of the following requirements:~~

~~(a) Are not environmentally sensitive sites as identified in 4 VAC 5-15-10 or the Virginia Nutrient Management Standards and Criteria, revised October 2005; (b) Have slopes of less than 7.0% throughout the application area unless: (i) at least 60% uniformly distributed crop residue cover exists following application or (ii) the application and any associated tillage is in conformance with an existing and implemented soil conservation plan meeting NRCS requirements for the site; and~~

~~(c) The organic sources being applied are one of the following: semi-solid beef manure, semi-solid dairy~~

~~manure with sawdust bedding or straw bedding, dewatered anaerobically digested sewage sludge, or dewatered lime stabilized sewage sludge. Such nutrient applications shall not exceed allowable application rates of the spring planted crop;~~

~~(3) Applications of organic nutrient sources may occur prior to the times specified in subdivisions 4 b (1) and (2) of this subsection on:~~

~~(a) Sites that are not environmentally sensitive sites if all of the following requirements are met: (i) a trap crop exists that has reached a Zadoks growth stage of 23 or greater having a uniform stand throughout the site area of at least 20 plants per square foot; (ii) the trap crop shall be allowed to continue growing on the entire site until within two weeks of the spring crop planting date; (iii) all such nitrogen applications of organic nutrient sources to trap crops shall not exceed the crop nutrient needs of the upcoming spring planted crop subtracting at least 30 pounds per acre of nitrogen to be reserved for use as a banded starter fertilizer at the time of spring planting; and (iv) the rate of organic nutrient source applied does not smother the crop.~~

~~(b) Environmentally sensitive sites as identified in 4 VAC 5-15-10 or the Virginia Nutrient Management Standards and Criteria, revised October 2005, in addition to those criteria outlined in subdivision 4 b (3) (a) of this subsection, such applications to a trap crop must be within 60 days of planting a spring planted crop.~~

~~c. The nutrient timing requirements of subdivisions 4 a and b of this subsection for application of sewage sludge to nonenvironmentally sensitive sites in nutrient management plans shall not be effective until January 1, 2009. The delayed implementation time is provided to allow for the development of adequate winter storage capacity, landfilling, or alternative uses. All applications of sewage sludge to environmentally sensitive sites in nutrient management plans will fully comply with the requirements of subdivisions 4 a and b of this subsection by January 11, 2006.]~~

~~[e. d.] Composted organic nutrient sources having a final carbon to nitrogen ratio of [~~25:1~~ 20:1] or greater are exempt from requirements of subdivisions 4 a and b of this subsection if analyzed for carbon to nitrogen ratio at the conclusion of the composting process and results are obtained prior to land application. [If composted organic nutrient sources are applied greater than 30 days prior to crop planting on sites with less than 60% crop residue cover, the plan shall require chisel plowing or ridge tilling within 48 hours of application of the composted organic nutrient source. If ridge tilling or chisel plowing is utilized, the equipment should be operated predominately along the contour so that uniform parallel ridges are created that will improve soil roughness and reduce runoff potential until any finishing tillage operations are performed close to the time of crop planting.] The planner shall recommend soil nitrate testing to determine~~

nitrogen application rates during the growing season following the application of composted organic nutrient sources.

~~b. [d. e.]~~ The nutrient management planner shall recommend split application of inorganic nitrogen fertilizers as starter or broadcast and sidedressing or top dressing in row crops and small grains consistent with procedures contained in Virginia Nutrient Management Standards and Criteria, revised ~~November 1995~~ [October] 2005, on environmentally sensitive sites as identified in 4 VAC 5-15-10. Split applications of inorganic nitrogen fertilizers and irrigation scheduling shall be recommended for crops to receive irrigation. The use of a pre-sidedress nitrogen test (PSNT) can help to determine additional nitrogen needs during the growing period. *In lieu of split applications, the planner may recommend the application of the total nitrogen requirement for spring-planted row crops within one week prior to planting if at least 50% of the plant available nitrogen requirement of the crop is supplied with slowly available nitrogen sources.*

~~e. [e. Nutrient applications on frozen or snow covered] grounds should be avoided [ground shall not be recommended in nutrient management plans. If an emergency situation such as storage system freeze up necessitates the application of organic nutrient sources,] select fields which have [the planner may advise the producer to apply no more than 40 pounds of plant available nitrogen per acre and deduct the applied nitrogen from other planned applications for the current or next crop if the field has (i) slopes of less than] 5.0% which are either planted in cover crops or have significant crop residue present [6.0%; (ii) 60% uniform ground cover from an existing actively growing crop such as a small grain trap crop or fescue with exposed plant height of three inches or more; (iii) a minimum of a 200-foot vegetated or adequate crop residue buffer between the application area and all surface water courses; and (iv) soils characterized by USDA as "well drained."~~

f. Nutrient management plans shall include a statement indicating that applications of inorganic nutrient sources, liquid manure, liquid sewage sludge, or liquid industrial waste are not to occur on frozen or snow-covered ground. When ground is frozen, dry or semi-solid manures, dewatered sludges, or dewatered industrial wastes may only be applied if the field has: (i) slopes not greater than 6.0%; (ii) 60% uniform ground cover from crop residue or an existing actively growing crop such as a small grain or fescue with exposed plant height of three inches or more; (iii) a minimum of a 200-foot vegetated or adequate crop residue buffer between the application area and all surface water courses; and (iv) soils characterized by USDA as "well drained."

5. Application method for nutrients.

a. The application of nitrogen *containing materials* shall be managed to minimize runoff, leaching and volatilization losses.

b. Applications of liquid manures or sludges utilizing irrigation shall not be recommended to be applied at *hydraulic* rates above those contained in Virginia Nutrient Management Standards and Criteria, revised ~~November 1995~~ [October] 2005.

c. Plans shall not recommend liquid manure or sludge application rates utilizing nonirrigation liquid spreading equipment which exceed 14,000 gallons per acre (approximately one-half (0.5) inch) per application. The amount of liquid manure or sludge application in plans will not exceed the hydraulic loading capacity of the soil at the time of each application. If a subsequent pass across a field is necessary to achieve the desired application rate, the plan will allow for sufficient drying time.

d. Where possible, the planner should recommend that biosolids, *industrial wastes* and manures be incorporated or injected in the crop root zone *in order to reduce losses of nitrogen to the atmosphere and to increase the plant available nitrogen to phosphorus ratio of these nutrient sources relative to crop nutrient needs.* Lime stabilized biosolids should not be injected due to the creation of a localized band of high soil pH unless subsequent practices are utilized, such as disking, in order to adequately mix the soil.

e. The planner shall recommend ~~buffer zones setbacks~~ around wells, springs, surface waters, sinkholes, and rock outcrops where manure or, biosolids, or *industrial waste* should not be applied. Such ~~buffer zones setbacks~~ recommended shall be consistent with criteria contained in Virginia Nutrient Management Standards and Criteria, revised ~~November 1995~~ [October] 2005, *unless alternative setbacks or buffers are specified in regulations or permits pertaining to the site. For sites impacted by other regulations or permits, the planner shall include the setbacks and buffers specified in regulations promulgated under § 32.1-164.5 of the Code of Virginia for sewage sludge, § 62.1-44.17:1 of the Code of Virginia for animal waste, § 62.1-44.17:1.1 of the Code of Virginia for poultry waste, and Chapter 21 (§ 10.1-2100 et seq.) of Title 10.1 of the Code of Virginia for sites in Chesapeake Bay Preservation areas, and permits for industrial waste land application. The land area within setback and buffer areas shall be deducted from field acreage to determine usable field acreage for nutrient application in nutrient management plans.*

B. Manure production and utilization.

1. The planner shall estimate the annual manure quantity produced on each farm utilizing tables and forms contained in Virginia Nutrient Management Standards and Criteria, revised ~~November 1995~~ [October] 2005, or from actual farm records of manure pumped or hauled during a representative 12-month period.

2. The nutrient management plan shall state the total amount of manure produced and the amount that can be used on the farm, utilizing the information and methods provided in the Virginia Nutrient Management Standards and Criteria, revised ~~November 1995~~ [October] 2005. The plan shall discuss any excess manure and shall provide

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recommendations concerning options for the proper use of such excess manure.

C. Plans shall identify and address the protection from nutrient pollution of environmentally sensitive sites.

D. Plan maintenance and revisions.

1. A site-specific nutrient management plan developed in accordance with all requirements of these regulations, including specified crops or crop rotations, shall provide information on soil fertility and seasonal application of required nutrients for one to five years of crop production. Plans developed for a period of time greater than three years and up to five years ~~should generally~~ shall be limited to sites in *permanent* pasture or *continuous* hay rotations.

2. The plan shall ~~indicate~~ state a need for *immediate* modification if ~~cropping systems, rotations, fields,~~ (i) animal numbers *are to increase above the level specified in the plan,* (ii) animal type, or management types including *intended market weights are to be changed, added or removed.* The planner shall state in the plan that such plan will be invalid if (iii) *additional imported manure, biosolids, or industrial waste that was not identified in the existing plan is to be applied to fields under the control of the operator, or (iv) available land area for the utilization of manure decreases below the level necessary to utilize manure in the plan, or if changes in animal numbers or type affect land area necessary to utilize manure.* The plan shall also state a need for modification [prior to subsequent nutrient applications] if *cropping systems, rotations, or fields are changed and phosphorus will be applied at levels greater than crop nutrient needs based on soil analysis as determined from procedures in Virginia Nutrient Management Standards and Criteria, revised [October] 2005.*

3. Adjustments to manure production and application should be made if there are increases in animal numbers or changes in how animal waste is stored or applied, or when there are changes in nutrient content of manure resulting from changing feed ~~ratio~~ rations, animal types, or new sampling and analysis for nutrient content and application rate calculations.

4. Soil analysis shall be recommended for each field at least once every three years to determine the soil fertility and pH, and to update the nutrient management plan.

5. Manure analysis shall be recommended before field application until a baseline nutrient content is established for the specific manure type on the corresponding farm operation. After a baseline nutrient content is established, a manure analysis shall be recommended at least once every three years for dry or semisolid manures, and at least once every year for liquid manures.

6. Modified top dressing or sidedressing application rates of nitrogen may be recommended if a pre-sidedress nitrogen test (PSNT) administered during the growing season indicates different levels of nitrogen than planning time calculations *if the use of the PSNT and interpretation of the test results are consistent with Virginia Nutrient*

Management Standards and Criteria, revised [October] 2005.

DOCUMENTS INCORPORATED BY REFERENCE

Virginia Nutrient Management Standards and Criteria, Department of Conservation and Recreation, Division of Soil and Water Conservation, revised ~~November 1995~~ [October] 2005.

Virginia Commercial Vegetable Production Recommendations for ~~1995,~~ [2004 2005], Virginia Cooperative Extension Service, Publication No. 456-420.

~~Electronic Field Office Technical Guide, Soil Conservation Services Natural Resources Conservation Service, United States Department of Agriculture.~~

~~Methods of Soil Analysis, Part 1, Physical and Mineralogical Methods, Second Edition, 1986, American Society of Agronomy.~~

~~Methods of Soil Analysis, Part 2, Chemical and Microbiological Properties, Second Edition, 1982, American Society of Agronomy.~~

~~Methods of Soil Analysis, Part 3, Chemical Methods, 1996, Soil Science Society of America/American Society of Agronomy.~~

~~Recommended Methods of Manure Analysis, publication A3769, University of Wisconsin, 2003.~~

~~Virginia Phosphorus Index Version 1.3 Technical Guide, revised March 2005, Virginia Tech.~~

[Tucker, M.R. 1992. Determination of phosphorus by Mehlich 3 extraction. pg. 6-8. In S.J. Donohue (Ed.) Reference Soil and Media Diagnostic Procedures for the Southern Region of the United States. Southern Cooperative Series Bulletin No. 374.]

Virginia Phosphorus Index Version [4-3 2.0] Technical Guide, Revised [March October] 2005, Virginia Tech.

V.A.R. Doc. No. R04-128; Filed November 22, 2005, 10:37 a.m.

MARINE RESOURCES COMMISSION

REGISTRAR'S NOTICE: The following regulation filed by the Marine Resources Commission is 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.

Title of Regulation: 4 VAC 20-252. Pertaining to the Taking of Striped Bass (amending 4 VAC 20-252-30, 4 VAC 20-252-135 and 4 VAC 20-252-160).

Statutory Authority: §§ 28.2-201 and 28.2-204.1 of the Code of Virginia.

Effective Date: November 14, 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 (i) stipulate that anyone who is legally eligible to fish may possess any striped bass 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 quota; (ii) stipulate that it shall be unlawful to retain any of VIMS fluorescent green numbered tagged fish that is longer than necessary before surrendering them to a VIMS representative and that no VIMS fluorescent green-tagged fish may be stored for future sale or use; (iii) require registered commercial fishermen permitted to harvest striped bass from the coastal area prominently display a fluorescent orange flag on the starboard side of the vessel while fishing for striped bass or transiting the coastal area before or after a striped bass fishing trip; (iv) establish that any registered commercial fisherman who is permitted to harvest striped bass from Virginia waters may not possess aboard a vessel any gill net with a stretched mesh size greater than nine inches from February 1, 2006, through March 31, 2006, and November 1, 2006, through December 31, 2006; (v) make it unlawful, after January 31, 2006, for any person to possess striped bass tags in the coastal area; (vi) establish requirements for issuance of striped bass tags in the Chesapeake area or coastal area, including a sequential tag distribution process for those permitted fishermen who are eligible for both the Chesapeake area or coastal area; and (vii) establish a tag distribution system wherein two types of tags shall be distributed to Chesapeake area permittees and two types of tags shall be distributed to coastal area permittees in equal amounts.

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 individual transferable quota (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.

4 VAC 20-252-135. Gill net mesh size and tending restrictions: exemptions.

A. Any registered commercial fisherman who is permitted to harvest striped bass from the coastal area in accordance with 4 VAC 20-252-130 C and sets or fishes any gill net in the coastal area shall be exempt from the maximum gill net mesh size requirements during November and December as described in 4 VAC 20-430-65 A and B.

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B. Any registered commercial fisherman who is permitted to harvest striped bass from the coastal area in accordance with 4 VAC 20-252-130 C and sets or fishes any gill net seven inches or greater in stretched mesh in the coastal area shall be exempt from the tending requirements described in 4 VAC 20-430-65 E and F during the months of November and December.

C. *Any registered commercial fisherman who is permitted to harvest striped bass from the coastal area, in accordance with 4 VAC 20-252-130 C, shall display a fluorescent orange flag, of dimensions not less than 30 inches in length and 18 inches in width, while fishing for striped bass in the coastal area and while transiting the coastal area before and after a striped bass fishing trip. This flag shall be prominently displayed on the starboard side of the vessel.*

D. *It shall be unlawful for any registered commercial fisherman who is permitted to harvest striped bass from Virginia waters and possesses striped bass tags on board a vessel to place, set, fish or possess aboard a vessel any gill net with a stretched mesh size greater than nine inches, from February 1, 2006, through March 31, 2006, and November 1, 2006, through December 31, 2006.*

4 VAC 20-252-160. Individual transferable shares; tagging.

A. For each person permitted under the provisions of 4 VAC 20-252-130 to harvest striped bass commercially, tags shall be distributed to permitted fishermen in amounts equal to the share of the Chesapeake area and coastal area striped bass harvest quota they hold. Tags issued for Chesapeake area harvest quota shall only be used for striped bass harvests in the Chesapeake area, and tags issued for the coastal area harvest quota shall only be used for striped bass harvests in the coastal area.

B. ~~After January 31, 2006, it shall be unlawful for any person permitted under the provisions of 4 VAC 20-252-130 to harvest striped bass commercially to possess any striped bass tagged with Chesapeake area tags within the waters of the coastal area, unless such person obtains from the commissioner a permit that authorizes transit from the Chesapeake area to the coastal area, for the purposes of returning to the port of landing to possess Chesapeake area tags in the coastal area.~~

C. Shares of the commercial striped bass quota of tags held by any permitted fisherman may be transferred to any other person who is a licensed registered commercial fisherman; such transfer shall allow the transferee to harvest striped bass in a quantity equal to the share transferred. Any transfer of striped bass commercial shares shall be limited by the following conditions.

1. Commercial striped bass shares shall not be transferred in any quantity less than 20 tags.

2. No licensed registered commercial fisherman shall hold shares totaling more than 2.0% of the total annual Chesapeake area commercial striped bass harvest quota of tags or more than 11% of the total annual coastal area commercial striped bass harvest quota of tags.

3. No transfer of striped bass commercial harvest quota shares shall be authorized unless such transfer is documented on a form provided by the Marine Resources Commission, notarized by a lawful Notary Public, and approved by the commissioner.

D. Transfers of Chesapeake area or coastal area striped bass commercial quota shares from one person to another may be permanent or temporary. Transferred tags from the Chesapeake area striped bass commercial quota shall only be used by the transferee for striped bass harvested from the Chesapeake area, and transferred tags from the coastal area striped bass commercial quota shall only be used by the transferee for striped bass harvested from the coastal area. Permanent transfers of commercial quota shares shall grant to the transferee that transferred share of the quota of tags for future years, and the transferor loses that same transferred share of the quota of tags in future years. Temporary transfers of striped bass commercial harvest quota shares shall allow the transferee to harvest that transferred share of the quota of tags during the year in which the transfer is approved. Thereafter, any share of the transferred striped bass commercial quota of tags reverts back to the transferor.

E. The commission will issue striped bass tags to permitted striped bass commercial fishermen ~~prior to the start of the fishing season~~ as follows: *those fishermen permitted only for Chesapeake area or coastal area harvests of striped bass will receive their allotment of tags prior to the start of the fishing season. Any permitted fisherman, eligible for both Chesapeake area and coastal area tags, shall receive only one type of area-specific tag allotment, of his choosing, prior to the start of the fishing season, and his other type of area-specific tags will be distributed when it has been determined from the commission's mandatory harvest reporting program that the fisherman has used all of his first allotment of tags. The commissioner may authorize the distribution of the second allotment of area-specific tags to a fisherman eligible for both Chesapeake area and Coastal area tags prior to that fisherman's complete use of his first allotment of tags, provided that fisherman surrenders any remaining tags of his first allotment of tags.*

F. Striped bass tags are valid only for use by the permittee to whom the tags were allotted. The permittee shall be on board the boat or vessel when striped bass are harvested and tags are applied. Nothing in this subsection shall prevent a permitted commercial hook-and-line fisherman from using three crew members who are not registered commercial fishermen to assist in the harvest of his allotment of striped bass.

G. At the place of capture, and as soon as possible after capture, tags shall be passed through the mouth of the fish and one gill opening, and interlocking ends of the tag shall then be connected such that the tag may only be removed by breaking. Failure to comply with these provisions shall be a violation of this chapter.

H. It shall be unlawful to bring to shore any commercially caught striped bass that has not been marked by the fisherman with a tamper evident, numbered tag provided by

the commission. It shall be unlawful to possess striped bass in a quantity greater than the number of tags in possession.

I. Altering or attempting to alter any tag for the purpose of reuse shall constitute a violation of this chapter.

J. Prior to receiving any commercial season's allotment of striped bass tags, a permitted commercial harvester shall be required to have returned all unused tags from the previous commercial season to the commission. Any unused tags that cannot be turned in to the commission shall be accounted for by the harvester submitting an affidavit to the commission that explains the disposition of the unused tags that are not able to be turned into the commission.

K. For the 2006 and 2007 commercial fishing seasons, two types of tags shall be distributed to Chesapeake area permittees, and two types of tags shall be distributed to coastal area permittees, in equal amounts. For the Chesapeake area, one type of tag shall only be used on striped bass 18 inches to 28 inches, and the other type of tag may be used on any striped bass 18 inches or greater. For the coastal area, one type of tag shall only be used on striped bass 28 inches to 34 inches, and the other type of tag may be used on any striped bass 28 inches or greater. It shall be unlawful for any person to use a tag that is specified for an 18-inch to 28-inch striped bass on a striped bass greater than 28 inches in total length. It shall be unlawful for any person to use a tag that is specified for a 28-inch to 34-inch striped bass on a striped bass greater than 34 inches in total length. The possession of any improperly tagged striped bass, by any permitted striped bass fisherman, shall be a violation of this chapter.

VA.R. Doc. No. R06-113; Filed November 14, 2005, 3:31 p.m.



TITLE 9. ENVIRONMENT

STATE WATER CONTROL BOARD

Title of Regulation: **9 VAC 25-260. Water Quality Standards (amending 9 VAC 25-260-310, 9 VAC 25-260-410 and 9 VAC 25-260-530).**

Statutory Authority: § 62.1-44.15 of the Code of Virginia; Clean Water Act (33 USC § 1251 et seq.); 40 CFR Part 131.

Effective Date: Upon submittal of notice of EPA approval to the Registrar of Regulations.

Agency Contact: Eleanore M. Daub, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4111, FAX (804) 698-4116, or e-mail emdaub@deq.virginia.gov.

Summary:

The rulemaking consists of amendments to the site specific water quality standards for numerical water quality criteria for chlorophyll a in the James River and dissolved oxygen in the Mattaponi and Pamunkey Rivers. These regulations were adopted with suspension of the effective date and

extension of public comment period on June 28, 2005. The purpose of the extension was to review a change made to the criterion for the summer lower tidal fresh James River and the results of an alternative analysis that considered the chlorophyll levels and costs (attainability) of several agreed upon nutrient loading scenarios. These scenarios included the loadings in the Water Quality Management Planning Regulation (9 VAC 25-720) which was also adopted with suspension on June 28.

Changes made from the June proposal in response to public comment and the alternative analysis include the adjustment of the spring criterion for the James mesohaline and polyhaline segments from 10 micrograms per liter (µg/l) to 12 µg/l, the summer criterion for the oligohaline segment from 15 µg/l to 22 µg/l and the summer criterion for the lower tidal fresh region from 25 µg/l to 23 µg/l.

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.

9 VAC 25-260-310. Special standards and requirements.

The special standards are shown in small letters to correspond to lettering in the basin tables. The special standards are as follows:

a. Shellfish waters. In all open ocean or estuarine waters capable of propagating shellfish or in specific areas where public or leased private shellfish beds are present, including those waters on which condemnation or restriction classifications are established by the State Department of Health, the following criteria for fecal coliform bacteria will apply:

The geometric mean fecal coliform value for a sampling station shall not exceed an MPN (most probable number) of 14 per 100 ml of sample and the 90th percentile shall not exceed 43 for a 5-tube, 3-dilution test or 49 for a 3-tube, 3-dilution test.

The shellfish area is not to be so contaminated by radionuclides, pesticides, herbicides, or fecal material that the consumption of shellfish might be hazardous.

b. Policy for the Potomac Embayments. At its meeting on September 12, 1996, the board adopted a policy (9 VAC 25-415, Policy for the Potomac Embayments) to control point source discharges of conventional pollutants into the Virginia embayment waters of the Potomac River, and their tributaries, from the fall line at Chain Bridge in Arlington County to the Route 301 bridge in King George County. The policy sets effluent limits for BOD₅, total suspended solids, phosphorus, and ammonia, to protect the water quality of these high profile waterbodies.

- c. Cancelled.
- d. Cancelled.
- e. Cancelled.
- f. Cancelled.

g. Occoquan watershed policy. At its meeting on July 26, 1971 (Minute 10), the board adopted a comprehensive pollution abatement and water quality management policy

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for the Occoquan watershed. The policy set stringent treatment and discharge requirements in order to improve and protect water quality, particularly since the waters are an important water supply for Northern Virginia. Following a public hearing on November 20, 1980, the board, at its December 10-12, 1980 meeting, adopted as of February 1, 1981, revisions to this policy (Minute 20). These revisions became effective March 4, 1981. Additional amendments were made following a public hearing on August 22, 1990, and adopted by the board at its September 24, 1990, meeting (Minute 24) and became effective on December 5, 1990. Copies are available upon request from the Department of Environmental Quality.

- h. Cancelled.
- i. Cancelled.
- j. Cancelled.
- k. Cancelled.
- l. Cancelled.

m. The following effluent limitations apply to wastewater treatment facilities in the entire Chickahominy watershed above Walker's Dam (this excludes effluents consisting solely of stormwater):

CONSTITUENT	CONCENTRATION
1. Biochemical Oxygen demand 5-day at 20	6.0 mg/l monthly average, with not more than 5% of individual samples to exceed 8.0 mg/l
2. Settleable Solids	Not to exceed 0.1 ml/l
3. Suspended Solids	5.0 mg/l monthly average, with not more than 5% of individual samples to exceed 7.5 mg/l
4. Ammonia Nitrogen	Not to exceed 2.0 mg/l as N
5. Total Phosphorus	Not to exceed 0.1 mg/l monthly average for all discharges with the exception of Tyson Foods, Inc. which shall meet 0.3 mg/l monthly average and 0.5 mg/l daily maximum.
6. Other Physical and Chemical Constituents	Other physical or chemical constituents not specifically mentioned will be covered by additional specifications as conditions detrimental to the stream arise. The specific mention of items 1 through 5 does not necessarily mean that the addition of other physical or chemical constituents will be condoned.

n. No sewage discharges, regardless of degree of treatment, should be allowed into the James River between Boshier and Williams Island Dams.

o. The concentration and total amount of impurities in Tuckahoe Creek and its tributaries of sewage origin shall be limited to those amounts from sewage, industrial wastes, and other wastes which are now present in the stream from

natural sources and from existing discharges in the watershed.

- p. Cancelled.
- q. Cancelled.
- r. Cancelled.

s. Chlorides not to exceed 40 mg/l at any time.

t. Cancelled.

u. Maximum temperature for the New River Basin from West Virginia state line upstream to the Giles--Montgomery County line:

The maximum temperature shall be 27°C (81°F) unless caused by natural conditions; the maximum rise above natural temperatures shall not exceed 2.8°C (5°F).

This maximum temperature limit of 81°F was established in the 1970 water quality standards amendments so that Virginia temperature criteria for the New River would be consistent with those of West Virginia, since the stream flows into that state.

v. The maximum temperature of the New River and its tributaries (except trout waters) from the Montgomery-Giles County line upstream to the Virginia-North Carolina state line shall be 29°C (84°F).

w. Cancelled.

x. Clinch River from the confluence of Dumps Creek at river mile 268 at Carbo downstream to river mile 255.4. The special water quality criteria for copper (measured as total recoverable) in this section of the Clinch River are 12.4 µg/l for protection from chronic effects and 19.5 µg/l for protection from acute effects. These site-specific criteria are needed to provide protection to several endangered species of freshwater mussels.

y. Tidal freshwater Potomac River and tributaries that enter the tidal freshwater Potomac River from Cockpit Point (below Occoquan Bay) to the fall line at Chain Bridge. During November 1 through February 14 of each year the 30-day average concentration of total ammonia nitrogen (in mg N/L) shall not exceed, more than once every three years on the average, the following chronic ammonia criterion:

$$\left(\frac{0.0577}{1 + 10^{7.688 - \text{pH}}} + \frac{2.487}{1 + 10^{\text{pH} - 7.688}} \right) \times 1.45(10^{0.028(25 - \text{MAX})})$$

MAX = temperature in °C or 7, whichever is greater.

The default design flow for calculating steady state waste load allocations for this chronic ammonia criterion is the 30Q10, unless statistically valid methods are employed which demonstrate compliance with the duration and return frequency of this water quality criterion.

z. A site specific dissolved copper aquatic life criterion of 16.3 µg/l for protection from acute effects and 10.5 µg/l for protection from chronic effects applies in the following area:

Little Creek to the Route 60 (Shore Drive) bridge including Little Channel, Desert Cove, Fishermans Cove and Little Creek Cove.

Hampton Roads Harbor including the waters within the boundary lines formed by I-664 (Monitor-Merrimac Bridge Tunnel) and I-64 (Hampton Roads Bridge Tunnel), Willoughby Bay and the Elizabeth River and its tidal tributaries.

This criterion reflects the acute and chronic copper aquatic life criterion for saltwater in 9 VAC 25-260-140 B X a water effect ratio. The water effect ratio was derived in accordance with 9 VAC 25-260-140 F.

aa. The following site-specific dissolved oxygen criteria apply to the tidal Mattaponi and Pamunkey Rivers and their tidal tributaries because of seasonal lower dissolved oxygen concentration due to the natural oxygen depleting processes present in the extensive surrounding tidal wetlands. These criteria apply June 1 through September 30 to Chesapeake Bay segments MPNTF, MPNOH, PMKTF, PMKOH and are implemented in accordance with subsection D of 9 VAC 25-260-185. These criteria supersede the open water criteria listed in subsection A of 9 VAC 25-260-185.

Designated use	Criteria Concentration/ Duration	Temporal Application
Open Water	30 day mean \geq 4.0 mg/l	June 1 - September 30
	Instantaneous minimum \geq 3.2 mg/l at temperatures $<29^{\circ}\text{C}$	
	Instantaneous minimum \geq 4.3 mg/l at temperatures $\geq 29^{\circ}\text{C}$	

bb. The following site specific numerical chlorophyll a criteria apply March 1 through May 31 and July 1 through September 30 as seasonal means to the tidal James River (excludes tributaries) segments JMSTF2, JMSTF1, JMSOH, JMSMH, JMSPH and are implemented in accordance with subsection D of 9 VAC 25-260-185.

Designated Use	Chlorophyll a μl	Chesapeake Bay Program Segment	Temporal Application
Open Water	10	JMSTF2	March 1 - May 31
	15	JMSTF1	
	15	JMSOH	
	[40 12]	JMSMH	
	[40 12]	JMSPH	
	15	JMSTF2	July 1 - September 30
	20 [25-23]	JMSTF1	
	[45 22]	JMSOH	
	10	JMSMH	
	10	JMSPH	

9 VAC 25-260-410. James River Basin (Lower).

SEC. CLASS	SP. STDS.	SECTION DESCRIPTION
1	II	a,z, <i>bb</i> NEW-19
		James River and its tidal tributaries from Old Point Comfort - Fort Wool to the end of tidal waters (fall line, Mayo's Bridge, 14th Street, Richmond), except prohibited or spoil areas, unless otherwise designated in this chapter.
1a	III	NEW-19
		Free flowing or nontidal portions of streams in Section 1, unless otherwise designated in this chapter.
1b	II	a,z, NEW-19
		Eastern and Western Branches of the Elizabeth River and tidal portions of their tributaries from their confluence with the Elizabeth River to the end of tidal waters.
1c	III	NEW-19
		Free flowing portions of the Eastern Branch of the Elizabeth River and its tributaries.
1d	II	a,z, NEW-19
		Southern Branch of the Elizabeth River from its confluence with the Elizabeth River to the lock at Great Bridge.
1e	III	NEW-19
		Free flowing portions of the Western Branch of the Elizabeth River and of the Southern Branch of the Elizabeth River from their confluence with the Elizabeth River to the lock at Great Bridge.
1f	II	a,NEW-19
		Nansemond River and its tributaries from its confluence with the James River to Suffolk (dam at Lake Meade), unless otherwise designated in this chapter.
1g	III	NEW-19
		Shingle Creek from its confluence with the Nansemond River to its headwaters in the Dismal Swamp.
1h	III	PWS,NEW-19
		Lake Prince, Lake Burnt Mills and Western Branch impoundments for Norfolk raw water supply and Lake Kilby - Cahoon Pond, Lake Meade and Lake Speight impoundments for Portsmouth raw water supply and including all tributaries to these impoundments.
1i	III	NEW-19
		Free flowing portions of the Pagan River and its free flowing tributaries.
1j		(Deleted)
1k	III	PWS,NEW-19
		Skiffes Creek Reservoir (Newport News water impoundment).
1l	III	PWS,NEW-19
		The Lone Star lakes and impoundments in the City of Suffolk, Chuckatuck Creek

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			watershed which serve as a water source for the City of Suffolk.				the Mattaponi River to Clifton and the Pamunkey River to Romancoke, unless otherwise designated in this chapter.
1m	III	PWS,NEW-19	The Lee Hall Reservoir system, near Skiffes Creek and the Warwick River, in the City of Newport News.	2a	III	PWS,NEW-17	Waller Mill Reservoir and its drainage area above Waller Mill dam which serves as a raw water supply for the City of Williamsburg.
1n	III	PWS,NEW-19	Chuckatuck Creek and its tributaries from Suffolk's raw water intake (at Godwin's Millpond) to a point 5 miles upstream.	2b	III	PWS,NEW-17	Jones Pond (a tributary of Queen Creek near Williamsburg which serves as the raw water supply for Cheatham Annex Naval Station) and its tributaries to points 5 miles upstream.
1o	II	PWS,NEW-18, bb	James River from City Point (Hopewell) to a point 5 miles above American Tobacco Company's raw water intake.	3	III		Free flowing portions of the Mattaponi and Pamunkey Rivers, free flowing tributaries of the Mattaponi above Clifton, and free flowing tributaries of the Pamunkey above Romancoke, unless otherwise designated in this chapter.
1p	III	PWS,NEW-18	Free flowing tributaries to section 1o.	3a	III	PWS	South Anna River from Ashland's raw water intake to a point 5 miles upstream.
2	III	NEW-18, 19	Free flowing tributaries of the James River from Buoy 64 to Brandon and free flowing tributaries of the Chickahominy River to Walkers Dam, unless otherwise designated in this chapter.	3b	III	PWS	Northeast Creek from the Louisa County Water Authority's impoundment dam (approximately 1/8 mile upstream of Route 33) to its headwaters.
2a	III	PWS,NEW-18	Diascund Creek and its tributaries from Newport News' raw water intake dam to its headwaters.	3c	III		South Anna River from Route 15 upstream to a point 1.5 miles below the effluent from the Gordonsville Sewage Treatment Plant.
2b	III	PWS,NEW-18	Little Creek Reservoir and its tributaries from the City of Newport News impoundment dam to 5 miles upstream of the raw water intake.	3d	III	PWS	Ni River and its tributaries from Spotsylvania's raw water intake near Route 627 to their headwaters.
3	III	m,NEW-18	Chickahominy River and its tributaries from Walkers Dam to Bottoms Bridge (Route 60 bridge), unless otherwise designated in this chapter.	3e	III	PWS	The North Anna River and its tributaries from Hanover County's raw water intake near Doswell (approximately 1/2 mile upstream from State Route 30) to points 5 miles upstream.
3a	III	PWS,m, NEW-18	Chickahominy River from Walkers Dam to a point 5 miles upstream.	3f	III	PWS	Stevens Mill Run from the Lake Caroline water impoundment, and other tributaries into the impoundment upstream to their headwaters.
4	III	m	Chickahominy River and its tributaries, unless otherwise designated in this chapter, from Bottoms Bridge (Route 60 bridge) to its headwaters.				
9 VAC 25-260-530. York River Basin.							
SEC.	CLASS	SP. STDS	SECTION DESCRIPTION				
1	II	a,NEW-17, aa	York River and the tidal portions of its tributaries from Goodwin Neck and Sandy Point upstream to Thorofare Creek and Little Salem Creek near West Point; Mattaponi River and the tidal portions of its tributaries from Little Salem Creek to the end of tidal waters; Pamunkey River and the tidal portions of its tributaries from Thorofare Creek near West Point to the end of tidal waters.				
2	III	NEW-17	Free flowing tributaries of the York River, free flowing tributaries of				

VA.R. Doc. No. R04-39; Filed November 22, 2005, 8:05 a.m.

REGISTRAR'S NOTICE: The State Water Control Board adopted revisions to the Water Quality Management Planning Regulation (9 VAC 25-720), which were published in 21:23 V.A.R. 3236-3249 July 25, 2005. At the same time the amendments to the regulations were suspended by the board pursuant to § 2.2-4015 A 4 of the Administrative Process Act. The changes made since the 21:23 V.A.R. publication are shown in brackets.

9 VAC 25-720-60 (James River Basin) and 9 VAC 25-720-120 (York River), which were deferred at the board's September meeting, were finalized at the November meeting to become effective January 11, 2006.

Titles of Regulation: **9 VAC 25-720. Water Quality Management Planning Regulation (amending 9 VAC 25-720-60 and 9 VAC 25-720-120.**

Statutory Authority: § 62.1-44.15 of the Code of Virginia; § 303 of the federal Clean Water Act.

Effective Date: January 11, 2006.

Agency Contact: John Kennedy, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4312, FAX (804) 698-4116, or e-mail jmkennedy@deq.virginia.gov.

Summary:

The amendments establish total nitrogen and total phosphorus annual waste load allocations for certain dischargers within the James and York basins.

At its June 28, 2005 meeting, the board adopted two amended regulations: (i) Regulation for Nutrient Enriched

9 VAC 25-720-60. James River Basin.

REGISTRAR'S NOTICE: No changes are proposed to subsections A and B; therefore, the text of those subsections is not set out.

C. Nitrogen and phosphorus waste load allocations to restore the Chesapeake Bay and its tidal rivers.

The following table presents nitrogen and phosphorus waste load allocations for the identified significant dischargers, ~~the associated delivery factors used for trading or offset purposes,~~ and the total nitrogen and total phosphorus [delivered] waste load allocation allocations for the basin [local facilities]. ~~These individual significant discharger waste load allocations may be revised through the watershed trading program contained in 9 VAC 25-720-30. The waste load allocation listed below for a discharger, or the waste load allocation revised in accordance with 9 VAC 25-720-30, shall be achieved within four years following reissuance or modification of the discharger's VPDES permit, but in no case later than December 31, 2010.~~

<i>CBP Watershed Model Segment</i>	<i>Virginia Waterbody ID</i>	<i>Discharger Name</i>	<i>VPDES Permit No.</i>	<i>Total Nitrogen (TN) Waste Load Allocation (lbs/yr)</i>	<i>TN Delivery Factor</i>	<i>TN Waste Load Delivered Allocation (lbs/yr)</i>	<i>Total Phosphorus (TP) Waste Load Allocation (lbs/yr)</i>	<i>TP Delivery Factor</i>	<i>TP Waste Load Delivered Allocation (lbs/yr)</i>
<i>270</i>	<i>I37R</i>	<i>Buena Vista STP</i>	<i>VA0020991</i>	<i>35,000 [27,410 41,115]</i>	<i>0.30</i>	<i>10,000</i>	<i>4,400 [2,056 3,426]</i>	<i>1.10</i>	<i>4,800</i>
<i>270</i>	<i>I09R</i>	<i>Clifton Forge STP</i>	<i>VA0022772</i>	<i>39,000 [24,364 36,547]</i>	<i>0.30</i>	<i>12,000</i>	<i>4,900 [1,827 3,046]</i>	<i>1.10</i>	<i>5,400</i>

Waters and Dischargers Within the Chesapeake Bay Watershed (9 VAC 25-40); and (ii) Water Quality Management Planning Regulation (9 VAC 25-720), and suspended the effective date to allow time for another 30-day public comment period.

At their September 27, 2005, meeting, the board adopted final nutrient waste load allocations for certain dischargers in the Potomac, Rappahannock, and Eastern Shore basins. Final waste load allocations for total nitrogen and total phosphorus in the York and James Basins were deferred at that time, to be finalized at the November 21, 2005, board meeting.

That action has now been taken, with revisions to the waste load allocations first adopted in June 2005 for the James and York basins as appropriate, taking into account:

- 1. Design flow of the facilities.*
- 2. Use of stringent nutrient removal treatment.*
- 3. Water quality modeling results that simulated various options for nutrient control levels and the resulting compliance with proposed and adopted tidal water quality standards.*

This action completes the overall rulemaking to amend the Water Quality Management Planning Regulation by adding provisions for point source nutrient discharge control, initiated through a Notice of Intended Regulatory Action published on January 26, 2004.

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.

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270	I09R	Covington STP	VA0025542	44,000 [36,547 54,820]	0.30	13,000	5,500 [2,744 4,568]	1.10	6,100
270	H02R	Georgia Pacific	VA0003026	99,000 [90,149 122,489]	0.30	30,000	66,000 [36,547 49,658]	1.10	72,000
270	I04R	Hot Springs Regional STP	VA0066303	10,000	0.30	3,100	1,300	1.10	1,400
270	I37R	Lees Carpets	VA0004677	22,000 30,456	0.30	6,600	22,000 12,182	1.10	24,000
270	I35R	Lexington- Rockbridge WQCF	VA0088161	29,000 [36,547 54,820]	0.30	8,800	3,600 [2,744 4,568]	1.10	4,000
270	I09R	Low Moor STP	VA0027979	7,300 [6,094 9,137]	0.30	2,200	910 [457 761]	1.10	1,000
270	I09R	Lower Jackson River STP	VA0090671	44,000 [48,273 27,410]	0.30	4,100	1,500 [1,374 2,284]	1.10	1,700
270	I04R	MeadWestvaco	VA0003646	370,000 394,400	0.30	110,000	160,000 159,892	1.10	180,000
280	H12R	Amherst [Town] STP	VA0031321	6,000 [7,309 10,964]	0.61	3,700	550 [548 914]	1.10	600
280	H05R	BWX Technologies Inc.	VA0003697	120,000 187,000	0.61	71,000	760 1,523	1.10	840
280	H05R	Greif Inc. [- Riverville]	VA0006408	65,000 73,246	0.61	40,000	31,000 29,694	1.10	34,000
280	H31R	Lake Monticello STP	VA0024945	17,000 [12,121 18,182]	0.61	10,000	1,100 [909 1,515]	1.10	1,200
280	H05R	Lynchburg [City] STP (1)	VA0024970	420,000 536,019	0.61	260,000	26,000 33,501	1.10	29,000
280	H28R	Moores Creek Regional STP	VA0025518	290,000 [182,734 274,100]	0.61	180,000	18,000 [13,705 22,842]	1.10	20,000
290	H38R	Powhatan CC STP	VA0020699	7,700 [5,726 8,588]	0.81	6,200	480 [429 716]	1.10	530
300	J11R	Crewe WWTP	VA0020303	7,300 [6,094 9,137]	0.37	2,700	910 [457 761]	0.42	380
300	J01R	Farmville WWTP	VA0083135	27,000 [29,237 43,856]	0.37	9,900	3,400 [2,193 3,655]	0.42	1,400
600	G02E	[Brown and Williamson R. J. Reynolds]	VA0002780	19,000 25,583	1.00	19,000	1,900 1,919	1.00	1,900
600	G01E	E I du Pont - Spruance	VA0004669	200,000 201,080	1.00	200,000	7,800 7,816	1.00	7,800
600	G01E	Falling Creek WWTP	VA0024996	140,000 [123,044 153,801]	1.00	140,000	14,000 [9,228 15,380]	1.00	14,000
600	G01E	Henrico County WWTP	VA0063690	780,000 [913,668 1,142,085]	1.00	780,000	78,000 [68,525 114,209]	1.00	78,000
600	G03E	Honeywell - Hopewell	VA0005291	1,100,000 1,090,798	1.00	1,100,000	52,000 51,592	1.00	52,000
600	G03R	Hopewell WWTP	VA0066630	1,200,000 1,827,336	1.00	1,200,000	53,000 [45,683 76,139]	1.00	53,000
600	G15E	HRSD - Boat Harbor STP	VA0081256	540,000 [609,112 740,000]	1.00	540,000	49,000 76,139	1.00	49,000

600	G11E	HRSD - James River STP	VA0081272	570,000 [487,290 1,250,000]	1.00	570,000	52,000 60,911	1.00	52,000
600	G10E	HRSD - Williamsburg STP	VA0081302	500,000 [548,204 800,000]	1.00	500,000	46,000 68,525	1.00	46,000
600	G02E	Philip Morris - Park 500 [(2)]	VA0026557	40,000 [48,547 139,724]	1.00	40,000	7,400 2,650	1.00	7,400
600	G01E	Proctors Creek WWTP	VA0060194	290,000 [328,929 411,151]	1.00	290,000	29,000 [24,669 41,115]	1.00	29,000
600	G01E	Richmond WWTP (1)	VA0063177	1,000,000 1,096,402	1.00	1,000,000	73,000 68,525	1.00	73,000
600	G02E	Dominion-Chesterfield [(3) (2)]	VA0004146	352,036			210		
600	J15R	South Central WW Authority	VA0025437	210,000 [280,192 350,239]	1.00	210,000	21,000 [24,044 35,024]	1.00	21,000
640	G07R	Chickahominy WWTP	VA0088480	2,300 [4,934 6,167]	1.00	2,300	76 123	1.00	76
640	G05R	Tyson Foods - Glen Allen	VA0004031	21,000 19,552	1.00	21,000	430 326	1.00	430
620	G11E	HRSD - Nansemond STP	VA0081299	640,000 [730,934 750,000]	1.00	640,000	58,000 91,367	1.00	58,000
960	G15E	HRSD - Army Base STP	VA0081230	500,000 [438,564 610,000]	1.00	500,000	46,000 54,820	1.00	46,000
960	G15E	HRSD - VIP WWTP	VA0081281	1,100,000 [974,579 750,000]	1.00	1,100,000	97,000 121,822	1.00	97,000
960	G15E	JH Miles & Company	VA0003263	20,000 [158,826 153,500]	1.00	20,000	680 [18,654 21,500]	1.00	680
965	C07E	HRSD - Ches.- Elizabeth STP	VA0081264	1,500,000 [1,526,409 1,100,000]	1.00	1,500,000	110,000 108,674	1.00	110,000
		TOTALS		12,001,600 [13,459,719 14,901,739]		11,155,600	1,148,596 [1,205,957 1,354,292]		1,184,636

NOTES: (1) Waste load allocations for localities served by combined sewers are based on dry weather design flow capacity. During wet weather flow events the discharge shall achieve a TN concentration of 8.0 mg/l and a TP concentration of 1.0 mg/l.

[(2) TN waste load allocation based on the portion of discharged nitrogen that is bioavailable to aquatic life.

(3) (2)] Waste load allocations are "net" loads, based on the portion of the nutrient discharge introduced by the facility's process waste streams, and not originating in raw water intake.

9 VAC 25-720-120. York River Basin.

REGISTRAR'S NOTICE: No changes are proposed to subsections A and B; therefore, the text of those subsections is not set out.

C. Nitrogen and phosphorus waste load allocations to restore the Chesapeake Bay and its tidal rivers.

The following table presents nitrogen and phosphorus waste load allocations for the identified significant dischargers, ~~the associated delivery factors used for trading or offset purposes,~~ and the total nitrogen and total phosphorus delivered waste load allocation allocations for the [basin local facilities]. ~~These individual significant discharger waste load allocations may be revised through the watershed trading program contained in 9 VAC 25-720-30. The waste load allocation listed below for a discharger, or the waste load allocation revised in accordance with 9 VAC 25-720-30, shall be achieved within four years following reissuance or modification of the discharger's VPDES permit, but in no case later than December 31, 2010.~~

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CBP Watershed Model Segment	Virginia Waterbody ID	Discharger Name	VPDES Permit No.	Total Nitrogen (TN) Waste Load Allocation (lbs/yr)	TN Delivery Factor	TN Waste Load Delivered Allocation (lbs/yr)	Total Phosphorus (TP) Waste Load Allocation (lbs/yr)	TP Delivery Factor	TP Waste Load Delivered Allocation (lbs/yr)
240	F20R	Caroline County STP	VA0073504	7,300 [6,094 9,137]	0.42	3,100	460 [457 1,066]	0.43	200
250	F01R	Gordonsville STP	VA0021105	16,000 [11,451 17,177]	0.02	330	1,000 [859 2,004]	0.58	590
260	F04R	Ashland WWTP	VA0024899	38,000 [24,364 36,547]	0.51	19,000	2,400 [1,827 4,264]	0.58	1,400
260	F09R	Doswell WWTP	VA0029521	110,000 [59,510 65,601]	0.51	56,000	6,800 [20,101 14,923]	0.58	4,000
590	F27E	Giant Yorktown Refinery	VA0003018	170,000 167,128	1.00	170,000	22,000 22,111	1.00	22,000
590	F27E	HRSD - York River STP	VA0081311	310,000 [182,734 274,100]	1.00	310,000	19,000 [13,795 31,978]	1.00	19,000
590	F14R	Parham Landing WWTP [(1)]	VA0088331	5,200 [36,547 54,820]	1.00	5,200	520 [2,744 6,396]	1.00	520
590	F14E	Smurfit Stone - West Point	VA0003115	300,000 259,177	1.00	300,000	28,000 70,048	1.00	28,000
590	F12E	Totopotomoy WWTP	VA0089915	120,000 [60,911 182,734]	1.00	120,000	7,600 [4,568 21,319]	1.00	7,600
590	F25E	West Point STP	VA0075434	15,000 [7,309 10,964]	1.00	15,000	910 [548 1,279]	1.00	910
940	C04E	HRSD - Mathews Courthouse STP	VA0028819	1,900 [1,218 1,827]	1.00	1,900	120 [94 213]	1.00	120
		TOTALS:		1,093,400 [816,442 1,079,212]		1,000,530	88,810 [137,057 175,601]		84,340

[NOTES: (1) Parham Landing WWTP: waste load allocations (WLAs) based on a design flow capacity of 3.0 million gallons per day (MGD). If plant is not certified to operate at 3.0 MGD design flow capacity by December 31, 2010, the WLAs will decrease to TN = 10,416 lbs/yr; TP = 1,215 lbs/yr, based on a design flow capacity of 0.57 MGD.]

VA.R. Doc. No. R04-78; Filed November 22, 2005, 8:04 a.m.

TITLE 12. HEALTH

STATE BOARD OF HEALTH

REGISTRAR'S NOTICE: The State Board of Health 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 where no agency discretion is involved. The State Board of Health will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or

Title of Regulation: 12 VAC 5-371. Regulations for the Licensure of Nursing Facilities (amending 12 VAC 5-371-180, 12 VAC 5-371-210, 12 VAC 5-371-240, 12 VAC 5-371-300, 12 VAC 5-371-320, 12 VAC 5-371-340, 12 VAC 5-371-360, 12 VAC 5-371-370, 12 VAC 5-371-410, and 12 VAC 5-371-430; repealing 12 VAC 5-371-350 and 12 VAC 5-371-430 through 12 VAC 5-371-560).

Statutory Authority: §§ 32.1-12 and 32.1-127 of the Code of Virginia.

Effective Date: January 11, 2006.

Agency Contact: Carrie Eddy, Senior Policy Analyst, Department of Health, Center for Quality Health Care Services and Consumer Protection, 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.

Summary:

Chapters 177 and 222 of the 2005 Acts of Assembly require that the physical plant standards for nursing facilities be consistent with the "Guidelines for Design and Construction of Hospital and Health Care Facilities" (Guideline) of the American Institute of Architects (AIA). Therefore, the department is amending this regulation pursuant to § 2.2-4006 A 4 a of the Code of Virginia. The changes relate to physical plant design and construction standards that are duplicative as a result of the 2005 legislation. That is, the standards contained in 12 VAC 5-371-440 through 12 VAC 5-371-560 are addressed in Section 9 of the Guideline. However, the requirements of the Uniform Statewide Building Code (USBC), 13 VAC 5-63, of the Department of Housing and Community Development, as mandated by § 36-98 of the Code of Virginia, and local zoning and building ordinances shall take precedence.

The department believes that it still meets its mandated obligation under § 32.1-127 of the Code of Virginia to assure the "environmental protection and life safety of patients and employees and public" by incorporating by reference the AIA Guideline. Incorporation of the USBC standards was accomplished as part of the comprehensive revision to the regulation in 1997.

Pursuant to § 2.2-4006 A 4 a of the Code of Virginia, the department is taking this opportunity to also update the Rules and Regulations for the Licensure of Nursing Facilities to reflect other legislative or regulatory changes affecting the regulation that have occurred. The following sections are amended:

1. 12 VAC 5-371-180 to require disease reporting as required by § 32.1-35 of the Code of Virginia and 12 VAC 5-90, effective 1993, amended in 2004;
2. 12 VAC 5-371-210 to permit delegation of nursing duties as allowed by § 54.1-3005 of the Code of Virginia and 18 VAC 90-20-420 through 18 VAC 90-20-460, effective 1999;
3. 12 VAC 5-371-240 to permit services by nurse practitioners and physician assistants when acting within their scope of practice and under the supervision of a physician as allowed by §§ 54.1-2957 and 54.1-2952 and 18 VAC 90-30-120 and 18 VAC 90-40-100 for nurse practitioners and 18 VAC 85-50-10 for physician assistants;
4. 12 VAC 5-371-300 to conform to pharmacy requirements as required in Chapter 33 of Title 54.1 of the Code of Virginia and 18 VAC 110-20, effective 1989, amended 2001;
5. 12 VAC 5-371-320 to include dental hygienists, under the direction or supervision of a licensed dentist, performing services that are educational, diagnostic, therapeutic, or preventive as allowed by § 54.1-2722 D of the Code of Virginia;

6. 12 VAC 5-371-340 to update regarding the qualification of dietitians as addressed in § 54.1-2731 of the Code of Virginia and the food service regulation that was repealed and replaced with 12 VAC 5-421, effective 2002; the reference to 12 VAC 5-421 in this section results in the repeal of 12 VAC 5-371-350;

7. 12 VAC 5-371-340 to reflect a name change from the "Food and Nutritional Board of the National Research Council" to the "Food and Nutritional Board of the National Academy of Sciences";

8. 12 VAC 5-371-350 to repeal as a result of the reference to "Food Service Regulations adopted in 2002 and referenced in 12 VAC 5-371-340;

9. 12 VAC 5-371-360 to address confidentiality of resident clinical records as required by § 32.1-127.1:03 of the Code of Virginia;

10. 12 VAC 5-371-370 to delete reference to water temperature, which is contained in the AIA Guideline;

11. 12 VAC 5-371-410 to reflect the changes in construction or remodeling project notification practices by architects as a result of the adoption of the AIA Guideline, the authority of the USBC as required by law, and the need for a Certificate of Public Need as required by Article 1 (§ 32.1-102.1 et seq.) of Chapter 4 of Title 32.1 of the Code of Virginia; and

12. 12 VAC 5-371-430 to incorporate additional regulatory obligations not reflected in the current regulation but required by nursing facility providers, including the facility's water supply systems approved by the Department of Health pursuant to Article 2 (§ 32.1-167 et seq.) of Chapter 6 of Title 32.1 of the Code of Virginia or the Department of Environmental Quality pursuant to Chapter 4 (§ 62.1-145 et seq.) of Title 62.1 of the Code of Virginia;

13. Compliance with applicable fire and safety laws of the Department of Housing and Community Development pursuant to § 36-139.2 of the Code of Virginia;

14. Food service operation in compliance with 12 VAC 5-421, effective 2002; and

15. Facility pharmacy services pursuant to Chapter 33 (§ 54.1-3300 et seq.) of Title 54.1 of the Code of Virginia and 18 VAC 110-220.

12 VAC 5-371-180. Infection control.

- A. The nursing facility shall establish and maintain an infection control program designed to provide a safe, sanitary, and comfortable environment and to prevent the development and transmission of disease and infection.
- B. The infection control program shall encompass the entire physical plant and all services.
- C. The infection control program addressing the surveillance, prevention and control of facility wide infections shall include:
 1. Procedures to isolate the infecting organism;
 2. Access to handwashing equipment for staff;

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3. Training of staff in proper handwashing techniques, according to accepted professional standards, to prevent cross contamination;
4. Implementation of universal precautions by direct resident care staff;
5. Prohibiting employees with communicable diseases or infections from direct contact with residents or their food, if direct contact will transmit disease;
6. Monitoring staff performance of infection control practices;
7. Handling, storing, processing and transporting linens, supplies and equipment in a manner that prevents the spread of infection;
8. Handling, storing, processing and transporting regulated medical waste in accordance with applicable regulations;
9. Maintaining an effective pest control program; and
10. Staff education regarding infection risk-reduction behavior.

D. The nursing facility shall report promptly to its local health department diseases designated as "reportable" according to 12 VAC 5-90-80 when such cases are admitted to or are diagnosed in the facility and shall report any outbreak of infectious disease as required by 12 VAC 5-90. An outbreak is defined as an increase in incidence of any infectious disease above the usual incidence at the facility.

12 VAC 5-371-210. Nurse staffing.

A. A nursing supervisor, designated by the director of nursing, shall be responsible for all nursing activities in the facility, or in the section to which assigned, including:

1. Making daily visits to determine resident physical, mental, and emotional status and implementing any required nursing intervention;
2. Reviewing medication records for completeness, accuracy in the transcription of physician orders, and adherence to stop-order policies;
3. Reviewing resident plans of care for appropriate goals and approaches, and making revisions based on individual needs;
4. Assigning to the nursing staff responsibility for nursing care;
5. Supervising and evaluating performance of all nursing personnel on the unit; and
6. Keeping the director of nursing services, or director of nursing designee, informed of the status of residents and other related matters.

B. The nursing facility shall provide qualified nurses and certified nurse aides on all shifts, seven days per week, in sufficient number to meet the assessed nursing care needs of all residents.

C. Nursing personnel, including registered nurses, licensed practical nurses, and certified nurse aides shall be assigned duties consistent with their education, training and experience.

D. Weekly time schedules shall be maintained and shall indicate the number and classification of nursing personnel who worked on each unit for each shift. Schedules shall be retained for one year.

~~E. Direct resident care duties shall not be performed by non-nursing employees. All nursing services shall be directly provided by an appropriately qualified registered nurse or licensed practical nurse, except for those nursing tasks that may be delegated by a registered nurse according to 18 VAC 90-20-420 through 18 VAC 90-20-460 of the regulation of the Virginia Board of Nursing and with a plan developed and implemented by the facility.~~

F. Before allowing a nurse aide to perform resident care duties, the nursing facility shall verify that the individual is:

1. A certified nurse aide in good standing;
2. Enrolled full-time in a nurse aide education program approved by the Virginia Board of Nursing; or
3. Has completed a nurse aide education program or competency testing, but has not yet been placed on the nurse aide registry.

G. Any person employed to perform the duties of a nurse aide on a permanent full-time, part-time, hourly, or contractual basis must be registered as a certified nurse aide within 120 days of employment.

H. Nurse aides employed or provided by a temporary personnel agency shall be certified to deliver nurse aide services.

I. The services provided or arranged with a temporary personnel agency shall meet professional standards of practice and be provided by qualified staff according to each resident's comprehensive plan of care.

12 VAC 5-371-240. Physician services.

A. Each resident shall be under the care of a physician licensed by the Virginia Board of Medicine. Nurse practitioners and physician assistants licensed to practice in Virginia may provide care ~~in accordance with their practice agreements as assigned by the supervising physician and within the parameters of professional licensing.~~

B. Prior to, or at the time of admission, each resident, his designated representative, or the entity responsible for his care shall designate an attending physician.

C. A complete medical plan of care must be provided at the time of admission, or within 48 hours after admission. The plan shall include:

1. Primary diagnosis;
2. Identification of resident problems;
3. Medical history and physical exam;
4. Orders for medications;

5. Treatments;
6. Restorative services;
7. Activity levels;
8. Diet;
9. Special procedures recommended for health and safety of the resident; and
10. Advance directives, if known.

D. The admission medical plan of care shall be prescribed and signed by the attending physician. Subsequent medical plans of care for the same resident may be prescribed and signed by a nurse practitioner or physician assistant according to their practice agreements.

E. The physician, nurse practitioner or physician assistant shall review the resident's medical plan of care at each visit and write a progress note.

F. Each resident shall be seen by his attending physician and the resident's total program of care shall be reviewed and appropriately revised as necessary.

G. All verbal orders shall be immediately recorded and signed by the individual receiving them, and shall be countersigned by the prescribing person.

12 VAC 5-371-300. Pharmaceutical services.

A. Provision shall be made for the procurement, storage, dispensing, and accounting of drugs and other pharmacy products *in compliance with 18 VAC 110-20*. This may be by arrangement with an off-site pharmacy, but must include provisions for 24-hour emergency service.

~~B. The nursing facility shall comply with the Virginia Board of Pharmacy regulations related to pharmacy services in long-term care facilities (see Part XII (18VAC110-20-530 et seq.) of the Virginia Board of Pharmacy Regulations).~~

~~C. B.~~ Each nursing facility shall develop and implement policies and procedures for the handling of drugs and biologicals, including procurement, storage, administration, self-administration and disposal of drugs.

~~D. C.~~ Each nursing facility shall have a written agreement with a qualified pharmacist to provide consultation on all aspects of the provision of pharmacy services in the facility.

~~E. D.~~ The consultant pharmacist shall make regularly scheduled visits, at least monthly, to the nursing facility for a sufficient number of hours to carry out the function of the agreement.

~~F. Each prescription container shall be individually labeled by the pharmacist for each resident or provided in an individualized unit dose system.~~

~~G. E.~~ No drug or medication shall be administered to any resident without a valid verbal order or a written, dated and signed order from a physician, dentist or podiatrist, nurse practitioner or physician assistant, licensed in Virginia.

~~H. F.~~ Verbal orders for drugs or medications shall only be given to a licensed nurse, pharmacist or physician.

~~I. G.~~ Drugs and medications not limited as to time or number of doses when ordered shall be automatically stopped, according to the written policies of the nursing facility, and the attending physician shall be notified.

~~J. H.~~ Each resident's medication regimen shall be reviewed by a pharmacist licensed by the Virginia Board of Pharmacy. Any irregularities identified by the pharmacist shall be reported to the physician and the director of nursing, and their response documented.

~~K. I.~~ Medication orders shall be reviewed at least every 60 days by the attending physician, nurse practitioner, or physician's assistant.

~~L. J.~~ Prescription and nonprescription drugs and medications may be brought into the nursing facility by a resident's family, friend or other person provided:

1. The individual delivering the drugs and medications assures timely delivery, in accordance with the nursing facility's written policies, so that the resident's prescribed treatment plan is not disrupted;
2. Each drug or medication is in an individual container; and
3. Delivery is not allowed directly to an individual resident.

In addition, prescription medications shall be: *obtained and labeled as required by law.*

- ~~1. Obtained from a pharmacy licensed by the state or federal authority;~~
- ~~2. Labeled by a licensed pharmacist indicating:
 - a. Prescription number, when applicable;
 - b. Resident's name;
 - c. Drug name and strength;
 - d. Number of dosage units;
 - e. Date filled;
 - f. Physician's name; and
 - g. Expiration date.~~
- ~~3. Securely sealed, consistent with the policies of the nursing facility, by a licensed pharmacist.~~

12 VAC 5-371-320. Dental services.

A. Provisions shall be made to assist residents to obtain routine and emergency dental care.

B. Each nursing facility shall make arrangements with a qualified dentist *dental professional* to provide consultation and recommend oral hygiene policies and practices for the care of residents.

12 VAC 5-371-340. Dietary and food service program.

A. The dietary ~~service and all food service personnel and food service operation~~ shall meet all applicable sections of the ~~Rules and Regulations Governing Restaurants (12 VAC 5-420-40 et seq.)~~ 12 VAC 5-421.

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B. There shall be a ~~qualified staff member food service manager, qualified as allowed in 12 VAC 5-421-60,~~ responsible for the full-time management and supervision of the dietary service. ~~The individual's qualifications, authority and duties shall be defined in a written job description.~~

C. ~~The food service supervisor shall meet one of the following qualifications:~~

- ~~1. Registered with the Commission on Dietetic Registration of the American Dietetic Association qualification standards;~~
- ~~2. A baccalaureate degree with major studies in food and nutrition from an accredited college or university and at least two years of experience in a health care food or nutrition service;~~
- ~~3. Have completed an approved program in food service supervision which includes major course work in food and nutrition;~~
- ~~4. Certified by the Certifying Board of Dietary Managers of the Dietary Managers Association with major course work in food and nutrition;~~
- ~~5. Have successfully completed a U.S. Armed Services course in food service supervision with an emphasis in nutrition; or~~
- ~~6. Have documented evidence of at least two years satisfactory work experience in food service supervision and who is in an approved program within 60 days of accepting responsibility for the position and shall successfully complete the program within 12 months of the date of enrollment.~~

~~D. C. If the food service supervisor is not a registered dietitian who meets the American Dietetic Association qualification standards (subdivision C 1 of this section) or is not a graduate of an accredited college or university with a baccalaureate degree with major studies in food and nutrition and at least two years experience in a health care food or nutrition service (subdivision C 2 of this section) qualified according to § 54.1-2731 of the Code of Virginia, the nursing facility shall have a written agreement for ongoing consultation from a registered dietitian who meets the qualifications of § 54.1-2731 of the Code of Virginia to provide guidance to the food service supervisor on methods for maintaining the dietary service, planning of nutritionally balanced meals, and assessing the dietary needs of individual residents.~~

~~E. When the current food service supervisor is enrolled in an approved program and completing related course work, the registered dietitian serving as a preceptor must increase the consulting hours to include the number of hours dedicated to preceptor responsibilities.~~

F. ~~D. The dietitian's duties shall include the following:~~

- ~~1. Developing all menus, including therapeutic diets prescribed by a resident's physician;~~
- ~~2. Developing, revising, and annually reviewing dietary policies, procedures and job descriptions;~~
- ~~3. Assisting in planning and conducting regularly scheduled inservice training that includes, but is not limited to:~~

- ~~a. Therapeutic diets;~~
- ~~b. Food preparation requirements; and~~
- ~~c. Principles of sanitation.~~

~~4. Visiting residents on a regular basis to discuss nutritional problems, depending upon their needs and level of care, and recommending appropriate solutions.~~

~~G. E. Menus shall meet the dietary allowances of the Food and Nutritional Board of the National Research Council Academy of Sciences, as adjusted for age, sex, and activity.~~

~~H. F. A copy of a diet manual containing acceptable practices and standards for nutrition must be kept current and on file in the dietary department.~~

~~12 VAC 5-371-350. Food service.~~

~~A. G. Food service shall be staffed for not less than 12 hours during the day and evening. Duty schedules shall be retained for at least 30 days.~~

~~B. H. At least three meals, served at regular intervals, shall be provided daily to each resident, unless contraindicated as documented by the attending physician in the resident's clinical record.~~

~~C. I. A between meal snack of nutritional value shall be available upon request to each resident or in accordance with their plan of care.~~

~~D. J. Therapeutic diets shall be prepared and served as prescribed by the attending physician.~~

~~E. Food shall be served in a palatable and attractive manner, with proper equipment provided, so that hot food will be hot (140°F or more) and cold food cold (41°F or less) when it leaves the kitchen or steam table.~~

~~F. K. Visitors or employees assigned to other duties in the nursing facility shall not be allowed in the food preparation area during food preparation and resident meal service hours, except in cases of emergency.~~

~~G. L. Weekly menus, including therapeutic diets, substitutes, and copies of menus, as served, shall be retained on file for 12 months.~~

~~H. Each nursing facility shall have sufficient quantities of trays, glassware, dishes and flatware for individual resident use.~~

~~I. M. Disposable dinnerware or tableware shall be used only for emergencies, for infection control, as part of special activities, or as indicated in a resident's plan of care.~~

~~J. All trays set up in advance of mealtime must be covered.~~

~~K. Suitable tray racks shall be provided.~~

~~12 VAC 5-371-360. Clinical records.~~

~~A. The nursing facility shall maintain an organized clinical record system in accordance with recognized professional practices. Written policies and procedures shall be established specifying content and completion of clinical records.~~

B. Clinical records shall be confidential. Only authorized personnel shall have access as specified in §§ 8.01-413 and 32.1-127.1:03 of the Code of Virginia.

C. Records shall be safeguarded against destruction, fire, loss or unauthorized use.

D. Overall supervisory responsibility for assuring that clinical records are maintained, completed and preserved shall be assigned to an employee of the nursing facility. The individual shall have work experience or training which is consistent with the nature and complexity of the record system and be capable of effectively carrying out the functions of the job.

E. An accurate and complete clinical record shall be maintained for each resident and shall include, but not be limited to:

1. Resident identification;
2. Designation of attending physician;
3. Admitting information, including resident medical history, physical examination and diagnosis;
4. Physician orders, including all medications, treatments, diets, restorative and special medical procedures required;
5. Progress notes written at the time of each visit;
6. Documented evidence of assessment of resident's needs, establishment of an appropriate treatment plan, and interdisciplinary plan of care;
7. Nurse's notes written in chronological order and signed by the individual making the entry;
8. All symptoms and other indications of illness or injury, including date, time, and action taken on each shift;
9. Medication and treatment record, including all medications, treatments and special procedures performed;
10. Copies of radiology, laboratory and other consultant reports; and
11. Discharge summary.

F. Verbal orders shall be immediately documented in the clinical record by the individual authorized to accept the orders, and shall be countersigned.

G. Clinical records of discharged residents shall be completed within 30 days of discharge.

H. Clinical records shall be kept for a minimum of five years after discharge or death, unless otherwise specified by state or federal law.

I. Permanent information kept on each resident shall include:

1. Name;
2. Social security number;
3. Date of birth;
4. Date of admission and discharge; and
5. Name and address of guardian, if any.

J. Clinical records shall be available to residents and legal representatives, if they wish to see them.

K. When a nursing facility closes, the owners shall make provisions for the safekeeping and confidentiality of all clinical records.

12 VAC 5-371-370. Maintenance and housekeeping.

A. The nursing facility shall be maintained and equipped to provide a functional, sanitary, safe, and comfortable environment.

B. A ~~written~~ *documented* preventive maintenance program shall be established to ensure that equipment is operative and that the interior and exterior of the buildings are maintained in good repair and free from hazards and litter.

C. The administrator shall designate an employee responsible for carrying out these functions and for training and supervising housekeeping and maintenance personnel.

~~D. Hot water accessible to residents shall be maintained within a range of 100°F to 120°F.~~

~~E. D.~~ The heating, ventilation and air conditioning (HVAC) system shall be capable of maintaining temperatures between 70°F to 80°F throughout resident areas.

~~F. E.~~ The nursing facility shall have an effective pest control program provided either by maintenance personnel or by contract with a pest control company.

~~G. F.~~ The nursing facility shall provide adequate space, equipment and supplies for any special services to be offered.

~~H. G.~~ All furniture shall be kept clean and safe for use.

~~I. H.~~ Over bed tables shall be available as needed.

~~J. I.~~ Stretchers and wheelchairs shall be stored out of the path of normal traffic.

~~K. J.~~ A sufficient number of wheelchairs and chairs shall be provided for residents whose physical conditions indicate a need for such equipment.

~~L. K.~~ Refuse containers shall be cleaned and emptied at frequent intervals.

~~M. L.~~ Hazardous cleaning solutions, compounds and substances shall be labeled, stored and kept under lock in a safe place separate from other materials.

12 VAC 5-371-410. Architectural plans drawings and specifications.

A. All construction of new buildings and additions, renovations or alterations of existing buildings for occupancy as a nursing facility shall ~~comply with applicable state and federal laws and regulations~~ conform to state and local codes, zoning and building ordinances, and the Uniform Statewide Building Code.

In addition, nursing facilities shall be designed and constructed according to sections 1 through 6 and 8 of the 2001 Guidelines for Design and Construction of Hospital and Health Care Facilities of the American Institute of Architects. However, the requirements of the Uniform Statewide Building

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~~Code and local zoning and building ordinances shall take precedence.~~

~~B. The nursing facility shall be constructed and renovated in a manner that will minimize noise, steam, odors, hazards and unsightliness to resident bedrooms, dining rooms, and lounge areas.~~

~~C. B. Architectural drawings and specifications for all new construction or for additions, alterations or renovations to any existing building, shall be submitted to the center for approval. Construction shall not commence prior to approval. Additional approval may include a Certificate of Public Need dated, stamped with licensure seal and signed by the architect. The architect shall certify that the drawings and specifications were prepared to conform to building code requirements.~~

~~D. The owner of a nursing facility shall notify the center in writing, not later than 10 days prior to the date construction of a new nursing facility commences, and when 90% complete.~~

~~C. Additional approval may include a Certificate of Public Need.~~

~~E. D. Upon completion of the construction, the nursing facility shall maintain a complete set of legible "as built" drawings showing all construction, fixed equipment, and mechanical and electrical systems, as installed or built.~~

12 VAC 5-371-425. Additional building regulations and standards.

~~A. Water shall be obtained from an approved water supply system. Nursing facilities shall be connected to sewage systems approved by the Department of Health or the Department of Environmental Quality.~~

~~B. Each nursing facility shall establish a monitoring program for the internal enforcement of all applicable fire and safety laws and regulations.~~

~~C. The nursing facility's food services operation shall comply with 12 VAC 5-421.~~

~~D. Nursing facility pharmacy services shall comply with Chapter 33 (§ 54.1-3300 et seq.) of Title 54.1 of the Code of Virginia and 18 VAC 110-200.~~

12 VAC 5-371-430. General physical plant requirements. (Repealed.)

~~A. Nursing facilities constructed prior to July 1, 1997, shall remain subject to the regulations under which they were constructed. When alterations are considered which affect the structural integrity of an existing building, the functional operation of the facility, fire safety, or the addition or relocation of beds:~~

- ~~1. The center shall be notified in writing of the proposed changes; and~~
- ~~2. Architectural drawings shall be submitted for alterations according to 12 VAC 5-371-410 C and the project approved in writing by the center before the changes are made.~~

~~Alterations in existing nursing facilities shall not be undertaken unless the changes meet the applicable standards of construction for new nursing facilities.~~

~~B. Resident rooms, service rooms, or service areas shall not be used as passageways to other resident rooms, service areas or required exits.~~

~~C. Courtyard walls containing doors or windows of one or more resident rooms shall be 30 feet between facing walls.~~

~~D. Rooms containing heat producing equipment, such as boiler or heater rooms and laundries, shall be insulated and ventilated to prevent any floor surface above from exceeding a temperature of 10°F above the ambient room temperature.~~

~~E. Floor materials shall be easily cleanable and have wear resistance appropriate for the location involved.~~

~~Floors in areas used for food preparation or food assembly shall be water resistant and grease resistant. Joints in tile and similar material in these areas shall be resistant to food acids and shall have a nonslip surface.~~

~~F. Wall bases in kitchens and other areas which are frequently subject to wet cleaning methods shall be made integral and coved with the floor.~~

~~G. Wall finishes shall be washable and, in the immediate area of plumbing fixtures, shall be smooth and moisture resistant.~~

~~H. Floor and wall penetrations by pipes, ducts, and conduits shall be tightly sealed.~~

~~I. Ceilings throughout the building shall be cleanable.~~

~~Ceilings in the dietary and food preparation areas shall have a finished ceiling covering all overhead ductwork and piping.~~

~~Finished ceilings may be omitted in mechanical and equipment spaces, shops, general storage areas, and similar spaces, unless required for fire resistive purposes.~~

~~J. Noise absorption or noise reduction ceilings shall be provided in corridors in patient areas, nurses stations, dayrooms, recreation rooms, dining rooms, and waiting areas.~~

~~K. Windows or their openings shall be designed so that persons cannot accidentally fall out of them when they are open.~~

~~L. Facilities shall be provided to clean and sanitize carts serving the central supply, dietary, and laundry services.~~

~~M. All lounge, activity, dining and recreation areas shall be comfortable and suitably furnished.~~

~~N. Handrails shall be mounted 34 to 36 inches above the finished floor on both sides of all corridors used by residents.~~

~~O. Paper towel dispensers, soap dispensers, and waste receptacles shall be provided at all handwashing facilities.~~

~~P. There shall be storage areas for maintenance equipment to support and maintain the needs of the facility.~~

~~Q. A separate room with appropriate equipment for hair care and grooming shall be provided.~~

12 VAC 5-371-440. Elevators. (Repealed.)

~~A. All buildings having facilities used by residents located on other than the main entrance floor shall have elevators.~~

~~B. At least one hospital type elevator shall be installed where one to 60 resident beds are located on floors other than the main entrance floor, or where resident services are located on a floor other than those containing resident beds.~~

~~C. At least two hospital type elevators shall be installed where 61 to 200 resident beds are located on floors other than the main entrance floor, or where resident services are located on a floor other than those containing resident beds.~~

~~D. At least three hospital type elevators shall be installed where 201 to 350 resident beds are located on floors other than the main entrance floor, or where resident services are located on a floor other than those containing resident beds.~~

12 VAC 5-371-450. Janitor's closets. (Repealed.)

~~A. Janitor's closets shall contain a floor receptor or service sink and storage for housekeeping supplies and equipment.~~

~~B. A janitor's closet shall be located in the following service areas:~~

- ~~1. Nursing unit;~~
- ~~2. Dietary or food service area; and~~
- ~~3. Laundry.~~

~~In addition, there shall be a sufficient number of janitor's closets located throughout the nursing facility to assure a clean and sanitary environment.~~

12 VAC 5-371-460. Nursing units. (Repealed.)

~~A. Resident rooms shall be located no more than 120 feet from the nurses' station, the clean workroom and the soiled workroom.~~

~~B. All resident corridors and open resident areas in the nursing unit shall be visible from the nurses' station or monitored by a suitable method or device.~~

~~C. The nursing unit shall contain the following service areas:~~

- ~~1. A nurses' station with space for nurses' charting, doctors' charting, storage for administrative supplies, and a handwashing lavatory, which may serve as the drug distribution station;~~
- ~~2. Nursing staff toilet rooms with a handwashing lavatory;~~
- ~~3. A clean utility room with a work counter, a handwashing lavatory, and storage facilities;~~
- ~~4. A soiled utility room with a clinical sink or equivalent flushing rim fixture, sink equipped for handwashing, work counter, sanitizer, waste receptacle, and linen receptacle;~~
- ~~5. A drug distribution station which may be a medicine preparation room, a self contained unit, or other approved system. The facility medicine preparation room shall be under the nursing staff's visual control and contain a work counter, refrigerator, and locked storage for biologicals and drugs;~~
- ~~6. A separate closet or designated area within the clean utility room for clean linen storage. If a cart system is used, storage may be in an alcove;~~

~~7. A nourishment station containing a sink equipped for handwashing, equipment for serving nourishment between scheduled meals, refrigerator, ice maker and storage cabinets;~~

~~8. An equipment storage room for medical equipment and devices; and~~

~~9. At least one bathing unit accessible by lift, door, or swivel type tub.~~

~~D. Night lights shall be provided in resident rooms and corridors.~~

~~E. The number of beds on a nursing unit shall not exceed 60, unless otherwise approved by the center.~~

~~F. At least 60% of the beds shall be located in rooms designated for one or two beds.~~

~~G. At least two beds on each 60-bed unit shall be located in single bed rooms, each equipped with a private bath and toilet.~~

12 VAC 5-371-470. Resident rooms. (Repealed.)

~~A. Minimum room areas exclusive of toilet rooms, closets, lockers, wardrobes, alcoves, vestibules, door swings, heating units, columns or other projections shall be 100 square feet in single bed rooms and 80 square feet per bed in multi-bed rooms. In multi-bed rooms, a clearance of 3 feet 8 inches shall be available at the foot of each bed to permit the passage of beds.~~

~~B. No more than four residents shall share a bedroom.~~

~~C. Visual privacy shall be provided for each resident in multi-bed rooms.~~

~~D. Multi-bed rooms shall be designed to permit no more than two beds side by side parallel to the window wall.~~

~~E. Each room shall be provided with natural light as a primary source of light. Windows shall be operable from the inside, without the use of special tools.~~

~~Window sills in resident rooms shall be above grade level and shall not be higher than three feet above the floor.~~

~~F. One handwashing lavatory shall be provided in each resident room except that it may be omitted from a single bed room or a two bed room, if a lavatory is located in an adjoining toilet room which serves that room only.~~

~~G. For each resident, the room shall contain:~~

- ~~1. A bed;~~
- ~~2. At least one pillow;~~
- ~~3. An enclosed bedside cabinet, with a drawer, hard surface and washable top;~~
- ~~4. A wardrobe, locker, or closet that is suitable for hanging full length garments and for storing personal effects; and~~
- ~~5. A bedside chair or geriatric chair.~~

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12 VAC 5-371-480. Resident bathrooms. (Repealed.)

~~A. There shall be one bathtub or shower for every 10 residents not otherwise served by bathing facilities within the resident rooms. Each resident shall have access to a toilet room with a water closet without entering the general corridor area.~~

~~B. Each tub or shower shall be in an individual room or enclosure which provides space for the private use of the bathing fixture, for drying and dressing, and for a wheelchair and an attendant.~~

~~C. One toilet room shall serve no more than four beds and no more than four resident rooms.~~

~~D. Rooms containing bathtubs, showers, and water closets used by residents shall be equipped with doors and hardware which will permit access from the outside. When such rooms have only one opening or are small in size, the doors shall be capable of opening outward or be designed to be opened without pushing against a resident collapsed within the room.~~

~~E. Grab bars shall be provided at all resident toilets, showers, and tubs. The bars shall have 1 1/2 inch clearance to walls and shall have sufficient strength and anchorage to sustain a concentrated load of 250 pounds.~~

~~F. Soap dishes or soap dispensers shall be provided at showers and bath tubs.~~

~~G. Towel bars and robe hooks shall be provided at all bathing facilities.~~

~~H. A nurse's call button shall be provided for resident use at each resident toilet, bath, and shower room.~~

12 VAC 5-371-490. Resident dining. (Repealed.)

~~A. A total of 20 square feet per bed with a minimum size of not less than 225 square feet for resident dining shall be provided.~~

~~B. Nursing facilities with outpatient day care programs shall provide additional dining space to accommodate the additional number of persons to be served.~~

12 VAC 5-371-500. Calling system. (Repealed.)

~~A. General resident areas and each bedroom shall be served by at least one calling station. Each bed shall be provided with a call button. Two call buttons serving adjacent beds may be served by one calling station.~~

~~B. Calls shall register audibly and visibly at the nurses station, in the clean workroom, in the soiled workroom, and in the nourishment station of the nursing unit.~~

~~C. A visible signal shall register in the corridor at the resident room.~~

~~D. In multi corridor nursing units, additional visible signals shall be installed at corridor intersections.~~

~~E. In rooms containing two or more calling stations, indicating lights shall be provided at each station.~~

~~F. Calling systems which provide two way voice communication shall be equipped with an indicating light at~~

~~each calling station which lights and remains lighted as long as the voice circuit is operating.~~

12 VAC 5-371-510. Food service facilities. (Repealed.)

~~A. Food service facilities shall consist of an on-site conventional food preparation system, a convenience food service system, or an appropriate combination of the two.~~

~~B. The following resources shall be provided in the size required to support the type of food service selected:~~

- ~~1. Control station for receiving food supplies;~~
- ~~2. Storage space for three days supply of food including food requiring cold storage;~~
- ~~3. At least two cubic feet of refrigerated storage per bed and two square feet of dry food storage per bed;~~
- ~~4. Space and equipment for thawing, preparing, cooking, baking, and portioning;~~
- ~~5. Meal service facilities such as tray assembly and distribution space;~~
- ~~6. Potwashing facilities;~~
- ~~7. Sanitizing facilities and storage areas for garbage and trash cans, carts and mobile tray racks; and~~
- ~~8. Easily cleanable ice making facilities that may be in an area separate from food preparation but must be convenient to dietary facilities.~~

~~C. Handwashing lavatories shall be available in the food preparation area. Toilets with handwashing lavatories for dietary staff shall be conveniently accessible, but shall not open directly into food service areas.~~

~~D. The dietitian or food service supervisor shall have an office or suitable work space.~~

~~E. Warewashing space, located in a room or an alcove separate from the food preparation and serving area, shall contain:~~

- ~~1. Space for receiving, scraping, sorting, and stacking soiled tableware;~~
- ~~2. Space for transferring clean tableware to the using area; and~~
- ~~3. A handwashing lavatory.~~

~~F. Commercial type dishwashing equipment shall be provided.~~

12 VAC 5-371-520. Laundry facilities. (Repealed.)

~~A. Laundry facilities shall include:~~

- ~~1. A soiled laundry receiving, holding, and sorting room with handwashing lavatory; and~~
- ~~2. A clean laundry storage, issuing, and holding room or area.~~

~~B. On premise laundry service facilities shall include:~~

- ~~1. A laundry processing room with commercial type equipment capable of processing seven days needs within~~

- ~~a regularly scheduled work week and a handwashing lavatory;~~
- ~~2. A storage space for laundry supplies; and~~
- ~~3. A clean laundry inspection and mending room or area.~~

12 VAC 5-371-530. Waste processing services. (Repealed.)

~~A. Space and facilities shall be provided for the sanitary handling, storage and disposal of waste. Disposal may be by incineration, mechanical destruction, compaction, containerization, removal, contractual arrangement or by a combination of these techniques.~~

~~B. Waste storage facilities shall be located in a separate room which is outside or easily accessible to the outside for direct pickup or disposal.~~

~~C. The use of an incinerator shall require a permit from the Department of Environmental Quality.~~

12 VAC 5-371-540. Resident recreation. (Repealed.)

~~A. A total of 10 square feet per bed with a minimum of not less than 225 square feet shall be provided.~~

~~B. In multi-story buildings, a minimum of 225 square feet shall be provided on each floor.~~

~~C. Storage space shall be provided for equipment and supplies.~~

~~D. Nursing facilities with outpatient day care programs shall provide additional recreational space. Day care space will not infringe upon inpatient services.~~

~~E. Recreation rooms, exercise rooms, and similar spaces where impact noises may be generated shall not be located directly over resident bed areas, unless special provisions are made to minimize such noise.~~

12 VAC 5-371-550. Physical and occupational therapy. (Repealed.)

~~Therapy areas shall include, but are not limited to:~~

- ~~1. Treatment and exercise areas with sufficient space and equipment for individual resident privacy;~~
- ~~2. Handwashing lavatory;~~
- ~~3. Facilities for the collection of soiled linen, supplies and waste products;~~
- ~~4. Storage for clean linen, supplies, and equipment;~~
- ~~5. Toilet rooms designed for the physically handicapped equipped with water closet and handwashing lavatory; and~~
- ~~6. Wheelchair and stretcher storage.~~

12 VAC 5-371-560. Administrative, public and employee facilities. (Repealed.)

~~A. The entrance to the nursing facility shall be at grade level, sheltered from the weather, and able to accommodate wheelchairs.~~

~~B. The following shall be available in areas accessible to the public:~~

- ~~1. Storage space for wheelchairs;~~
- ~~2. Reception and information counter or desk;~~
- ~~3. Seating space;~~
- ~~4. Public toilet facilities;~~
- ~~5. Public telephones;~~
- ~~6. Drinking fountain;~~
- ~~7. Space for private interviews;~~
- ~~8. General or individual offices; and~~
- ~~9. Storage for office equipment and supplies.~~

~~C. Facilities such as locker rooms, lounges, and toilet facilities shall accommodate the needs of all employees and volunteers.~~

DOCUMENTS INCORPORATED BY REFERENCE

Guidelines for Design and Construction of Hospital and Health Care Facilities, The American Institute of Architects Academy of Architecture for Health, 2001 Edition.

Dietary Manager Credentialing Exam, Information and Application, Certifying Board for Dietary Manager, 1996.

The American Dietetic Association Knowledge and Performance Requirements for Entry-Level Dietitians, EDT 9/94.

Guidelines for Preventing Health Care-Associated Pneumonia, 2003 (MMWR 53 (RR03), Advisory Committee on Immunization Practices, Centers for Disease Control and Prevention.

Prevention and Control of Influenza, MMWR 53 (RR06), Advisory Committee on Immunization Practices, Centers for Disease Control and Prevention.

VA.R. Doc. No. R06-116; Filed November 18, 2005, 3:18 p.m.



TITLE 13. HOUSING

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

REGISTRAR'S NOTICE: The Virginia Housing Development Authority is exempt from the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia) pursuant to § 2.2-4002 A 4; however, under the provisions of § 2.2-4031, it is required to publish all proposed and final regulations.

Title of Regulation: **13 VAC 10-160. Rules and Regulations for Administration of Rent Reduction Tax Credits (amending 13 VAC 10-160-10, 13 VAC 10-160-30, 13 VAC 10-160-55, 13 VAC 10-160-60, 13 VAC 10-160-80, and 13 VAC 10-160-90).**

Statutory Authority: § 36-55.30:3 of the Code of Virginia.

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Effective Date: December 1, 2005.

Agency Contact: J. Judson McKellar, Jr., General Counsel, Virginia Housing Development Authority, 601 South Belvidere Street, Richmond, VA 23220, telephone (804) 343-5540, FAX (804) 783-6701, or e-mail judson.mckellar@vhda.com.

Summary:

The amendments continue the rent reduction tax credit program through December 31, 2010, if (i) rent reduction tax credits were validly claimed for the dwelling unit for all or part of December 1999, and (ii) the tenant was an occupant of such unit on December 31, 2005. The amendments to such rules and regulations implement the amendments to § 58.1-339.9 of the Code of Virginia enacted in the 2005 Session of the General Assembly.

13 VAC 10-160-10. Definitions.

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

"Authority" means the Virginia Housing Development Authority.

"Board" means the Board of Commissioners of the authority.

"Disability" means (i) a physical or mental impairment which substantially limits one or more of the major life activities of such individual and includes any physiological disorder or condition, cosmetic disfigurement or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or any mental or psychological disorder such as mental retardation, organic brain syndrome, emotional or mental illness and specific learning disabilities (the term "physical or mental impairment" includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, Human Immunodeficiency Virus (HIV) infection, mental retardation, emotional illness, drug addiction (other than addiction caused by current, illegal use of a controlled substance, and alcoholism) or (ii) a record of such an impairment; or being regarded as having such an impairment which includes a history of or being misclassified as having a mental or physical impairment that substantially limits one or more major life activities; or a physical or mental impairment that does not substantially limit one or more major life activities but that is treated by another person as constituting such a limitation; or a physical or mental impairment that substantially limits one or more major life activities only as a result of the attitudes of others toward such impairment; or none of the impairments defined above but the individual is treated by another person as having such an impairment; provided, however, that any physical or mental impairment described in (i) or (ii) shall be expected to result in death or shall have lasted continuously during the immediately preceding 12-month period or shall be expected to last continuously during the next succeeding 12-month period.

"Elderly person" means a person who exceeds, by any period of time, 62 years of age.

"Elderly tenant" means (i) an elderly person or (ii) a household in which any member is an elderly person.

"Eligible owner" means any person meeting the criteria for an eligible owner as set forth in the state code and these rules and regulations.

"Eligible tenant" means an elderly tenant, a tenant with a disability or a previously homeless tenant whose income does not exceed the limit described in these rules and regulations.

"Executive director" means the executive director of the authority or any other officer or employee of the authority who is authorized to act on his behalf or on behalf of the authority pursuant to a resolution of the board.

"HUD fair market rent" means the rent published by the U.S. Department of Housing and Urban Development for the Section 8 Rental Certificate Program.

"Income" means gross income (including but not limited to all salary, wages, bonuses, commissions, income from self-employment, interest, dividends, alimony, rental income, pensions, business income, annuities, social security payments, cash public assistance, support payments, retirement income and any other sources of cash income) which is being received by the elderly tenant, a tenant with a disability or a previously homeless tenant or is regularly paid to or on behalf of such tenant by a third party as of the application date. The income of any person who is living with an elderly person or person with a disability for the primary purpose of providing care to such person shall be excluded. All such income, provided it is not temporary, shall be computed on an annual basis to determine income for the purpose of program eligibility.

"Market rent" means the amount of rent, as determined by the authority pursuant to these rules and regulations, charged to other tenants for comparable units (other than tax credit units) in the same property or, if there are no such comparable units in the same property, for comparable units in the same market area.

"Owner" means an applicant for tax credits under these rules and regulations and, upon and subsequent to an allocation of such credits, means the owner of the tax credit unit to whom the tax credits are allocated.

"Person with a disability" means a person having a disability as defined in these rules and regulations.

"Previously homeless" means having, at any time within the 12 months preceding the commencement of the lease term, resided in a domestic violence shelter or homeless shelter.

"Previously homeless tenant" means (i) a previously homeless person or (ii) a household in which any adult member is previously homeless.

"Program" means the low-income housing tax credit program for rent reductions described in these rules and regulations.

"State code" means Article 3 (§ 58.1-331 et seq.) of Chapter 3 of Title 58.1 of the Code of Virginia.

"Tax credit rent" means the reduced amount of rent charged for the tax credit unit to the eligible tenant. As provided in 13 VAC 10-160-30, the tax credit rent shall be at least 15% less than the market rent.

"Tax credits" means the tax credits as described in §§ 58.1-339 and ~~58.1-339.8~~ 58.1-339.9 of the Code of Virginia, as applicable.

"Tax credit unit" means a unit occupied or to be occupied by eligible tenants at reduced rents in order for the owner to be entitled to receive tax credits hereunder.

"Tenant" means a person or household who is applying for occupancy of, or is occupying, a tax credit unit.

"Tenant with a disability" means (i) a person with a disability or (ii) a household in which any member is a person with a disability.

13 VAC 10-160-30. General description.

The state code was amended by adding sections numbered 58.1-339 and ~~58.1-339.8~~ 58.1-339.9 relating to a tax credit for owners providing rent reduction for eligible tenants.

For taxable years beginning on or after January 1, 1991, through December 31, ~~2005~~ 2010, any individual or corporation receiving an allocation of tax credits pursuant to § 58.1-339 or § ~~58.1-339.8~~ 58.1-339.9, as applicable, of the Code of Virginia shall, subject to the provisions of the state code and these rules and regulations, be entitled to a credit against the tax levied pursuant to § 58.1-320 or § 58.1-400 of the Code of Virginia, provided that the following requirements are satisfied:

1. The individual or corporation is engaged in the business of the rental of dwelling units (as hereinafter specified) and is subject to the Virginia Residential Landlord and Tenant Act, § 55-248.2 et seq. of the Code of Virginia, either by virtue of the provisions thereof or by virtue of the owner's providing for the applicability thereof pursuant to § 55-248.5 B of the Code of Virginia;
2. The owner provides a reduced rent to eligible tenants;
3. The rent charged to the eligible tenants is at least 15% less than the market rent;
4. To claim a credit under § 58.1-339 of the Code of Virginia for reduction of rents charged to a tenant on or after July 1, 1996, and before January 1, 2000: (i) a credit for rental reductions must have been validly claimed on the tax credit unit for all or part of the month of June 1996 and such tenant must have been an occupant of such tax credit unit on June 30, 1996, or (ii) the tenant must have been previously homeless; ~~and~~
5. To claim a credit under § ~~58.1-339.8~~ 58.1-339.9 of the Code of Virginia for reduction of rents charged to a tenant on or after January 1, 2000, *and prior to January 1, 2006*, on a dwelling unit, a credit for rental reductions must have been validly claimed on such dwelling pursuant to § 58.1-339 of the Code of Virginia for all or part of the month of December 1999; *and*

6. *To claim a credit under § 58.1-339.9 of the Code of Virginia for reduction of rents charged to a tenant on or after January 1, 2006, and prior to January 1, 2010, on a dwelling unit, a credit for rental reductions must have been validly claimed on such dwelling unit pursuant to § 58.1-339 of the Code of Virginia for all or part of the month of December 1999, and such tenant must have been an occupant of such dwelling unit on December 31, 2005.*

The allowable tax credit amount shall be 50% of the total rent reductions allowed during the taxable year to the eligible tenants occupying the tax credit units. The amount of the rent reduction shall be equal to the market rent minus the tax credit rent. For this purpose, the tax credit rent shall include any rental subsidy payable on behalf of the eligible tenant under any governmental or private program.

If there are comparable units (other than tax credit units) in the same property, the market rent shall be determined by the authority to be the rent charged to other tenants for such comparable units. For the purpose of determining the amount of rent charged to other tenants for comparable units in the same property, the authority shall assume that the other tenants commenced and, if applicable, renewed their leases as of the same date or dates, and for the same term or terms as the eligible tenants and at the rents in effect on such date or dates.

If there are no other such comparable units in the same property, then the market rent shall be determined by the authority to be the rent charged for comparable units in the same market area. Such rent shall be (i) the rent most recently charged for the tax credit unit to a person (who may be the eligible tenant to be assisted) unrelated to the owner within the one-year period prior to the date of filing of the application, plus a rental increase in an amount determined by the authority to reflect increases in rents in the market area of such tax credit unit since the date such rent was last charged, or (ii) if no rental history as described in (i) exists, the HUD fair market rent allowed for a comparable unit in the same market area (as reduced, to the extent determined by the authority, for any utilities which are not to be included in the tax credit rent under the terms of the lease); provided, however, that the owner may demonstrate to the authority that the rent for a comparable unit in the same market area is higher than (i) or (ii) above, as applicable, and to the extent so demonstrated to the satisfaction of the authority, such higher rent shall be used.

Notwithstanding anything to the contrary herein, the market rent shall in no event exceed 150% of the HUD fair market rent allowed for comparable units in the same market area (as reduced, to the extent determined by the authority, for any utilities which are not to be included in the tax credit rent under the terms of the lease).

If the tax credit unit is subsidized or assisted under any governmental or private program, the comparable units in the same property or market area, as applicable, shall include only those units similarly subsidized or assisted.

Because the intent of the state code is to provide tax credits for the rental of dwelling units only, tax credits shall not be allocated or claimed for the leasing of land only, including

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without limitation mobile home lots. Tax credits may be allocated and claimed for the leasing of both a mobile home lot and the mobile home located thereon.

To be eligible for the program, a dwelling unit must contain separate and complete facilities for living, sleeping, eating, cooking and sanitation. Such accommodations may be served by centrally located equipment such as air conditioning or heating. Thus, for example, an apartment containing a living area, a sleeping area, bathing and sanitation facilities and cooking facilities equipped with a cooking range, refrigerator and sink, all of which are separate and distinct from other apartments, would constitute a unit.

In order to satisfy the requirement in § 58.1-339 or ~~58.1-339.8~~ 58.1-339.9, as applicable, of the state code that the owner be an individual or corporation engaged in the business of the rental of dwelling units, the owner must intend or have intended at the time of application and must intend at all times thereafter to report, for federal income tax purposes, all rental and other income and any related expenses of the tax credit unit with respect to each tax year for which the tax credits are to be claimed for such tax credit unit.

The amount of credit for each individual or corporation for each taxable year shall not exceed \$10,000 or the total amount of tax imposed by Chapter 3 (§ 58.1-300 et seq.) of Title 58.1 of the Code of Virginia, whichever is less. If the amount of such credit exceeds the taxpayer's tax liability for such taxable year, the amount which exceeds the tax liability may be carried over for credit against income taxes of such individual or corporation in the next five taxable years until the total amount of the tax credit has been taken.

Credits granted to a partnership or an electing small business corporation (S corporation) shall be passed through to the individual partners or shareholders in proportion to their ownership or interest in the partnership or S corporation.

The total amount of tax credits which may be approved by the authority in any fiscal year prior to fiscal year 1996-1997 shall not exceed \$1,000,000. Commencing in fiscal year 1996-1997, the total amount of tax credits which may be approved by the authority in any fiscal year shall not exceed \$250,000. Commencing in fiscal year 2000-2001, the total amount of tax credits which may be approved by the authority in any fiscal year shall not exceed \$50,000. With the exception of tax credits claimed for units occupied by previously homeless tenants, no tax credits will be approved for a unit for any period after June 30, 1996, and before January 1, 2000, unless a tax credit was validly claimed for such unit for all or part of the month of June 1996. No tax credits will be approved for a unit for any period on or after January 1, 2000, *and prior to January 1, 2006*, unless a tax credit was validly claimed for such unit for all or part of the month of December 1999. *No tax credits will be approved for a unit for any period on or after January 1, 2006, unless a tax credit was validly claimed for such unit for all or part of the month of December 1999 and unless the tenant was an occupant of such unit on December 31, 2005.* No tax credits may be claimed for taxable years after December 31, ~~2005~~ 2010.

The authority may charge to each owner fees in such amount as the executive director shall determine to be necessary to

cover the administrative costs to the authority. Such fees shall be payable at such time or times as the executive director shall require.

13 VAC 10-160-55. Review and selection of application; allocation of tax credits.

After January 1, 2000, no tax credits shall be allocated by the authority, except allocations made prior to January 1, 2000, may be increased as provided in 13 VAC 10-160-120.

Upon compliance with the state code and these rules and regulations, the owner to whom an allocation has been made prior to January 1, 2000, shall be entitled to tax credits annually, in such amount as is determined by the authority pursuant to these rules and regulations, for each year beginning in the year for which such allocation is made and ending December 31, ~~2005~~ 2010, unless sooner terminated or reduced pursuant to these rules and regulations.

13 VAC 10-160-60. Eligibility of tenants and verification.

The occupancy of units entitled to tax credits is limited to elderly tenants, tenants with disabilities or previously homeless tenants whose incomes, as of initial occupancy of the tax credit unit by such tenants (or, if any such tax credit unit was occupied by such a tenant on January 1 of the first calendar year for which the tax credits were claimed for such tax credit unit, as of such January 1), did not exceed 80% of the median income for the area. Preference in occupancy of tax credit units must have been given to eligible tenants whose incomes were less than or equal to 50% of the median income for the area. The United States Department of Housing and Urban Development income limits for subsidized programs, as adjusted by family size, must have been used in determining such 80% and 50% of median income for the area.

In the case of tax credits to be claimed for any period after June 30, 1996, and before January 1, 2000, in order to be eligible an elderly tenant or a tenant with a disability must have been an occupant of the tax credit unit on June 30, 1996. In the case of tax credits to be claimed for any period on and after January 1, 2000, *and prior to January 1, 2006*, in order to be eligible the tenant must occupy a unit for which a tax credit was validly claimed for such unit for all or a part of the month of December 1999. *In the case of tax credits to be claimed for any period on and after January 1, 2006, in order to be eligible the tenant must occupy a unit for which a tax credit was validly claimed for such unit for all or a part of the month of December 1999 and must have been an occupant of such unit on December 31, 2005.*

Owners must obtain written income verification for eligible tenants who occupy a tax credit unit. The verification of income must be sent by the owner to each employer or the agency providing benefits along with a stamped, self-addressed return envelope. Such verification must be retained by the owner and a copy submitted to the authority (together with an executed confirmation of resident eligibility form and the verification of age, disability or previous homelessness) at the time that the eligible tenant was determined by the owner to be income eligible. Verification of income must be current as of a date no earlier than 90 days prior to the date (see first

paragraph in this section) as of which the income of the eligible tenant was determined for eligibility purposes.

With respect to tax credits claimed for rental of tax credit units to tenants with disabilities, owners must have obtained a written verification of disability. Verification of said disability must have been obtained from a physician, diagnostic or vocational rehabilitation service center or the Social Security Administration.

With respect to tax credits claimed for rental of tax credit units to elderly tenants, owners must have verified the age of all persons claiming to exceed 62 years of age. Verification of Social Security benefits paid on the person's behalf is acceptable if a birth certificate could not have been obtained; provided, however, that any person receiving survivor Social Security benefits who did not exceed 62 years of age or did not have a disability is not eligible for occupancy of a tax credit unit.

With respect to tax credits claimed for rental of tax credit units to previously homeless tenants, owners must obtain a written verification that such tenant resided in a domestic violence shelter or homeless shelter during the 12 months preceding commencement of the lease term for the tax credit unit. Such written verification must be obtained from the homeless shelter or domestic violence shelter in which the previously homeless tenant resided.

The initial lease term for all eligible tenants occupying a tax credit unit must not be less than a 12-month period.

13 VAC 10-160-80. Tax credit period.

Each period for which an owner may claim tax credits for any tax credit unit shall commence upon the date that the tax credit unit is occupied by an eligible tenant pursuant to a lease providing for a 12-month term and for the payment of rent in the amount of the tax credit rent. Such period shall not commence prior to the allocation of the tax credits by the authority to the owner, except that if the tax credit unit is so occupied from the first day of the month in which the allocation of tax credits is made, such period shall commence on such first day of the month. Such period shall continue until termination of occupancy as described in 13 VAC 10-160-90 or until December 31, ~~2005~~ 2010, whichever occurs first. However, in no event shall any such period commence and continue unless the tax credit unit is and remains in a state of repair and condition satisfactory to the authority, all documentation required by 13 VAC 10-160-60 has been and is submitted to the authority in accordance herewith, and all other applicable requirements of the state code and these rules and regulations have been and are satisfied. If the owner shall be entitled to claim tax credits on any tax credit unit for a portion of a month during such period, the rent reduction shall be calculated pro rata based upon the number of days in such month that the owner is so entitled to claim tax credits or, with respect to the termination of occupancy, shall be calculated as provided in 13 VAC 10-160-90.

13 VAC 10-160-90. Maintenance of records; submission requirements; termination of occupancy.

Owners shall be responsible for obtaining and maintaining all documentation required by the authority to evidence that the

tax credit units qualify for tax credits under the program. Owners will be responsible for providing this documentation to the authority for review within 30 days following the end of each calendar year; provided, however, that the documents listed in subdivisions 2 a, b, c and g of this section must be submitted at the time that the eligible tenant was determined by the owner to be eligible. The tax credit unit will not qualify for tax credits if all required documents, in the form required by the authority, are not so provided. Required documentation to be submitted to the authority includes, but is not limited to, the following:

1. A listing (including dates of occupancy) of all tenants who occupy or occupied a tax credit unit entitled to a tax credit for that year.
2. A complete certification package for each eligible tenant receiving the reduced rent. The certification must include:
 - a. A completed and executed confirmation of resident eligibility form.
 - b. Verification of income.
 - c. Verification of age, disability or previous homelessness.
 - d. A certification from the tenant verifying:
 - (1) What unit type/size was occupied;
 - (2) Number of months said unit was occupied;
 - (3) The amount of rent paid;
 - (4) How many months that amount of rent was paid; and
 - (5) In the case of the tax credits claimed for any period after June 30, 1996, and before January 1, 2000 (except for tax credits claimed for units occupied by previously homeless tenants), occupancy of the tax credit unit by the tenant on June 30, 1996.
 - e. A certification of the owner that preference in occupancy of the tax credit units was given to eligible tenants whose incomes were less than or equal to 50% of the median income for the area (the waiting list for tax credit units during the calendar year identifying the persons applying for such units and their incomes shall be maintained by the owner and shall be available for inspection by the authority).
 - f. Rent rolls for the comparable units in the same property as the tax credit units setting forth the rents charged to other tenants, if rents for such comparable units are to be used to determine the amount of the rent reduction pursuant to 13 VAC 10-160-30.
 - g. Copies of leases for each tax credit unit.
 - h. In the case of the tax credits claimed for any period after June 30, 1996, and before January 1, 2000, other than tax credits claimed for units occupied by previously homeless persons, a certification of the owner that a tax credit for rental reductions was validly claimed on the tax credit unit for all or part of the month of June 1996, and that the tenant receiving such rental reductions was an occupant of such tax credit unit on June 30, 1996.

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i. In the case of the tax credits claimed for any period on and after January 1, 2000, and prior to January 1, 2006, a certification of the owner that a tax credit was validly claimed for the unit for all or part of the month of December 1999.

j. In the case of the tax credits claimed for any period on and after January 1, 2006, a certification of the owner that a tax credit was validly claimed for the unit for all or part of the month of December 1999 and that the tenant was an occupant of such unit on December 31, 2005.

In the event of termination of occupancy, the rent reduction shall be calculated pro rata based upon the number of days determined in the following manner. In the event of death of the only elderly person, person with a disability or previously homeless person occupying a tax credit unit, the owner must obtain a copy of the death certificate or must provide other acceptable documentation of death; and the number of days for which an owner is entitled to tax credits on such deceased person's tax credit unit shall be determined by the date of death. If the eligible tenant abandons the tax credit unit, the earliest of the date the owner discovers the tax credit unit is vacant, the date any utility company terminates service on the tax credit unit, or the date 30 days after abandonment will be used to determine the number of days for which the tax credit unit is entitled to the tax credit. If the tax credit unit shall not be so abandoned but the eligible tenant shall not occupy the tax credit unit for a period of 30 days (or such longer period of time as the executive director may approve), the end of such period shall be used to determine the number of days for which the tax credit unit is entitled to the tax credit. If the lease is terminated for any reason other than those set forth above in this paragraph, the effective date of termination shall be used to determine the number of days for which the tax credit unit is entitled to the tax credit.

VA.R. Doc. No. R06-56; Filed November 22, 2005, 10:22 a.m.

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TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF MEDICINE

Title of Regulation: 18 VAC 85-40. Regulations Governing the Practice of Respiratory Care Practitioners (amending 18 VAC 85-40-66).

Statutory Authority: §§ 54.1-103, 54.1-2400, and 54.1-2912.1 of the Code of Virginia.

Effective Date: January 11, 2006.

Agency Contact: William L. Harp, M.D., Executive Director, Board of Medicine, 6603 West Broad Street, 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9908, FAX (804) 662-9943, or e-mail william.harp@dhp.virginia.gov.

Summary:

The amendment recognizes courses directly related to the practice of respiratory care that are approved by the

American Medical Association for Category 1 CME credit as meeting the required hours for renewal of licensure as a respiratory care practitioner.

Summary of Public Comments and Agency's Response: No public comments were received by the promulgating agency.

18 VAC 85-40-66. Continuing education requirements.

A. On and after January 1, 2005, in order to renew an active license as a respiratory care practitioner, a licensee shall attest to having completed 20 hours of continuing respiratory care education as approved and documented by a sponsor recognized by the AARC or in courses directly related to the practice of respiratory care as approved by the American Medical Association for Category 1 CME credit within the last biennium.

B. A practitioner shall be exempt from the continuing education requirements for the first biennial renewal following the date of initial licensure in Virginia.

C. The practitioner shall retain in his records the completed form with all supporting documentation for a period of four years following the renewal of an active license.

D. The board shall periodically conduct a random audit of its active licensees to determine compliance. The practitioners selected for the audit shall provide all supporting documentation within 30 days of receiving notification of the audit.

E. Failure to comply with these requirements may subject the licensee to disciplinary action by the board.

F. The board may grant an extension of the deadline for continuing competency requirements, for up to one year, for good cause shown upon a written request from the licensee prior to the renewal date.

G. The board may grant an exemption for all or part of the requirements for circumstances beyond the control of the licensee, such as temporary disability, mandatory military service, or officially declared disasters.

NOTICE: The forms used in administering 18 VAC 85-40, Regulations Governing the Practice of Respiratory Care Practitioners, 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

Instructions for Completing a Respiratory Care Practitioner Application (rev. 11/02 6/04).

Application for a License to Practice as a Respiratory Care Practitioner (rev. 11/02 6/04).

Instructions for Completing Reinstatement Application for Respiratory Care Practitioner License (eff. 10/04 rev. 4/05).

Application for Reinstatement as a ~~Respiratory Care Practitioner~~ of License to Practice Respiratory Care (eff. ~~3/03~~ rev. 11/04).

Form A, Claims History Sheet (rev. ~~4/02~~ 6/04).

Form B, Activity Questionnaire (rev. ~~4/02~~ 6/04).

Form C, Clearance from Other State Boards (rev. ~~4/02~~ 3/03).

Form L, Certificate of Professional Education (rev. ~~4/02~~ 9/04).

Verification of Certification Request Form (~~NBRC~~ NBRC) (rev. ~~4/02~~ 6/04).

Renewal Notice and Application, 0117 Respiratory Care (rev. 2/03).

Application for Registration for Volunteer Practice (eff. 12/02).

Sponsor Certification for Volunteer Registration (eff. 1/03).

VA.R. Doc. No. R04-144; Filed November 22, 2005, 10:28 a.m.

BOARD OF PHARMACY

Title of Regulation: 18 VAC 110-20. Regulations Governing the Practice of Pharmacy (amending 18 VAC 110-20-320).

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

Effective Date: January 11, 2006.

Agency Contact: Elizabeth Scott Russell, RPh, Executive Director, Board of Pharmacy, 6603 West Broad Street, 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9911, FAX (804) 662-9313, or e-mail elizabeth.russell@dhp.virginia.gov.

Summary:

The amendment limits the time for dispensing or refilling Schedule VI drugs to one year from date of issuance unless the prescriber specifies a longer period, not to exceed two years.

Summary of Public Comments and Agency's Response: No public comments were received by the promulgating agency.

18 VAC 110-20-320. Refilling of Schedule III through VI prescriptions.

A. A prescription for a drug listed in Schedule III, IV, or V shall not be dispensed or refilled more than six months after the date on which such prescription was issued, and no such prescription authorized to be filled may be refilled more than five times.

1. Each refilling of a prescription shall be entered on the back of the prescription or on another record in accordance with § 54.1-3412 and 18 VAC 110-20-255, initialed and dated by the pharmacist as of the date of dispensing. If the pharmacist merely initials and dates the prescription, it shall be presumed that the entire quantity ordered was dispensed.

2. The partial dispensing of a prescription for a drug listed in Schedule III, IV, or V is permissible, provided that:

- a. Each partial dispensing is recorded in the same manner as a refilling;
- b. The total quantity of drug dispensed in all partial dispensing does not exceed the total quantity prescribed; and
- c. No dispensing occurs after six months after the date on which the prescription order was issued.

B. A prescription for a drug listed in Schedule VI shall be refilled only as expressly authorized by the practitioner. If no such authorization is given, the prescription shall not be refilled, except as provided in § 54.1-3410 C or subdivision 4 of § 54.1-3411 of the Code of Virginia.

A prescription for a Schedule VI drug or device shall not be dispensed or refilled more than ~~two years~~ one year after the date on which it was issued *unless the prescriber specifically authorizes dispensing or refilling for a longer period of time not to exceed two years.*

C. As an alternative to all manual recordkeeping requirements provided for in subsections A and B of this section, an automated data processing system as provided in 18 VAC 110-20-250 may be used for the storage and retrieval of all or part of dispensing information for prescription drugs dispensed.

D. Authorized refills of all prescription drugs may only be dispensed in reasonable conformity with the directions for use as indicated by the practitioner; if directions have not been provided, then any authorized refills may only be dispensed in reasonable conformity with the recommended dosage and with the exercise of sound professional judgment.

NOTICE: The forms used in administering 18 VAC 110-20, Regulations Governing the Practice of Pharmacy, 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 for Registration as a Pharmacy Intern (rev. 6/04).
- Affidavit of Practical Experience, Pharmacy Intern (rev. 12/02).
- Application for Licensure as a Pharmacist by Examination (rev. 10/02).
- Instructions for Reinstating or Reactivating a Pharmacist License* (rev. 4/05).
- Application to *Reinstate* or Reactivate a Pharmacist License (rev. ~~4/02~~ 4/05).
- Application for Approval of a Continuing Education Program (rev. 11/02).
- Application for Approval of ACPE Pharmacy School Course(s) for Continuing Education Credit (rev. 11/02).

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Application for License to Dispense Drugs (permitted physician) (rev. ~~40/02~~ 8/04).

Application for a Pharmacy Permit (rev. ~~44/02~~ 8/04).

Application for a Nonresident Pharmacy Registration (rev. ~~40/02~~ 8/04).

Application for a Permit as a Medical Equipment Supplier (rev. ~~40/02~~ 8/04).

Application for a Permit as a Restricted Manufacturer (rev. ~~40/02~~ 8/04).

Application for a Permit as a Nonrestricted Manufacturer (rev. ~~40/02~~ 8/04).

Application for a Permit as a Warehouser (rev. ~~40/02~~ 8/04).

Application for a License as a Wholesale Distributor (rev. ~~40/02~~ 8/04).

Application for a Nonresident Wholesale Distributor Registration (rev. ~~40/02~~ 8/04).

Application for a Controlled Substances Registration Certificate (rev. ~~40/02~~ [~~8/04~~ 9/05]).

Renewal Notice (rev. 4/05).

Renewal Notice and Application, 0201 Pharmacy (rev. 12/02).

Renewal Notice and Application, 0202 Pharmacist (rev. 12/02).

Renewal Notice and Application, 0205 Permitted Physician (rev. 12/02).

Renewal Notice and Application, 0206 Medical Equipment Supplier (rev. 12/02).

Renewal Notice and Application, 0207 Restricted Manufacturer (rev. 12/02).

Renewal Notice and Application, 0208 Non-Restricted Manufacturer (rev. 12/02).

Renewal Notice and Application, 0209 Humane Society (rev. 12/02).

Renewal Notice and Application, 0214 Non-Resident Pharmacy (rev. 12/02).

Renewal Notice and Application, 0215 Wholesale Distributor (rev. 12/02).

Renewal Notice and Application, 0216 Warehouser (rev. 12/02).

Renewal Notice and Application, 0219 Non-Resident Wholesale Distributor (rev. 12/02).

Renewal Notice and Application, 0220 Business CSR (rev. 12/02).

Renewal Notice and Application, 0228 Practitioner CSR (rev. 12/02).

~~Application to Reinstate a Pharmacist License~~ (rev. 11/02).

Application for a Permit as a Humane Society (rev. ~~40/02~~ 8/04).

Application for Registration as a Pharmacy Intern for Graduates of a Foreign College of Pharmacy (rev. 6/04).

Closing of a Pharmacy (rev. 3/03).

Application for Approval of a Robotic Pharmacy System (rev. 11/02).

Notice of Inspection Fee Due for Approval of Robotic Pharmacy System (rev. 11/02).

Application for Approval of an Innovative (Pilot) Program (rev. ~~44/02~~ 8/04).

Application for Registration as a Pharmacy Technician (~~42/02~~ 6/04).

Instructions for Reinstating a Pharmacy Technician Registration (rev. 4/05).

Application to Reinstate a Pharmacy Technician Registration (rev. 4/05).

Application for Approval of a Pharmacy Technician Training Program (12/02).

Application for Registration for Volunteer Practice (eff. 12/02).

Sponsor Certification for Volunteer Registration (eff. 1/03).

VA.R. Doc. No. R04-3; Filed November 22, 2005, 10:28 a.m.

BOARD OF COUNSELING

Titles of Regulations: **18 VAC 115-20. Regulations Governing the Practice of Professional Counseling (amending 18 VAC 115-20-130, 18 VAC 115-20-140, and 18 VAC 115-20-150).**

18 VAC 115-50. Regulations Governing the Practice of Marriage and Family Therapy (amending 18 VAC 115-50-110, 18 VAC 115-50-120, and 18 VAC 115-50-130).

18 VAC 115-60. Regulations Governing the Practice of Licensed Substance Abuse Treatment Practitioners (amending 18 VAC 115-60-130, 18 VAC 115-60-140, and 18 VAC 115-60-150)

Statutory Authority: §§ 54.1-2400 and 54.1-3505 of the Code of Virginia.

Effective Date: January 11, 2006.

Agency Contact: Evelyn B. Brown, Executive Director, Board of Counseling, 6603 West Broad Street, 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9133, FAX (804) 662-9943, or e-mail evelyn.brown@dhp.virginia.gov.

Summary:

The changes clarify, update, and make consistent the standards of conduct that apply to professional counselors, marriage and family therapists, and substance abuse treatment practitioners.

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 115-20-130. Standards of practice.

A. The protection of the public health, safety, and welfare and the best interest of the public shall be the primary guide in determining the appropriate professional conduct of all persons whose activities are regulated by the board. *Regardless of the delivery method, whether in person, by phone or electronically, these standards shall apply to the practice of counseling.*

B. Persons licensed by the board shall:

1. Practice in a manner that is in the best interest of the public and does not endanger the public health, safety, or welfare-;
2. Practice only within the ~~competency areas for which they are qualified by training or boundaries of their competence, based on their education, training, supervised experience and appropriate professional experience- and represent their education, training, and experience accurately to clients;~~
3. ~~Be aware of the areas of competence of related professions and make full use of other professional, technical and administrative resources to secure for clients the most appropriate services-~~
4. ~~Strive to~~ 3. Stay abreast of new developments *counseling information, concepts, applications and practices which that are important necessary to providing appropriate, effective professional services-;*
5. 4. Be able to justify all services rendered to clients as necessary *and appropriate* for diagnostic or therapeutic purposes ~~and attempt to terminate a private service or consulting relationship when it becomes clear that the consumer is not benefiting from the relationship-;~~
5. *Document the need for and steps taken to terminate a counseling relationship when it becomes clear that the client is not benefiting from the relationship. Document the assistance provided in making appropriate arrangements for the continuation of treatment for clients, when necessary, following termination of a counseling relationship;*
6. ~~Not engage in offering services to a client who is receiving services from another mental health professional without attempting to inform such other professionals in order to avoid confusion and conflict for the consumer-~~
6. *Make appropriate arrangements for continuation of services, when necessary, during interruptions such as vacations, unavailability, relocation, illness, and disability;*
7. Disclose to clients all experimental methods of treatment and inform clients of the risks and benefits of any such treatment. Ensure that the welfare of the clients is in no way compromised in any experimentation or research involving those clients-;
8. Neither accept nor give commissions, rebates, or other forms of remuneration for referral of clients for professional services-;
9. Inform clients of ~~(i) the purposes of an interview, testing or evaluation session and (ii) the ways in which information~~

~~obtained in such sessions will be used before asking the client to reveal personal information or allowing such information to be divulged- the purposes, goals, techniques, procedures, limitations, potential risks, and benefits of services to be performed; the limitations of confidentiality; and other pertinent information when counseling is initiated and throughout the counseling process as necessary. Provide clients with accurate information regarding the implications of diagnosis, the intended use of tests and reports, fees, and billing arrangements;~~

10. ~~Consider the validity, reliability and appropriateness of tests selected for use with clients Select tests for use with clients that are valid, reliable and appropriate and carefully interpret the performance of individuals from groups not represented in standardized norms-;~~

11. ~~Represent accurately their competence, education, training and experience-~~

11. *Determine whether a client is receiving services from another mental health service provider, and if so, refrain from providing services to the client without having an informed consent discussion with the client and having been granted communication privileges with the other professional;*

12. Use only *in connection with one's practice as a mental health professional* those educational and professional credentials *degrees or titles* that have been earned at a college or university accredited by ~~a regional~~ *an accrediting agency recognized by the United States Department of Education, or credentials granted by a national certifying agency, and that are counseling in nature- Those credentials include the title "doctor" as well as academic and professional certification designations following one's name, such as M.Ed., Ph.D., N.C.C. ; and*

13. ~~Not engage in improper direct solicitation of clients and announce~~ *Advertise* professional services fairly and accurately in a manner ~~which will aid the public in forming their own informed judgments, opinions and choices and which avoids fraud and misrepresentation through sensationalism, exaggeration or superficiality that is not false, misleading or deceptive-~~

14. ~~Provide clients with accurate information of what to expect in the way of tests, reports, billing, therapeutic regime and schedules before rendering services-~~

C. *In regard to patient records, persons licensed by the board shall:*

1. *Maintain written or electronic clinical records for each client to include treatment dates and identifying information to substantiate diagnosis and treatment plan, client progress, and termination;*

2. *Maintain client records securely, inform all employees of the requirements of confidentiality and provide for the destruction of records which that are no longer useful- in a manner that ensures client confidentiality;*

3. *Disclose or release records to others only with clients' expressed written consent or that of their legally authorized representative as*

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~~mandated by law. in accordance with § 32.1-127.1:03 of the Code of Virginia;~~

~~client 4. Ensure confidentiality in the usage of client records and clinical materials shall be ensured by obtaining informed consent from clients or their legally authorized representative before (i) videotaping, (ii) audio recording, (iii) permitting third party observation, or (iv) using identifiable client records and clinical materials in teaching, writing or public presentations-; and~~

~~5. Maintain client records shall be kept for a minimum of five years or as otherwise required by law from the date of termination of the counseling relationship with the following exceptions-:~~

- ~~a. At minimum, records of a minor child shall be maintained for five years after attaining the age of majority (18) or 10 years following termination, whichever comes later;~~
- ~~b. Records that are required by contractual obligation or federal law to be maintained for a longer period of time; or~~
- ~~c. Records that have transferred to another mental health service provider or given to the client or his legally authorized representative.~~

~~D. In regard to dual relationships, persons licensed by the board shall:~~

~~16. Not engage in dual relationships with clients, former clients, residents, supervisees, and supervisors that compromise the client's or resident's well being, impair the counselor's or supervisor's objectivity and professional judgment or increase the risk of client or resident exploitation. This includes, but is not limited to, such activities as counseling close friends, former sexual partners, employees or relatives, and engaging in business relationships with clients. Engaging in sexual intimacies with current clients or residents is strictly prohibited. For at least five years after cessation or termination of professional services, licensees shall not engage in sexual intimacies with a therapy client or those included in collateral therapeutic services. Since sexual or romantic relationships are potentially exploitative, licensees shall bear the burden of demonstrating that there has been no exploitation. A patient's consent to, initiation of or participation in sexual behavior or involvement with a practitioner does not change the nature of the conduct nor lift the regulatory prohibition.~~

~~1. Avoid dual relationships with clients that could impair professional judgment or increase the risk of harm to clients. Examples of such relationships include, but are not limited to, familial, social, financial, business, bartering, or close personal relationships with clients. Counselors shall take appropriate professional precautions when a dual relationship cannot be avoided, such as informed consent, consultation, supervision, and documentation to ensure that judgment is not impaired and no exploitation occurs;~~

~~2. Not engage in any type of sexual intimacies with clients or those included in a collateral relationship with the client and not counsel persons with whom they have had a sexual relationship. Counselors shall not engage in sexual intimacies with former clients within a minimum of five years~~

~~after terminating the counseling relationship. Counselors who engage in such relationship after five years following termination shall have the responsibility to examine and document thoroughly that such relations do not have an exploitive nature, based on factors such as duration of counseling, amount of time since counseling, termination circumstances, client's personal history and mental status, or adverse impact on the client. A client's consent to, initiation of or participation in sexual behavior or involvement with a counselor does not change the nature of the conduct nor lift the regulatory prohibition;~~

~~3. Not engage in any sexual relationship or establish a counseling or psychotherapeutic relationship with a supervisee. Counselors shall avoid any nonsexual dual relationship with a supervisee in which there is a risk of exploitation or potential harm to the supervisee or the potential for interference with the supervisor's professional judgment; and~~

~~17. 4. Recognize conflicts of interest and inform all parties of the nature and directions of loyalties and responsibilities involved.~~

~~18. Report E. Persons licensed by the board shall report to the board known or suspected violations of the laws and regulations governing the practice of licensed or certified mental health service providers as defined in § 54.1-2400.1 of the Code of Virginia Department of Health Professions any information of which he may become aware in his professional capacity indicating that there is a reasonable probability that a person licensed or certified as a mental health service provider, as defined in § 54.1-2400.1 of the Code of Virginia, may have engaged in unethical, fraudulent or unprofessional conduct as defined by the pertinent licensing statutes and regulations.~~

~~18 VAC 115-20-140. Grounds for revocation, suspension, probation, reprimand, censure, or denial of renewal of license.~~

~~A. Action by the board to revoke, suspend or decline to renew, deny issuance or renewal of a license, or take disciplinary action may be taken in accord accordance with the following:~~

~~1. Conviction of a felony, or of a misdemeanor involving moral turpitude, or violation of or aid to another in violating any provision of Chapter 35 (§ 54.1-3500 et seq.) of Title 54.1 of the Code of Virginia, any other statute applicable to the practice of professional counseling, or any provision of this chapter-;~~

~~2. Procuring Procurement of a license by fraud or misrepresentation-;~~

~~3. Conducting one's practice in such a manner as to make it a danger to the health and welfare of one's clients or to the public, or if one is unable to practice counseling with reasonable skill and safety to clients by reason of illness, abusive use of alcohol, drugs, narcotics, chemicals, or other type of material or result of any mental or physical condition-;~~

~~4. Negligence in professional conduct or nonconformance with the Standards of Practice (18 VAC 115-20-130 B).~~

Intentional or negligent conduct that causes or is likely to cause injury to a client or clients;

5. Performance of functions outside the demonstrable areas of competency;

6. Failure to comply with the continued competency requirements set forth in this chapter; or

7. *Violating or abetting another person in the violation of any provision of any statute applicable to the practice of counseling, or any part or portion of this chapter.*

B. Following the revocation or suspension of a license, the licensee may petition the board for reinstatement upon good cause shown or as a result of substantial new evidence having been obtained that would alter the determination reached.

18 VAC 115-20-150. Reinstatement following disciplinary action.

A. Any person whose license has been ~~revoked~~, suspended or *who has been denied renewal reinstatement* by the board ~~under the provisions of 18 VAC 115-20-140 order, having met the terms of the order, may, two years subsequent to such board action,~~ submit a new application and fee for reinstatement of licensure.

B. The board in its discretion may, after ~~a hearing~~ *an administrative proceeding*, grant the reinstatement sought in subsection A of this section.

~~C. The applicant for such reinstatement, if approved, shall be licensed upon payment of the appropriate fee applicable at the time of reinstatement.~~

18 VAC 115-50-110. Standards of practice.

A. The protection of the public's health, safety and welfare and the best interest of the public shall be the primary guide in determining the appropriate professional conduct of all ~~marriage and family therapists licensed persons whose activities are regulated~~ by the board. *Regardless of the delivery method, whether in person, by phone or electronically, these standards shall apply to the practice of marriage and family therapy.*

B. Persons licensed ~~as marriage and family therapists~~ by the board shall:

1. *Practice in a manner that is in the best interest of the public and does not endanger the public health, safety, or welfare;*

~~1. Represent accurately their competence, education, training, experience and credentials, and~~ 2. Practice only within the competency areas for which they are qualified by ~~training or experience boundaries of their competence, based on their education, training, supervised experience and appropriate professional experience and represent their education, training, and experience accurately to clients;~~

3. *Stay abreast of new marriage and family therapy information, concepts, applications and practices that are necessary to providing appropriate, effective professional services;*

~~2- 4. Be able to justify all services rendered to clients as necessary and appropriate for diagnostic or therapeutic purposes and make appropriate referrals when it becomes clear that the client is not benefiting from the relationship;~~

~~3. Not abandon or neglect clients in treatment without making reasonable arrangements for the continuation of such treatment;~~

~~4. When aware that the client is in a professional relationship with another mental health professional, in order to avoid confusion and conflict for the client, request a written release from the client to inform the other professional of the coexistent clinical relationship;~~

5. *Document the need for and steps taken to terminate a counseling relationship when it becomes clear that the client is not benefiting from the relationship. Document the assistance provided in making appropriate arrangements for the continuation of treatment for clients, when necessary, following termination of a counseling relationship;*

6. *Make appropriate arrangements for continuation of services, when necessary, during interruptions such as vacations, unavailability, relocation, illness, and disability;*

~~5- 7. Disclose to clients all experimental methods of treatment, and inform client of the risks and benefits of any such treatment, and . Ensure that the welfare of the client is not compromised in any experiment experimentation or research involving those clients;~~

~~6- 8. Neither accept nor give commissions, rebates or other forms of remuneration for referral of clients for professional services;~~

~~7. Inform clients of the fees and billing arrangements, goals, techniques, procedures, limitations, potential risks and benefits of services to be performed;~~

~~8. Inform clients of the limits of confidentiality at the onset of the therapeutic relationship;~~

~~9. Not solicit clients, advertise or represent services to the public in a manner that is false, misleading, deceptive or fraudulent;~~

9. *Inform clients of the purposes, goals, techniques, procedures, limitations, potential risks, and benefits of services to be performed; the limitations of confidentiality; and other pertinent information when counseling is initiated and throughout the counseling process as necessary. Provide clients with accurate information regarding the implications of diagnosis, the intended use of tests and reports, fees, and billing arrangements;*

10. *Select tests for use with clients that are valid, reliable and appropriate and carefully interpret the performance of individuals not represented in standardized norms;*

11. *Determine whether a client is receiving services from another mental health service provider, and if so, refrain from providing services to the client without having an informed consent discussion with the client and having been granted communication privileges with the other professional;*

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12. Use only in connection with one's practice as a mental health professional those educational and professional degrees or titles that have been earned at a college or university accredited by an accrediting agency recognized by the United States Department of Education, or credentials granted by a national certifying agency, and that are counseling in nature; and

13. Advertise professional services fairly and accurately in a manner that is not false, misleading or deceptive.

C. In regard to patient records, persons licensed by the board shall:

1. Maintain written or electronic clinical records for each client to include treatment dates and identifying information to substantiate diagnosis and treatment plan, client progress, and termination;

~~10.~~ (i) 2. Maintain client records securely, and inform all employees of the requirements of confidentiality requirements; and provide for the destruction of records that are no longer useful in a manner that ensures client confidentiality;

(ii) 3. Disclose or release client records to others only with clients' expressed written consent or as mandated by law that of their legally authorized representative in accordance with § 32.1-127.1:03 of the Code of Virginia; and

(iii) 4. Ensure client confidentiality in the usage of client records and clinical materials by obtaining informed consent from clients or their legally authorized representative before ~~(a)~~ (i) videotaping, ~~(b)~~ (ii) audio recording, ~~(c)~~ (iii) permitting third party observation, or ~~(d)~~ (iv) using identifiable client records and clinical materials in teaching, writing, or public presentations; and

5. Maintain client records shall be kept for a minimum of five years or as otherwise required by law from the date of termination of the clinical counseling relationship; with the following exceptions:

a. At minimum, records of a minor child shall be maintained for five years after attaining the age of majority (18) or 10 years following termination, whichever comes later;

b. Records that are required by contractual obligation or federal law to be maintained for a longer period of time; or

c. Records that have transferred to another mental health service provider or given to the client or his legally authorized representative.

D. In regard to dual relationships, persons licensed by the board shall:

~~14.~~ 1. Avoid dual relationships with clients, former clients, residents, and supervisors and supervisees that could compromise the well being or increase the risk of exploitation of clients or residents, or impair the resident's or supervisor's objectivity and professional judgment. This includes, but is not limited to, such activities as providing therapy to close friends, former sexual partners, employees or relatives, and engaging in business relationships with clients. Engaging in sexual intimacies with clients, former

clients or current residents is strictly prohibited; and that could impair professional judgment or increase the risk of harm to clients. Examples of such relationships include, but are not limited to, familial, social, financial, business, bartering, or close personal relationships with clients. Counselors shall take appropriate professional precautions when a dual relationship cannot be avoided, such as informed consent, consultation, supervision, and documentation to ensure that judgment is not impaired and no exploitation occurs;

2. Not engage in any type of sexual intimacies with clients or those included in a collateral relationship with the client and not counsel persons with whom they have had a sexual relationship. Marriage and family therapists shall not engage in sexual intimacies with former clients within a minimum of five years after terminating the counseling relationship. Marriage and family therapists who engage in such relationship after five years following termination shall have the responsibility to examine and document thoroughly that such relations do not have an exploitive nature, based on factors such as duration of counseling, amount of time since counseling, termination circumstances, client's personal history and mental status, or adverse impact on the client. A client's consent to, initiation of or participation in sexual behavior or involvement with a marriage and family therapist does not change the nature of the conduct nor lift the regulatory prohibition;

3. Not engage in any sexual relationship or establish a counseling or psychotherapeutic relationship with a supervisee. Marriage and family therapists shall avoid any nonsexual dual relationship with a supervisee in which there is a risk of exploitation or potential harm to the supervisee or the potential for interference with the supervisor's professional judgment; and

4. Recognize conflicts of interest and inform all parties of the nature and directions of loyalties and responsibilities involved.

~~12.~~ Report E. Persons licensed by the board shall report to the board known or suspected violations of the laws and regulations governing the practices of mental health professionals Department of Health Professions any information of which he may become aware in his professional capacity indicating that there is a reasonable probability that a person licensed or certified as a mental health service provider, as defined in § 54.1-2400.1 of the Code of Virginia, may have engaged in unethical, fraudulent or unprofessional conduct as defined by the pertinent licensing statutes and regulations.

18 VAC 115-50-120. Disciplinary action.

~~In accordance with § 54.1-2400 of the Code of Virginia, A. Action by the board may, after a hearing, to revoke, suspend or decline to issue or renew, deny issuance or removal of a license, or impose a fine take other disciplinary action may be taken in accordance with the following:~~

1. Conviction of a felony, or of a misdemeanor involving moral turpitude, or violation of or aid to another in violating any provision of Chapter 35 (§ 54.1-3500 et seq.) of Title 54.1 of the Code of Virginia, any other statute applicable to

the practice of marriage and family therapy, or any provision of this chapter;

~~2. Procurement of a license, certificate or registration by fraud or misrepresentation;~~

~~3. Conducting one's practice in such a manner as to make it a danger to the health and welfare of one's clients or the general public or if one is unable to practice marriage and family therapy with reasonable skill and safety to clients by reason of illness, abusive use of alcohol, drugs, narcotics, chemicals, or other type of material or result of any mental or physical condition;~~

~~4. Practicing marriage and family therapy without reasonable skill and safety to clients by virtue of physical or emotional illness, abusive use of alcohol, drugs, narcotics, chemicals or any other hazardous substance or material;~~

~~4. Intentional or negligent conduct that causes or is likely to cause injury to a client or clients;~~

~~5. Providing or offering services Performance of functions outside the demonstrable areas of competency;~~

~~6. Violating or abetting another person in the violation of any provision of any statute applicable to the practice of marriage and family therapy, or any part or portion of this chapter; or~~

~~7. Failure to comply with the continued competency requirements set forth in this chapter.~~

B. Following the revocation or suspension of a license, the licensee may petition the board for reinstatement upon good cause shown or as a result of substantial new evidence having been obtained that would alter the determination reached.

18 VAC 115-50-130. Reinstatement following disciplinary action.

A. Any person whose license has been ~~revoked, suspended or who has been denied renewal~~ *reinstatement* by the board under the provisions of 18 VAC 115-20-140 ~~order, having met the terms of the order, may, two years subsequent to such board action,~~ submit a new application and fee for reinstatement of licensure.

B. The board in its discretion may, after ~~a hearing an~~ *administrative proceeding*, grant the reinstatement sought in subsection A of this section.

C. ~~The applicant for such reinstatement, if approved, shall be licensed upon payment of the appropriate fee applicable at the time of reinstatement.~~

18 VAC 115-60-130. Standards of practice.

A. The protection of the public health, safety, and welfare and the best interest of the public shall be the primary guide in determining the appropriate professional conduct of all persons whose activities are regulated by the board. *Regardless of the delivery method, whether in person, by phone or electronically, these standards shall apply to the practice of substance abuse treatment.*

B. Persons licensed by the board shall:

~~1. Practice in a manner that is in the best interest of the public and does not endanger the public health, safety, or welfare;~~

~~2. Practice only within the competency areas for which they are qualified by training or boundaries of their competence, based on their education, training, supervised experience and appropriate professional experience, and represent their education, training and experience accurately to clients;~~

~~3. Be aware of competencies of practitioners in other fields of practice and make referrals for services when appropriate.~~

~~4. 3. Stay abreast of new developments substance abuse treatment information, concepts, application and practices which that are important necessary to providing appropriate, effective professional services;~~

~~5. Terminate a service or consulting relationship when it is apparent that the client is not benefiting from the relationship.~~

~~6. Provide to clients only those services which are related to 4. Be able to justify all services rendered to clients as necessary and appropriate for diagnostic or therapeutic goals purposes;~~

~~5. Document the need for and steps taken to terminate a counseling relationship when it becomes clear that the client is not benefiting from the relationship. Document the assistance provided in making appropriate arrangements for the continuation of treatment for clients, when necessary, following termination of a counseling relationship;~~

~~6. Make appropriate arrangements for continuation of services, when necessary, during interruptions such as vacations, unavailability, relocation, illness, and disability;~~

~~7. Not offer services to a client who is receiving services from other mental health professionals without attempting to inform such other professionals of the planned provision of services.~~

~~8. Inform 7. Disclose to clients all experimental methods of treatment and inform clients fully of the risks and benefits of services and any such treatment and obtain informed consent to all such services and treatment. Ensure that the welfare of the clients is in no way compromised in any experimentation or research involving those clients;~~

~~9. Ensure that the welfare of clients is not compromised by experimentation or research involving those clients and conform practice involving research or experimental treatment to the requirements of Chapter 5.1 (§ 32.1-162.16 et seq.) of Title 32.1 of the Code of Virginia.~~

~~10. 8. Neither accept nor give commissions, rebates, or other forms of remuneration for referral of clients for professional services;~~

~~11. 9. Inform clients of (i) the purposes of an interview, testing or evaluation session and (ii) the ways in which information obtained in such sessions will be used before asking the client to reveal personal information. the purposes, goals, techniques, procedures, limitations,~~

Final Regulations

~~potential risks, and benefits of services to be performed; the limitations of confidentiality; and other pertinent information when counseling is initiated and throughout the counseling process as necessary. Provide clients with accurate information regarding the implications of diagnosis, the intended use of tests and reports, fees, and billing arrangements;~~

~~12. Consider the validity, reliability and appropriateness of assessments selected for use with clients 10. Select tests for use with clients that are valid, reliable and appropriate and carefully interpret the performance of individuals from groups not represented in standardized norms;~~

~~11. Determine whether a client is receiving services from another mental health service provider, and if so, refrain from providing services to the client without having an informed consent discussion with the client and having been granted communication privileges with the other professional;~~

~~13. Represent accurately their competence, education, training and experience.~~

~~14. In connection with practice as a substance abuse treatment practitioner, represent to the public 12. Use only in connection with one's practice as a mental health professional those educational and professional credentials as are related to such practice, degrees or titles that have been earned at a college or university accredited by an accrediting agency recognized by the United States Department of Education, or credentials granted by a national certifying agency, and that are counseling in nature; and~~

~~15. Not use the title "Doctor" or the abbreviation "Dr." in writing or in advertising in connection with practice without including simultaneously a clarifying title, initials, abbreviation or designation or language that identifies the basis for use of the title, such as M.D., Ph.D., D.Min.~~

~~16. Announce 13. Advertise professional services fairly and accurately in a manner which will aid the public in forming their own informed judgments, opinions and choices and which avoids fraud and misrepresentation that is not false, misleading or deceptive.~~

C. In regard to patient records, persons licensed by the board shall:

~~1. Maintain written or electronic clinical records for each client to include treatment dates and identifying information to substantiate diagnosis and treatment plan, client progress, and termination;~~

~~17. 2. Maintain client records securely, inform all employees of the requirements of confidentiality and provide for the disposal destruction of records that are no longer useful in a manner consistent with professional requirements. that ensures client confidentiality;~~

~~18. 3. Disclose client or release records to others in accordance with state and federal statutes and regulations including, but not limited to, §§ 32.1-127.1:03 (Patient Health Records Privacy Act), 2.2-3704, (Virginia Freedom of Information Act) and 54.1-2400.1 (Mental Health Service Providers; Duty to Protect Third Parties; Immunity) of the~~

~~Code of Virginia; 42 USC § 290dd-2 (Confidentiality of Drug and Alcohol Treatment Records); and 42 CFR Part 2 (Alcohol and Drug Abuse Patient Records and Regulations). only with clients' expressed written consent or that of their legally authorized representative in accordance with § 32.1-127.1:03 of the Code of Virginia;~~

~~19. 4. Maintain client records for a minimum of five years or as otherwise required by law from the date of termination of the substance abuse treatment relationship, or as otherwise required by employer, hospital or insurance carrier. with the following exceptions:~~

~~a. At minimum, records of a minor child shall be maintained for five years after attaining the age of majority (18) or 10 years following termination, whichever comes later;~~

~~b. Records that are required by contractual obligation or federal law to be maintained for a longer period of time; or~~

~~c. Records that have transferred to another mental health service provider or given to the client; and~~

~~20. Obtain informed consent from clients 5. Ensure confidentiality in the usage of client records and clinical materials by obtaining informed consent from clients or their legally authorized representative before (i) videotaping, (ii) audio recording, (iii) permitting third party observation, or (iv) using identifiable client records and clinical materials in teaching, writing or public presentations.~~

D. In regard to dual relationships, persons licensed by the board shall:

~~21. Not engage in dual relationships with clients, former clients, residents, supervisees, and supervisors that compromise the client's or resident's well being, impair the practitioner's or supervisor's objectivity and professional judgment or increase the risk of client or resident exploitation. This includes, but is not limited to, such activities as treating close friends, former sexual partners, employees or relatives, and engaging in business relationships with clients.~~

~~Engaging in sexual intimacies with current clients or residents is strictly prohibited. For at least five years after cessation or termination of professional services, licensees shall not engage in sexual intimacies with a therapy client or those included in collateral therapeutic services. Since sexual or romantic relationships are potentially exploitative, licensees shall bear the burden of demonstrating that there has been no exploitation. A patient's consent to, initiation of or participation in sexual behavior or involvement with a practitioner does not change the nature of the conduct nor lift the regulatory prohibition.~~

~~1. Avoid dual relationships with clients that could impair professional judgment or increase the risk of harm to clients. Examples of such relationships include, but are not limited to, familial, social, financial, business, bartering, or close personal relationships with clients. Counselors shall take appropriate professional precautions when a dual relationship cannot be avoided, such as informed consent, consultation, supervision, and documentation to ensure that judgment is not impaired and no exploitation occurs;~~

2. Not engage in any type of sexual intimacies with clients or those included in a collateral relationship with the client and not counsel persons with whom they have had a sexual relationship. Licensed substance abuse treatment practitioners shall not engage in sexual intimacies with former clients within a minimum of five years after terminating the counseling relationship. Licensed substance abuse treatment practitioners who engage in such relationship after five years following termination shall have the responsibility to examine and document thoroughly that such relations do not have an exploitive nature, based on factors such as duration of counseling, amount of time since counseling, termination circumstances, client's personal history and mental status, or adverse impact on the client. A client's consent to, initiation of or participation in sexual behavior or involvement with a licensed substance abuse treatment practitioner does not change the nature of the conduct nor lift the regulatory prohibition;

3. Not engage in any sexual relationship or establish a counseling or psychotherapeutic relationship with a supervisee. Licensed substance abuse treatment practitioners shall avoid any nonsexual dual relationship with a supervisee in which there is a risk of exploitation or potential harm to the supervisee or the potential for interference with the supervisor's professional judgment; and

~~22. Recognize conflicts of interest and inform all parties of obligations, responsibilities and loyalties to third parties.~~

4. Recognize conflicts of interest and inform all parties of the nature and directions of loyalties and responsibilities involved.

~~23. E. Persons licensed by the board shall report to the board known or suspected violations of the laws and regulations governing the practice of licensed or certified health care practitioners Department of Health Professions any information of which he may become aware in his professional capacity indicating that there is a reasonable probability that a person licensed or certified as a mental health service provider, as defined in § 54.1-2400.1 of the Code of Virginia, may have engaged in unethical, fraudulent or unprofessional conduct as defined by the pertinent licensing statutes and regulations.~~

18 VAC 115-60-140. Grounds for revocation, suspension, probation, reprimand, censure, or denial of renewal of license.

A. Action by the board to revoke, suspend or ~~decline to renew, deny issuance or renewal of a license, or take other disciplinary action~~ may be taken in accord with the following:

1. Conviction of a felony, or of a misdemeanor involving moral turpitude, or violation of or aid to another in violating any provision of Chapter 35 (§ 54.1-3500 et seq.) of Title 54.1 of the Code of Virginia, any other statute applicable to the practice of substance abuse treatment, or any provision of this chapter-;
2. ~~Procuring~~ Procurement of a license by fraud or misrepresentation.
3. Conducting one's practice in such a manner as to make it a danger to the health and welfare of one's clients or to the

public, or if one is unable to practice substance abuse treatment with reasonable skill and safety to clients by reason of illness, abusive use of alcohol, drugs, narcotics, chemicals, or other type of material or result of any mental or physical condition-;

~~4. Negligence in professional conduct or nonconformance with the Standards of Practice (18 VAC 115-60-130). Intentional or negligent conduct that causes or is likely to cause injury to a client;~~

5. Performance of functions outside the demonstrable areas of competency-;

6. Failure to comply with the continued competency requirements set forth in this chapter-; or

7. Violating or abetting another person in the violation of any provision of any statute applicable to the practice of licensed substance abuse therapy, or any part or portion of this chapter.

~~B. Petition for rehearing.~~ Following the revocation or suspension of a license the licensee may petition the board for ~~rehearing~~ reinstatement upon good cause shown or as a result of substantial new evidence having been obtained that would alter the determination reached.

18 VAC 115-60-150. Reinstatement following disciplinary action.

A. Any person whose license has been ~~revoked, suspended or who has been denied renewal~~ reinstatement by the board ~~under the provisions of 18 VAC 115-60-140 order, having met the terms of the order, may, two years subsequent to such board action,~~ submit a new application and fee to the board for reinstatement of licensure.

B. The board in its discretion may, after a hearing ~~an administrative proceeding~~, grant the reinstatement sought in subsection A of this section.

~~C. The applicant for such reinstatement, if approved, shall be licensed upon payment of the appropriate fee applicable at the time of reinstatement.~~

VA.R. Doc. No. R04-28, R04-29, R04-30; Filed November 22, 2005, 10:25 a.m.



GOVERNOR

EXECUTIVE ORDER NUMBER 101 (2005)

CONTINUING THE STATEWIDE AGENCIES RADIO SYSTEM (STARS)

It is essential that a statewide system of integrated radio and wireless data communication be developed for state agencies engaged in public protection and safety and for the mutual aid needs of state and local law enforcement agencies.

The management structure of a statewide radio system that is shared between numerous agencies that provide public protection and safety services poses considerable challenges. To meet the needs of all potential users, the managing entity must establish and provide formal communication avenues for users of the system to report system problems and to provide valuable input to the design of the system and its efficient operations and troubleshooting.

In order to be effective, a statewide radio system must meet the needs of a diverse group of agencies and localities. Therefore, appropriate entities, composed of Secretarial representation for each of the participating agencies, must be established and empowered to oversee policy and direction for the system. Also, an implementation and operation unit must be established to manage, maintain, and operate a reliable integrated radio communications system.

By virtue of the authority vested in me as Governor under Article V of the Constitution of Virginia and under the laws of the Commonwealth, including but not limited to Section 2.2-103 of the Code of Virginia, and subject to my continuing and ultimate authority and responsibility to act in such matters, I hereby continue the initiative to accomplish the goals of the Statewide Agencies Radio System (STARS).

STARS Continued

Pursuant to Chapter 3, Title 42, of the Code of the Virginia, I hereby continue the initiatives associated with the Statewide Agencies Radio System (STARS) to meet the need for an integrated radio and wireless data communications system for state agencies engaged in public protection and safety and for interconnection between state and local police communication systems at the city or county level. As part of this initiative, I hereby continue the STARS Management Group (hereinafter called the "Management Group"), the STARS Project Management Team (hereinafter called the "Management Team"), and the User Agency Requirements Committee (hereinafter called "UARC").

STARS Membership

The STARS membership shall be composed of the following state agencies, and any other state agencies or institutions and local government agencies or institutions that the Management Group approves:

Chesapeake Bay Bridge and Tunnel Police,
Department of Alcoholic Beverage Control,
Division of Capitol Police,
Department of Charitable Gaming,
Department of Conservation and Recreation,
Department of Corrections,

Department of Emergency Management,
Department of Environmental Quality,
Department of Fire Programs,
Department of Forestry,
Department of Game and Inland Fisheries,
Department of Health,
Department of Juvenile Justice,
Department of Military Affairs,
Department of Mines, Minerals, and Energy,
Department of Motor Vehicles,
Department of State Police,
Department of Transportation,
Virginia Information Technology Agency,
Virginia Marine Resources Commission, and
Virginia Port Authority.

Withdrawal by state agencies and institutions from STARS shall be only upon approval of the Management Group.

STARS Management Group

The Management Group shall provide overall direction and governance for the development, implementation, and ongoing operation of STARS.

A. Composition of the Management Group:

The Secretaries of Public Safety, Technology, Transportation, Natural Resources, Commerce and Trade, Health and Human Resources, Administration, Agriculture and Forestry, and Finance shall serve as members of the Management Group.

The Secretary of Public Safety shall serve as chair of the Management Group. The chair of the Management Group shall have the power to set meetings and make assignments to members of the user group established below.

B. Duties of the Management Group:

The specific duties of the Management Group are to:

- Provide direction and overall governance for the STARS, including communications privacy and security,
- Review all procurements and contracts relating to the STARS,
- Coordinate and assign radio frequency licenses granted by the federal government to agencies of the Commonwealth, and
- Promote interagency cooperation and coordination in the use of communications resources.

The Management Group shall also designate and oversee the Management Team.

STARS Project Management Team

The Management Team shall provide staff for overall direction and governance for the development, implementation, and ongoing operation of STARS.

A. Composition of the Management Team:

The Management Team shall consist of persons with project management, electrical engineering, civil engineering,

communications technology, procurement, contract administration, and accounting expertise.

B. Duties of the Management Team:

The Management Team shall be responsible for development of a comprehensive management plan and procedures for the use and operation of STARS. It shall also be responsible for resolving general operating issues between STARS users. Any issues that can not be resolved by the Management Team shall be addressed by the Management Group.

STARS User Agency Requirements Committee (UARC)

A user group called the User Agency Requirements Committee (UARC), consisting of representatives from each member agency and institution, shall assist the Management Team. The Management Group shall select the chairman and co-chairman of UARC.

A. Composition of UARC:

The head of each member agency and institution shall appoint one member of their respective staffs and a designated alternate to serve on UARC.

B. Duties of UARC:

The User Group shall assist the Management Team by establishing such operating procedures, executive committee, and subcommittees, as it deems appropriate to carry out its work. UARC shall meet as necessary, but at least quarterly.

The specific duties of UARC are to:

- Advise of the needs of member agencies for the planning, design, establishment, and operation of STARS,
- Provide advice on proposals for other federal, state, or local agencies to join STARS and on any proposals for third party use of any STARS infrastructure or component, and
- Assist the Management Team with the development of a comprehensive management plan and procedures for the use and operation of STARS. The management plan and any changes thereto shall be subject to review and approval by the Management Group.

STARS Procurement

As provided in Item 457 of the 2002 Appropriation Act (Chapter 899 of the 2002 Acts of Assembly), the Commonwealth shall not enter into any contract for implementation of STARS without the approval of the Governor and the General Assembly.

The Secretary of Public Safety, with the assistance of the Secretary of Finance, the Secretary of Technology, the Department of Planning and Budget, and the Treasurer, shall oversee the review of proposals and the development of any contract for such a radio communication system, including the financing of the system.

The Management Group shall report on the status of STARS, including the status of any contract negotiations within the

limitations of the Virginia Public Procurement Act (Section 11-35 et seq. of the Code of Virginia) to the Governor and General Assembly by January 1 of each year.

This Executive Order rescinds Executive Order Twenty-Eight (2002) issued by Governor Mark R. Warner.

This Executive Order shall become effective upon its signing and shall remain in full force and effect until October 31, 2008, unless amended or rescinded by further Executive Order.

Given under my hand and the Seal of the Commonwealth of Virginia on this 1st day of November 2005.

/s/ Mark R. Warner
Governor

EXECUTIVE ORDER NUMBER 102 (2005)

ADOPTION OF THE NATIONAL INCIDENT MANAGEMENT SYSTEM AND USE OF THE NATIONAL PREPAREDNESS GOAL FOR PREVENTING, RESPONDING TO AND RECOVERING FROM CRISIS EVENTS IN THE COMMONWEALTH

Ensuring the health, safety, welfare and security of citizens is government's most profound duty. Emergencies and disasters of all kinds - originating from nature, accidents and man-caused actions to include terrorism, have the potential to threaten the health, safety and welfare of our citizens, disrupt our economy and commerce and undermine the stability of society and good order. To ensure the most effective management of risks facing the Commonwealth it is necessary and desirable to maintain a single clear incident management structure to ensure the prompt communication, coordination and control of prevention and relief activities among all levels of government and with the private sector.

The National Incident Management System (NIMS) has been adopted nationally and is being implemented in Virginia as the federally required incident management system by which communities, states and the federal government will ensure full integration of activities in response to threatened and actual emergencies and disasters of all kinds. The NIMS has been mandated nationally for integrated local, state, tribal, territorial and federal prevention, response and recovery activities in accordance with criteria set forth in Homeland Security Presidential Directive 5 (HSPD 5). When implemented in consonance with the National Response Plan, and other federal, state and local emergency plans, NIMS, with its compliant Incident Command System, provides the established framework to effectively integrate operations at all levels, including but not limited to the implementation of a standardized Incident Command System for any size or scope of event. The National Response Plan (NRP), using NIMS, is an all-hazards plan that provides the structure and mechanisms for national-level policy and operational coordination for domestic incident management.

In accordance with HSPD 5, the Secretary of Homeland Security is the Principal Federal Official responsible for domestic incident management through NIMS.

Governor

The Governor is the Principal State Official responsible for incident management in the Commonwealth and will do so through the adoption of NIMS. The Governor shall accomplish these responsibilities in accordance with existing statutory authorities and through established organizations and structures set forth for these purposes. This designation in no way alters or impedes the authority of local officials, state agencies, private relief and business organizations, or federal agencies to perform responsibilities set forth by law.

Homeland Security Presidential Directive 8 - National Preparedness delineates the roles and responsibilities of the federal government to provide assistance to states and communities in the development of preparedness activities to deter, prevent, mitigate, respond and recover from emergencies and disasters through an "all hazards" approach. This directive authorized development of a National Preparedness Goal to assist states and communities with targeting preparedness efforts.

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 adopt the National Incident Management System (NIMS) and the National Preparedness Goal for use by localities and state agencies in all preparedness activities in the Commonwealth of Virginia including but not limited to deterrence, prevention, response, recovery and mitigation efforts.

Furthermore, I hereby establish the following requirements.

1. The State Coordinator of the Virginia Department of Emergency Management is responsible for NIMS implementation. The Executive Director of the Virginia Department of Fire Programs is designated as the executive agent responsible for coordination of NIMS compliant Incident Command System training activities among state agencies and to local governments. This lead coordination shall not remove responsibility for or inhibit delivery of training by any state agency to its normally defined constituency.

2. The State Coordinator shall, cooperatively with the Executive Director of the Virginia Department Fire Programs and in coordination with the Superintendent of the Virginia State Police, Commissioner of the Virginia Department of Health, Commissioner of the Virginia Department of Transportation, Adjutant General of the Virginia National Guard, Director of the Virginia Department of Criminal Justice Services and State Forester shall, in consultation with the Assistant to the Governor for Commonwealth Preparedness, the Secretary of Public Safety, the Secretary of Health and Human Resources, the Secretary of Transportation, The Secretary of Agriculture and Forestry and others the State Coordinator deems appropriate, ensure an annual process for delivery of training and education to support NIMS implementation and continuation among localities and state agencies in Virginia.

3. All emergency plans and procedures shall be developed in consonance with NIMS, the National Response Plan and in accordance with the National Preparedness Goals.

4. All emergency and disaster drills conducted annually in the Commonwealth, in accordance with Homeland Security Presidential Directive 8 - National Preparedness, will test and evaluate the ability of local, state, federal and private organizations to operate in a unified and coordinated manner under NIMS and in accordance with the National Response Plan, Commonwealth of Virginia Emergency Operations Plan (COVEOP) and local Emergency Operations Plans (EOPs) and other relevant federal, state and local plans.

5. Consistent with federal guidance beginning in October 2005, any state agency, local government, quasi-governmental entity, private relief organization or other public and private entity eligible for and desiring federal preparedness funding passed through agencies of the Commonwealth from the U.S. Department of Homeland Security or U.S. Department of Health and Human Services shall be required to certify their adoption of NIMS and Incident Command System models for management of emergencies and disasters. Failure of an organization or entity to meet this certification requirement shall preclude the award of federal funding by the Commonwealth.

6. Within six month's of the signing of this Executive Order or sooner, the State Coordinator of Emergency Management shall, cooperatively with the Executive Director of the Virginia Department of Fire Programs, and in coordination with the Superintendent of the Virginia State Police, Commissioner of the Virginia Department of Health, Commissioner of the Virginia Department of Transportation, Adjutant General of the Virginia National Guard, and the Director of the Virginia Department of Criminal Justice Services, and in consultation with the Assistant to the Governor for Commonwealth Preparedness, the Secretary of Public Safety, the Secretary of Health and Human Resources, the Secretary of Transportation and others deemed appropriate, prepare and furnish to all recipients of federal emergency and disaster preparedness funding passed through agencies of the Commonwealth from the U.S. Department of Homeland Security or U.S. Department of Health and Human Services, performance measures for assessing and measuring compliance with adopting the National Incident Management System. Recipients of these sources of federal emergency and disaster preparedness funding shall be required to measure performance annually.

7. The National Preparedness Goal shall be considered a baseline for guiding preparedness activities in Virginia. Within six month's of the signing of this Executive Order or sooner, the State Coordinator of Emergency Management, in coordination with the Executive Director of the Virginia Department of Fire Programs, Superintendent of the Virginia State Police, Commissioner of the Virginia Department of Health, Commissioner of the Virginia Department of Transportation, Adjutant General of the Virginia National Guard, Director of the Virginia Department of Criminal Justice Services and the State Forester and others the State Coordinator deems appropriate, shall

review the National Preparedness Goal and recommend to the Governor through the Assistant to the Governor for Commonwealth Preparedness, the Secretary of Public Safety, the Secretary of Health and Human Resources, the Secretary of Transportation and the Secretary of Agriculture and Forestry, the addition of any needed elements to this national goal that strengthen its application in supporting the Commonwealth of Virginia's preparedness activities, based on any higher probability risks inherent to the Commonwealth.

This Executive Order shall become effective upon its signing and shall remain in full force and effect until amended or rescinded by further Executive Order.

Given under my hand and the Seal of the Commonwealth of Virginia on this 1st day of November 2005.

/s/ Mark R. Warner
Governor

GENERAL NOTICES/ERRATA

DEPARTMENT OF ENVIRONMENTAL QUALITY

Notice of Release of Final Water Quality Assessment Guidance Manual

The Virginia Department of Environmental Quality (DEQ) will release the final Water Quality Assessment Guidance Manual (DEQ Assessment Guidance) on December 12, 2005.

Section 62.1-44.19:5 C of the Code of Virginia requires DEQ to develop and publish the procedures used for defining and determining impaired waters and provide for public comment on the procedures. The DEQ Assessment Guidance contains the assessment procedures and methods to be used for the development of Virginia's 2006 § 305(b)/§ 303(d) Integrated (i.e., combined Water Quality Assessment and Impaired Waters) Report. The 2006 Integrated Report is due to the U.S. Environmental Protection Agency (EPA) by April 1, 2006.

A draft version of this guidance was released for public review and comment on August 22, 2005. A public information meeting on the guidance was held on September 7, 2005. The public comment period closed on September 23. In response to comments from the United States Environmental Protection Agency (EPA) and the public, several modifications were made to the draft guidance; in particular, the assessment of newly-adopted Chesapeake Bay-related Water Quality Standards has been refined. Questions should be directed to Harry Augustine via the contact information below.

A copy of the final revised DEQ Assessment Guidance is available to download from the DEQ Water Quality Assessment webpage at <http://www.deq.virginia.gov/wqa/>. A hard copy can also be requested from Harry Augustine, DEQ Water Quality Assessment Coordinator, using his contact information below.

Collective responses to comments received during the earlier public comment period are also available for download at the URL above.

Contact: Harry Augustine, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240-0009, telephone (804) 698-4037, FAX (804) 698-4116, or via e-mail hhaugustin@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 November 14, 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.

Final Rules for Game Operation:

Director's Order Number Seventy-Eight (05)
Virginia's Instant Game Lottery 292; "Ace's & 8's" (effective 11/7/05)

Director's Order Number Seventy-Nine (05)
Virginia's Instant Game Lottery 697; "Cold Hard Cash" (effective 11/7/05)

Director's Order Number Eighty (05)
Virginia's Instant Game Lottery 698; "Super Size Cash" (effective 11/7/05)

Director's Order Number Eighty-One (05)
Virginia's Instant Game Lottery 695; "Blackjack Showdown" (effective 11/7/05)

Director's Order Number Eighty-Two (05)
Virginia's Instant Game Lottery 294; "Hit \$50!" (effective 11/7/05)

Director's Order Number Eighty-Three (05)
Virginia's Instant Game Lottery 702; "Hit \$500!" (effective 11/7/05)

Director's Order Number Eighty-Four (05)
Virginia's Instant Game Lottery 703; "Hit \$5,000!" (effective 11/7/05)

Director's Order Number Eighty-Five (05)
Virginia's Instant Game Lottery 704; "Hit \$50,000!" (effective 11/7/05)

STATE WATER CONTROL BOARD

Proposed Consent Special Order for Cardinal Realty (Virginia), LLC dba Cardinal Stone – Galax Quarry

Purpose of notice: To seek public comment on a proposed consent order from the Department of Environmental Quality for a facility in Grayson County, Virginia.

Public comment period: December 12, 2005, to January 10, 2006.

Consent order description: The State Water Control Board proposes to issue a consent order to Cardinal Realty (Virginia), LLC dba Cardinal Stone - Galax Quarry to address alleged violations of the VPDES General Permit for Nonmetallic Mineral Mining and the company's coverage under Registration Statement No. VAG840054. The location of the facility where the alleged violations occurred is 1538 Edmonds Road, Galax, Virginia. The consent order describes a settlement to resolve issues regarding areas of uncontrolled stormwater runoff, and maintenance of controls in those areas where stormwater controls exist.

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.

Contact for public comments, document requests and additional information: D. R. Sizemore, Department of Environmental Quality, Southwest Regional Office, P.O. Box 1688, Abingdon, VA 24212-1688 (the office is located at 355

Deadmore Street, Abingdon, VA), telephone (276) 676-4800, FAX (276) 676-4899, or e-mail drsizemore@deq.virginia.gov.

Proposed Consent Special Order for Fauquier County Water and Sanitation Authority

Purpose of notice: To invite citizens to comment on a proposed consent order for a facility in Warrenton, Virginia.

Public comment period: December 12, 2005, to January 11, 2006.

Consent order description: The State Water Control Board proposes to issue a consent order to the Fauquier County Water and Sanitation Authority to address alleged violations of the Virginia Pollutant Discharge Elimination System Permit No. VA0020460. The location of the facility where the alleged violations occurred is Building 398 at Vint Hill Farms Station. The consent order describes a settlement to resolve sewage treatment plant effluent limit violations for ammonia and biochemical oxygen demand and late submittal of a required report.

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.

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.

Proposed Consent Special Order for Rappahannock County Public Schools

Purpose of notice: To invite citizens to comment on a proposed consent order for a facility in Rappahannock County, Virginia.

Public comment period: December 12, 2005, to January 11, 2006.

Consent order description: The State Water Control Board proposes to issue a consent order to Rappahannock County Public Schools to address alleged violations of the Virginia Pollutant Discharge Elimination System Permit No. VA0064181. The location of the facility where the alleged violations occurred is at 12576 Lee Highway. The consent order describes a settlement to resolve sewage treatment plant effluent limit violations for ammonia, total suspended solids, biochemical oxygen demand, and E.coli.

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.

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.

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

CALENDAR OF EVENTS

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 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

BOARD OF ACCOUNTANCY

NOTE: CHANGE IN MEETING TIME AND LOCATION

December 13, 2005 - 9 a.m. -- Open Meeting
Linden Row Inn, 100 East Franklin Street, Board Room,
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.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

December 14, 2005 - 9:30 a.m. -- Open Meeting
Oliver W. Hill Building, 102 Governor Street, 2nd Floor Board Room, Richmond, Virginia.♿ (Interpreter for the deaf provided upon request)

The Consumer Affairs Advisory Committee communicates the views and interests of Virginians on issues related to the Department of Agriculture and Consumer Services' consumer education and fraud prevention programs and their availability to citizens. Members will review consumer education outreach efforts for the past six months, accept nominations for citizen terms, elect a chairperson, and assist with planning for 2006. Public comment is accepted 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 Evelyn A. Jez at least two days before the meeting date so that suitable arrangements can be made.

Contact: Evelyn A. Jez, Ph.D., Consumer Affairs Specialist, Department of Agriculture and Consumer Services, 102 Governor St., 1st Floor, Richmond, VA 23219, telephone (804) 786-1308, FAX (804) 786-5112, toll-free (800) 552-9963, (800) 828-1120/TTY☎, e-mail penny.jez@vdacs.virginia.gov.

Virginia Corn Board

December 12, 2005 - 9 a.m. -- Open Meeting
Wallace Manor, 3821 North Courthouse Road, Providence Forge, Virginia.♿

A meeting to (i) hear and approve the previous meeting minutes; (ii) review checkoff revenues and the financial status resulting from sale of the 2005 Virginia corn crop; (iii) hear reports from the chairman, board member representation to the U.S. Grains Council, the National Corn Growers Association, and the Virginia Corn Growers Association; and (iv) nominate and elect officers for 2006. 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 Philip T. Hickman at least five days before the meeting date so that suitable arrangements can be made.

Contact: Philip T. Hickman, Program Director, Department of Agriculture and Consumer Services, 102 Governor St., 3rd Floor, Richmond, VA 23219, telephone (804) 371-6157, FAX (804) 371-7786, e-mail phil.hickman@vdacs.virginia.gov.

Virginia Horse Industry Board

January 31, 2006 - 10 a.m. -- Open Meeting
Department of Forestry, 900 Natural Resources Drive, 2nd Floor Meeting Room, Charlottesville, Virginia.♿

A meeting to discuss marketing and promotional projects for 2006-07, budget items, and the upcoming grant submission and review cycle. 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 Andrea S. Heid at least five days before the meeting date so that suitable arrangements can be made.

Contact: Andrea S. Heid, Equine Marketing Specialist/Program Manager, Department of Agriculture and Consumer Services, 102 Governor St., 3rd Floor, Richmond, VA 23219, telephone (804) 786-5842, FAX (804) 371-7786, e-mail andrea.heid@vdacs.virginia.gov.

Virginia Seed Potato Board

† **December 19, 2005 - 7:30 p.m.** -- Open Meeting
Trawler Restaurant, Exmore, Virginia. 

A meeting to (i) review regulations (2 VAC 5-300), (ii) discuss program year 2005, and (iii) plan for the 2006 seed season. Other business that may come before the board will be discussed. 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 J.W. Nottingham at least three days before the meeting date so that suitable arrangements can be made.

Contact: J.W. Nottingham, Program Director, Virginia Seed Potato Board, P.O. Box 26, Onley, VA 23418, telephone (757) 787-5867, FAX (757) 787-5973.

Virginia Soybean Board

December 15, 2005 - 1 p.m. -- Open Meeting
Virginia Soybean Association, 151 Kristiansand Drive, Suite E, Williamsburg, Virginia. 

A meeting to (i) hear and approve previous meeting minutes; (ii) review checkoff revenues and the financial status resulting from sale of the 2005 Virginia soybean crop; (iii) hear reports from the chairman, the United Soybean Board representative, and the Virginia Soybean Association; and (iv) nominate and elect officers for 2006. 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 Philip T. Hickman at least five days before the meeting date so that suitable arrangements can be made.

Contact: Philip T. Hickman, Program Director, Department of Agriculture and Consumer Services, 102 Governor St., 3rd Floor, Richmond, VA 23219, telephone (804) 371-6157, FAX (804) 371-7786, e-mail phil.hickman@vdacs.virginia.gov.

STATE AIR POLLUTION CONTROL BOARD

January 5, 2006 - 10 a.m. -- Open Meeting
Department of Environmental Quality, 629 East Main Street, Richmond, Virginia. 

A public meeting to receive comments on the notice of intended regulatory action to amend the regulations for the control and abatement of air pollution concerning minor new source review. The NOIRA appears in the Virginia Register

of Regulations on November 28, 2005. The comment period begins on November 28, 2005, and ends on January 5, 2006.

Contact: Gary Graham, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4103, FAX (804) 698-4510, e-mail gegraham@deq.virginia.gov.

January 12, 2006 - 10 a.m. -- Public Hearing
Department of Environmental Quality, 629 East Main Street, Richmond, Virginia. 

January 30, 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 Air Pollution Control Board intends to amend regulations entitled **9 VAC 5-20, General Provisions**, and **9 VAC 5-40, Existing Stationary Sources (Rev. D04)**. The purpose of the proposed action is to enlarge the scope of volatile organic compound and nitrogen oxides emissions control areas in order to include new ozone nonattainment areas.

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

Contact: Gary Graham, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4103, FAX (804) 698-4510 or e-mail gegraham@deq.virginia.gov.

January 12, 2006 - 1:30 p.m. -- Public Hearing
Department of Environmental Quality, 629 East Main Street, Richmond, Virginia. 

January 30, 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 Air Pollution Control Board intends to amend regulations entitled **9 VAC 5-40, Existing Stationary Sources (Rev. H03)**. The purpose of the proposed action is to reduce emissions of volatile organic compounds (VOCs) and nitrogen oxides (NO_x) from open burning and special incineration devices in Virginia's emissions control areas in order to attain and maintain the federal health-based air quality standard for ozone and nitrogen oxides.

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

Contact: Mary L. Major, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4423, FAX (804) 698-4510 or e-mail mimajor@deq.virginia.gov.

Calendar of Events

ALCOHOLIC BEVERAGE CONTROL BOARD

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.

BOARD FOR ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS, CERTIFIED INTERIOR DESIGNERS AND LANDSCAPE ARCHITECTS

February 1, 2006 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. 

A meeting of the Architects Section to conduct 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.

February 7, 2006 - 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. 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.

February 8, 2006 - 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. 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.

February 9, 2006 - 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. 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.

February 15, 2006 - 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. 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.

VIRGINIA BOARD FOR ASBESTOS, LEAD, AND HOME INSPECTORS

† January 31, 2006 - 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: David Dick, Assistant Director, Virginia Board for Asbestos, Lead, and Home Inspectors, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8595, FAX (804)

367-2475, (804) 367-9753/TTY ☎, e-mail
asbestos@dpor.virginia.gov.

(804) 367-9753/TTY ☎, e-mail
barbercosmo@dpor.virginia.gov.

AUCTIONEERS BOARD

December 13, 2005 - 9:30 a.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: Marian H. Brooks, Regulatory Board Administrator,
Auctioneers Board, 3600 W. Broad St., Richmond, VA 23230,
telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-
9753/TTY ☎, e-mail auctioneers@dpor.virginia.gov

January 12, 2006 - 10 a.m. -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia. ♿

A meeting to conduct board business. A portion of the meeting may be held in closed session. 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: Marian H. Brooks, Regulatory Board Administrator,
Auctioneers Board, 3600 W. Broad St., Richmond, VA 23230,
telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-
9753/TTY ☎, e-mail auctioneers@dpor.virginia.gov.

VIRGINIA AVIATION BOARD

† **December 13, 2005 - 3 p.m.** -- Open Meeting
† **December 14, 2005 - 9 a.m.** -- Open Meeting
Holiday Inn Select 2801 Plank Road Fredericksburg,
Virginia. ♿

A regular bimonthly meeting. Applications for state funding will be presented to the board and other matters of interest to the Virginia aviation community will be discussed. Individuals with disabilities should contact Carolyn Toth 10 days prior to the meeting if assistance is needed.

Contact: Carolyn Toth, Executive Assistant, Virginia Aviation Board, 5702 Gulfstream Rd., Richmond, VA 23250, telephone (804) 236-3637, FAX (804) 236-3635, e-mail carolyn.toth@doav.virginia.gov.

BOARD FOR BARBERS AND COSMETOLOGY

† **January 12, 2006 - 9 a.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: William H. Ferguson, II, Assistant Director, Board for Barbers and Cosmetology, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8575, FAX (804) 367-2474,

BOARD FOR THE BLIND AND VISION IMPAIRED

† **January 10, 2006 - 1 p.m.** -- Open Meeting
Department for the Blind and Vision Impaired, 397 Azalea Avenue, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A meeting to review information regarding the Department for the Blind and Vision Impaired's activities and operations, review expenditures from board endowment fund, and discuss other issues brought before the board.

Contact: Katherine C. Proffitt, Administrative Assistant, Department for the Blind and Vision Impaired, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3145, FAX (804) 371-3147, toll-free (800) 622-2155, (804) 371-3140/TTY ☎, e-mail kathy.proffitt@dbvi.virginia.gov.

BOARD FOR BRANCH PILOTS

December 12, 2005 - 9 a.m. -- Open Meeting
February 2, 2006 - 9:30 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.

February 1, 2006 - 8:30 a.m. -- Open Meeting
Virginia Port Authority, 600 World Trade Center, Norfolk, Virginia. ♿

A meeting of the examination administrators. 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 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 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.

Calendar of Events

DEPARTMENT OF BUSINESS ASSISTANCE

Virginia Small Business Financing Authority

December 14, 2005 - Noon -- Open Meeting
Department of Business Assistance, 707 East Main Street,
3rd Floor Board Room, Richmond, Virginia. 

A meeting to review applications for loans submitted to the authority for approval and to conduct general business. The meeting time is subject to change depending upon the board's agenda.

Contact: Scott E. Parsons, Executive Director, Department of Business Assistance, P.O. Box 446, Richmond, VA 23218-0446, telephone (804) 371-8256, FAX (804) 225-3384, toll-free (866) 248-8814, e-mail scott.parsons@dba.virginia.gov.

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

NOTE: CHANGE IN MEETING DATE

December 12, 2005 - 10 a.m. -- Open Meeting
Dorey Recreational Park, 7200 Dorey Park Drive, Richmond, Virginia.

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.

STATE BOARD FOR COMMUNITY COLLEGES

January 18, 2006 - 1:30 p.m. -- Open Meeting
James Monroe Building, 101 North 14th Street, 15th Floor, 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 

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.

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

December 21, 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.

BOARD OF CONSERVATION AND RECREATION

December 16, 2005 - 11 a.m. -- Open Meeting
Science Museum of Virginia, 2500 West Broad Street, Richmond, Virginia.

A regular meeting.

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.

DEPARTMENT OF CONSERVATION AND RECREATION

Virginia Invasive Species Council

† December 13, 2005 - 1 p.m. -- Open Meeting
University of Richmond, Tyler Haines Commons, Room 331, Richmond, Virginia.

A regular meeting.

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

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.

† **December 14, 2005 - 9 a.m.** -- Open Meeting
December 15, 2005 - 9 a.m. -- Open Meeting
† **January 12, 2006 - 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.

BOARD OF CORRECTIONS

January 17, 2006 - 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.

January 17, 2006 - 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.

January 18, 2006 - 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.

January 18, 2006 - 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 DENTISTRY

January 6, 2006 - 9 a.m. -- Open Meeting
February 3, 2006 - 9 a.m. -- Open Meeting
February 10, 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.

† **March 2, 2006 - 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.

† **March 3, 2006 - 9 a.m.** -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. 

A general business meeting. There will be a public comment period during the first 15 minutes 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) 662-7246, (804) 662-7197/TTY , e-mail sandra.reen@dhp.virginia.gov.

DESIGN-BUILD/CONSTRUCTION MANAGEMENT REVIEW BOARD

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.

Calendar of Events

BOARD OF EDUCATION

January 11, 2006 - 9 a.m. -- Open Meeting

February 15, 2006 - 9 a.m. -- Open Meeting

James Monroe Building, 101 North 14th Street, Main Lobby Level, Conference Rooms C and D, Richmond, Virginia. 
(Interpreter for the deaf provided upon request)

A regular business meeting of the board. Public comment will be received. 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.

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January 17, 2006 - 7 p.m. -- Public Hearings

Loudoun County, Virginia.
Chesapeake City, Virginia.
Richmond, Virginia.
Waynesboro, Virginia.

Wytheville, Virginia.

Specific sites will be announced in advance of the hearing date.

January 31, 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 Board of Education intends to amend regulations entitled **8 VAC 20-131, Regulations Establishing Standards for Accrediting Public Schools in Virginia**. The purpose of the proposed action is to update standards for accreditation. The regulations were last amended in 2000. Since that time, public schools in Virginia have implemented more rigorous requirements for accountability both at the school level and the student level. Now that most Virginia schools are fully accredited, and the first high school class required to earn verified units of credit has graduated from high school, the board undertook a comprehensive review of the regulations to determine if there are changes that might be needed. Substantive changes proposed are related to additional options for students to meet the requirements for graduation, the methodology for calculating accreditation ratings, greater flexibility for transfer students, more rigorous benchmarks for accreditation, and better defined sanctions for schools, superintendents, and school boards if a school loses its accreditation.

Statutory Authority: § 22.1-253.13:3 of the Code of Virginia.

Contact: Anne D. Wescott, Assistant Superintendent for Polity and Communications, Department of Education, P.O. Box

2121, Richmond, VA 23218, telephone (804) 225-2403, FAX (804) 225-2524 or e-mail anne.wescott@doe.virginia.gov.

Advisory Board on Teacher Education and Licensure

January 23, 2006 - 9 a.m. -- Open Meeting

† **February 6, 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.

LOCAL EMERGENCY PLANNING COMMITTEE - CITY OF WINCHESTER

† **January 4, 2006 - 3 p.m.** -- Open Meeting

Timbrook Public Safety Center, 231 East Piccadilly Street, Winchester, Virginia.

A regular meeting.

Contact: L.A. Miller, Fire and Rescue Chief, Local Emergency Planning Committee, Winchester Fire and Rescue Department, 231 E. Piccadilly St., Winchester, VA 22601, telephone (540) 662-2298, FAX (540) 542-1318, (540) 662-4131/TTY .

DEPARTMENT OF ENVIRONMENTAL QUALITY

December 12, 2005 - 7 p.m. -- Open Meeting

Rappahannock Community College Auditorium, 52 Campus Drive, Warsaw, Virginia. 

The first public meeting on the development of the fecal coliform TMDL for shellfish propagation waters in Farnham Creek located in Richmond County. The public notice appears in the Virginia Register of Regulations on November 14, 2005. The comment period begins on December 12, 2005, and ends on January 11, 2006.

Contact: Chris French, Department of Environmental Quality, 4949-A Cox Rd., Glen Allen, VA 23060, telephone (804) 527-5124, FAX (804) 527-5106, e-mail rcfrench@deq.virginia.gov.

December 14, 2005 - 7 p.m. -- Open Meeting
Sully District Governmental Center, 4900 Stonecroft Boulevard, Richard Frank Room, Chantilly, Virginia. 

The second public meeting on the development to TMDLs to address impairments in Broad Run, South Run, Kettle Run, Occoquan River (below Lake Jackson), Little Bull Run, Bull Run and Popes Head Creek located in Fairfax, Fauquier and Prince William Counties. The public notice appears in the November 28, 2005, Virginia Register of Regulations. The public comment period begins on December 14, 2005, and ends on January 13, 2006.

Contact: Bryant Thomas, Department of Environmental Quality, 13901 Crown Court Woodbridge, VA 22901, telephone (703) 583-3843, FAX (703) 583-3841, e-mail bhthomas@deq.virginia.gov.

December 15, 2005 - 7 p.m. -- Open Meeting
Northumberland Public Library, 7204 Northumberland Highway, Heathsville, Virginia. 

The final public meeting on the development of fecal coliform bacteria TMDLs for shellfish propagation waters in Cockrell Creek in Northumberland County. The public notice appears in the Virginia Register on November 14, 2005. The comment period begins on December 15, 2005, and ends on January 14, 2006.

Contact: Chris French, Department of Environmental Quality, 4949-A Cox Rd., Glen Allen, VA 23060, telephone (804) 527-5124, FAX (804) 527-5106, e-mail rcfrence@deq.virginia.gov.

December 15, 2005 - 7 p.m. -- Open Meeting
Brookneal Community Center Auditorium, 261 Main Street, Brookneal, Virginia. 

A public meeting on the development of bacteria TMDLs for impaired stream segments in the Staunton (Roanoke) River watershed in Campbell, Pittsylvania, Halifax and Charlotte counties. The public notice appears in the Virginia Register on November 14, 2005. The public comment period begins on December 15, 2005, and ends on January 16, 2005.

Contact: Kelly Wills, Department of Environmental Quality, 7705 Timberlake Rd., Lynchburg, VA 24502, telephone (434) 582-5120, FAX (434) 582-5125, e-mail kjwills@deq.virginia.gov.

January 5, 2006 - 6:30 p.m. -- Open Meeting
Page Middle School, 5628 George Washington Memorial Highway, Gloucester, Virginia. 

The second and final meeting on the fecal coliform bacteria TMDL for sixteen shellfish propagation waters located in Gloucester and Mathews Counties. The public notice appears in the November 28, 2005, Virginia Register of Regulations. The public comment period begins on January 6, 2006, and ends on February 3, 2006.

Contact: Chester Bigelow, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4554, FAX (804) 698-4116, e-mail ccbigeLOW@deq.virginia.gov.

DEPARTMENT OF HEALTH

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.

† December 16, 2005 - 10 a.m. -- Open Meeting
109 Governor Street, 5th Floor Conference Room, Richmond, Virginia.

A meeting of the Sewage Handling and Disposal Regulations Advisory Committee to make recommendations to the commissioner regarding sewage handling and disposal policies, procedures and programs of the department.

Contact: Donald Alexander, Division Director, Department of Health, 109 Governor St., 5th Floor, Richmond, VA 23219, telephone (804) 864-7452, FAX (804) 864-7476, e-mail donald.alexander@vdh.virginia.gov.

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.

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.

Calendar of Events

BOARD OF HEALTH PROFESSIONS

† **December 16, 2005 - 9 a.m.** -- Open Meeting
Alcoa Building, 6603 West Broad Street, 6th Floor Conference Room, Richmond, Virginia. 

A meeting of the Practitioner Self-Referral Committee to review staff draft recommendations for an advisory opinion and make final recommendations to the full board on January 17, 2005. Public comment will not be received.

Contact: Elizabeth A. Carter, Ph.D., Executive Director, Board of Health Professions, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-7691, FAX (804) 662-7098, (804) 662-7197/TTY , e-mail elizabeth.carter@dhp.virginia.gov.

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.

STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

December 14, 2005 - 11 a.m. -- Open Meeting
James Monroe Building, 101 N 14th Street, Richmond, Virginia.

A special meeting to review SCHEV's legislative agenda.

Contact: Lee Ann Rung, State Council of Higher Education for Virginia, 101 N 14th St., Richmond, VA 23219, telephone (804) 225-2602, FAX (804) 371-7911, e-mail leeannrung@schev.edu.

BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

† **January 17, 2006 - 10 a.m.** -- Open Meeting
Department of Housing and Community Development, 501 North Second Street, Richmond, Virginia. 

A regular 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.

BOARD OF JUVENILE JUSTICE

January 11, 2006 - 9 a.m. -- Open Meeting
Cedar Lodge, 1601 Bon Air Road, Bon Air, Virginia.

Details will be provided closer to the meeting date.

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.

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NOTE: CHANGE IN PUBLIC HEARING DATE

January 11, 2006 - 10 a.m. -- Public Hearing
Cedar Lodge, 1601 Bon Air Road, Bon Air, Virginia.

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 January 11, 2006, 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.

STATE LIBRARY BOARD

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.

BOARD OF LONG-TERM CARE ADMINISTRATORS

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.

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.

VIRGINIA MANUFACTURED HOUSING BOARD

January 19, 2006 - 10 a.m. -- Open Meeting
Department of Housing and Community Development, The Jackson Center, 501 North Second Street, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A regular meeting to handle manufactured home claims and complaints and carry out administrative responsibilities of the Virginia Manufactured Housing Licensing and Transaction Recovery Fund Regulations.

Contact: Curtis L. McIver, State Building Code Administrator, Virginia Manufactured Housing Board, 501 N. 2nd St., Richmond, VA 23219, telephone (804) 371-7160, FAX (804) 371-7092, (804) 371-7089/TTY , e-mail curtis.mciver@dhcd.virginia.gov.

MARINE RESOURCES COMMISSION

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

January 27, 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 Department of Medical Assistance Services intends to adopt regulations entitled **12 VAC 30-120, Waivered Services**. The purpose of the proposed action is to conform the agency's regulations to recent federally approved changes to the Home and Community Based Services Mental Retardation Waiver Program that have resulted from the federally required waiver renewal process.

Statutory Authority: §§ 32.1-324 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

† December 13, 2005 - 9 a.m. -- Open Meeting
Holiday Inn Select, 2801 Plank Road, Fredericksburg, Virginia. 

December 14, 2005 - 9 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street,
5th Floor, Richmond, Virginia. 

A Special Conference Committee will convene an informal conference to inquire into allegations that certain practitioners of medicine or the other healing arts may have violated certain laws and regulations governing the practice of medicine. Further, the committee may review cases with board staff for case disposition, including consideration of consent orders for settlement. The committee will meet in open and closed session pursuant to the Code of Virginia. Public comment will not be received.

Contact: Renee S. Dixon, Discipline Case Manager, Board of Medicine, 6603 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 662-7009, FAX (804) 662-9517, (804) 662-7197/TTY , e-mail renee.dixon@dhp.virginia.gov.

Calendar of Events

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.

DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES

† **December 13, 2005 - 10 a.m.** -- Open Meeting
Henrico CSB, 10299 Woodman Road, Conference Room C, Glen Allen, Virginia.  (Interpreter for the deaf provided upon request)

A meeting of the Virginia Mental Health Planning Council to review the DMHMRSAS Comprehensive Plan, review the MHBG Implementation Report, develop plan for 2006 issues and elect officers for 2006.

Contact: Will Ferris, LCSW, Director, Planning and Evaluation, Office of Mental Health, Department of Mental Health, Mental Retardation and Substance Abuse Services, 1220 Bank St., Richmond, VA 23218, telephone (804) 371-0363, FAX (804) 371-0091, e-mail will.ferriss@co.dmhmrzas.virginia.gov.

December 16, 2005 - 10 a.m. -- Public Hearing
Jefferson Building, 1220 Bank Street, 8th Floor Conference Room, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A public hearing to receive comments on the Synar Annual Report for the Virginia Substance Abuse Prevention and Treatment Block Grant Application for Federal Fiscal Year 2006. Copies of the report are available for review at the Office of Substance Abuse Services, Jefferson Building, Room 818, Richmond, Virginia, and at each community services board office. Comments may be made at the hearing or in writing by no later than December 16, 2005, to the Office of the Commissioner, Department of Mental Health, Mental Retardation and Substance Abuse Services (DMHMRSAS), P.O. Box 1797, Richmond, VA 23218. Any person wishing to make a presentation at the hearing should contact Sterling Deal, Ph.D. Copies of oral presentations should be filed at the time of the hearing.

Contact: Sterling Deal, Ph.D., Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23218, telephone (804) 371-2148, FAX (804) 786-9248, (804) 371-8977/TTY , e-mail sterling.deal@co.dmhmrzas.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.

VIRGINIA MUSEUM OF FINE ARTS

NOTE: CHANGE IN LOCATION

January 3, 2006 - 8 a.m. -- Open Meeting

February 7, 2006 - 8 a.m. -- Open Meeting

† **March 7, 2006 - 8 a.m.** -- Open Meeting
Virginia Museum of Fine Arts, 200 North Boulevard, CEO 2nd Floor Meeting Room, Richmond, Virginia. 

An Executive Committee work session 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.

FOUNDATION FOR VIRGINIA'S NATURAL RESOURCES

December 15, 2005 - 10:30 a.m. -- Open Meeting
Department of Forestry, 900 Natural Resources Drive, Charlottesville, Virginia.

The first meeting of the foundation.

Contact: Jay Gilliam, Chairman, Foundation for Virginia's Natural Resources, 7598 North Lee Highway, Raphine, VA 24472.

BOARD OF NURSING

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.

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.

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.

OLD DOMINION UNIVERSITY

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.

February 13, 2006 - 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.

BOARD OF PSYCHOLOGY

January 10, 2006 - 9:30 a.m. -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. ♿

A business meeting to include reports from standing committees and any regulatory and disciplinary matters as may be presented on the agenda. Comments will be received at the beginning of the meeting.

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.

REAL ESTATE BOARD

† **December 15, 2005 - 9 a.m.** -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Room 453, Richmond, Virginia. ♿

Informal fact-finding conference.

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.

VIRGINIA RESOURCES AUTHORITY

† **December 12, 2005 - 3 p.m.** -- Open Meeting

Virginia Resources Authority, 707 East Main Street, 2nd Floor Conference Room, Richmond, Virginia.

A regular meeting of the Personnel Committee.

Contact: Trisha L. Henshaw, Office Manager, Virginia Resources Authority, 707 E. Main St., Ste. 1350, Richmond, VA 23219, telephone (804) 644-3100, FAX (804) 644-3109, e-mail info@virginiareources.org.

December 13, 2005 - 9 a.m. -- Open Meeting

January 10, 2006 - 9 a.m. -- Open Meeting

Virginia Resources Authority, 707 East Main Street, 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.

Calendar of Events

SAFETY AND HEALTH CODES BOARD

† **February 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 Safety and Health Codes Board intends to amend regulations entitled **16 VAC 25-60, Administrative Regulation for the Virginia Occupational Safety and Health Program**. The purpose of the proposed action is to amend the administrative regulations for the Virginia Occupational Safety and Health Program.

Statutory Authority: §§ 40.1-6 and 40.1-22 of the Code of Virginia.

Contact: Reba O'Connor, Regulatory Coordinator, Department of Labor and Industry, 13 S. 13th St., Richmond, VA 23219, telephone (804) 371-2631, FAX (804) 371-6524 or e-mail reba.oconnor@doli.virginia.gov.

STATE BOARD OF SOCIAL SERVICES

December 14, 2005 - 9 a.m. -- Open Meeting

December 15, 2005 - 9 a.m. -- Open Meeting

Chesterfield/Colonial Heights Department of Social Services, 9501 Lucy Corr Circle, Chesterfield, Virginia. 

A regular meeting.

Contact: Pat Rengnerth, Board Liaison, State Board 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.

BOARD OF SOCIAL WORK

December 15, 2005 - 10 a.m. -- Open Meeting

Department of Health Professions, 6603 West Broad Street, Classroom B, Lower Level, Richmond, Virginia. 

An informal conference 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.

December 16, 2005 - 10 a.m. -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. 

A regular business meeting.

Contact: Evelyn B. Brown, Executive Director, Board of Social Work, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9967, FAX (804) 662-7250, (804) 662-7197/TTY , e-mail evelyn.brown@dhp.virginia.gov.

BOARD FOR PROFESSIONAL SOIL SCIENTISTS AND WETLAND PROFESSIONALS

February 13, 2006 - 9 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. 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: Mark N. Courtney, Executive Director, Board for Professional Soil Scientists and Wetland Professionals, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY , e-mail soilscientist@dpor.virginia.gov.

VIRGINIA TOURISM AUTHORITY

† **December 12, 2005 - 10 a.m.** -- Open Meeting

Virginia Tourism Authority, 901 East Byrd Street, Richmond, Virginia. 

A meeting of the Board of Directors to include a presentation by VTC's public relations staff, an update on agency issues and an education proposal by Virginia Tech.

Contact: Winston Evans, Executive Assistant, Virginia Tourism Authority, 901 E. Byrd St., Richmond, VA 23219, telephone (804) 545-5510, FAX (804) 545-5501, e-mail wevans@virginia.org.

COMMONWEALTH TRANSPORTATION BOARD

December 15, 2005 - 9 a.m. -- Open Meeting

Department of Transportation, 1221 East Broad Street, Auditorium, Richmond, Virginia. 

A combined workshop and regularly scheduled meeting to transact CTB 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, Department of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-2701, e-mail carol.mathis@vdot.virginia.gov.

TREASURY BOARD

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.

VIRGINIA CITIZEN-SOLDIER SUPPORT COUNCIL

December 13, 2005 - 10 a.m. -- Open Meeting
Patrick Henry Building, 1111 East Broad Street, 3rd Floor,
Conference Room, Richmond, Virginia. ♿

A regular meeting.

Contact: Doug Manley, Secretary of Public Safety, Department of Military Affairs, Fort Picket, Building 316, Blackstone, VA 23824-6316, telephone (434) 298-6405, e-mail douglas.manley@va.ngb.army.mil.

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

January 9, 2006 - 10 a.m. -- Public Hearing
Department of Environmental Quality, 629 East Main Street,
Richmond, Virginia.

January 27, 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 Virginia Waste Management Board intends to amend regulations entitled **9 VAC 20-85, Regulations Governing Management of Coal Combustion By-Products**. The purpose of the purpose of the proposed action is include (i) provisions for fossil fuel combustion products; (ii) discussion of possibly eliminating the regulation and placing all provision of the regulation into the Virginia Solid Waste Management Regulations or removing the provisions addressing coal ash from the VSWMR and consolidating the provisions of this regulation; and (iii) additional issues that are identified during the NOIRA comment period, the technical advisory committee meetings, and during the public comment period.

Statutory Authority: § 10.1-1402 of the Code of Virginia.

Contact: Michael Dieter, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone

(804) 698-4146, FAX (804) 698-4327 or e-mail mjd Dieter@deq.virginia.gov.

STATE WATER CONTROL BOARD

December 14, 2005 - 9:30 a.m. -- Open Meeting
January 10, 2006 - 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 Permit for Total Nitrogen and Total Phosphorus Discharges and Nutrient Trading in the Chesapeake Bay Watershed in Virginia (9 VAC 25-820)

Contact: Kyle Winter, State Water Control Board, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4182, e-mail kiwinter@deq.virginia.gov.

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.

January 3, 2006 - 3 p.m. -- Open Meeting
January 3, 2006 - 7 p.m. -- Open Meeting
Department of Environmental Quality, Northern Regional Office, 13901, Crown Court, Woodbridge, Virginia. ♿

January 4, 2006 - 7 p.m. -- Open Meeting
Department of Environmental Quality, Tidewater Regional Office, 5636 Southern Boulevard, Virginia Beach, Virginia. ♿

January 5, 2006 - 3 p.m. -- Open Meeting
January 5, 2006 - 7 p.m. -- Open Meeting
Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia. ♿

An information meeting on the General VPDES Permit for Total Nitrogen and Total Phosphorus Discharges and Nutrient Trading in the Chesapeake Bay Watershed.

Contact: Kyle Winter, State Water Control Board, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4182, e-mail kiwinter@deq.virginia.gov.

Calendar of Events

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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.

BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS

† **March 8, 2006 - 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. 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) 367-8595, FAX (804) 367-2475, (804) 367-9753/TTY ☎, e-mail waterwasteoper@dpor.virginia.gov.

INDEPENDENT

STATE LOTTERY BOARD

January 11, 2006 - 9 a.m. -- Open Meeting
State Lottery Department, 900 East Main Street, 13th Floor, Richmond, Virginia. ☎

A regular meeting. There will be an opportunity for public comment shortly after the meeting is convened.

Contact: Frank S. Ferguson, Director, Legislative and Regulatory Affairs, State Lottery Department, 900 E. Main St., Richmond, VA 23219, telephone (804) 692-7901, FAX (804) 692-7905, e-mail fferguson@valottery.state.va.us.

VIRGINIA OFFICE FOR PROTECTION AND ADVOCACY

Board for Protection and Advocacy

† **December 19, 2005 - 4 p.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 meeting of the Executive Committee by conference call. Public comment by telephone is welcomed and will be received at the beginning of the meeting. For more information on participating in this conference call or to provide public comment via telephone, or arrange for interpreter services or accommodations, call or e-mail Lisa Shehi.

Contact: Lisa Shehi, Administrative Assistant, Virginia Office for Protection and Advocacy, 1910 Byrd Ave., Suite 5, Richmond, VA 23230, telephone (804) 225-2042, FAX (804) 662-7431, toll-free (800) 552-3962, (804) 225-2042/TTY ☎, e-mail lisa.shehi@vopa.virginia.gov.

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 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 23230, telephone (804) 225-2042, FAX (804) 662-7431, toll-free (800) 552-3962, (804) 225-2042/TTY ☎, e-mail lisa.shehi@vopa.virginia.gov.

Disabilities Advisory Council

† **January 11, 2006 - 10 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. This meeting is open to the public. Public comment is welcomed by the council and will be received beginning at 10 a.m.. Public comment will also be accepted by telephone. For more information on participating in this conference call or to provide public comment via telephone, or arrange for interpreter services or accommodations call or e-mail Lisa Shehi.

Contact: Lisa Shehi, Administrative Assistant, Virginia Office for Protection and Advocacy, 1910 Byrd Ave., Suite 5,

Richmond, Virginia 23230, telephone (804) 225-2042, FAX (804) 662-7413, toll-free (800) 552-3962, (804) 225-2042/TTY ☎, e-mail lisa.shehi@vopa.virginia.gov.

PAIMI Advisory Council

† **February 16, 2006 - 10 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 welcome and will be received at the beginning of the meeting. For those needing interpreter services or other accommodations, please contact Ms. Lisa Shehi no later than February 2, 2006.

Contact: Lisa Shehi, Administrative Assistant, Virginia Office for Protection and Advocacy, 1910 Byrd Ave., Suite 5, Richmond, VA 23230, telephone (804) 225-2042, FAX (804) 662-7431, toll-free (800) 552-3962, (804) 225-2042/TTY ☎, e-mail lisa.shehi@vopa.virginia.gov.

VIRGINIA RETIREMENT SYSTEM

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.

NOTE: CHANGE IN MEETING LOCATION

December 15, 2005 - 9 a.m. -- Open Meeting
Virginia Retirement System, Investment Department, 1111 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.

LEGISLATIVE

JOINT COMMISSION ON ADMINISTRATIVE RULES

January 10, 2006 - 10 a.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 Elizabeth Palen, 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: Nathan Hatfield, Senate Committee Operations, General Assembly Bldg., 910 Capitol St., Richmond, VA 23219, telephone (804) 698-7410.

JOINT LEGISLATIVE AUDIT AND REVIEW COMMISSION

† **December 12, 2005 - 9:30 a.m.** -- Open Meeting
General Assembly Building, 9th and Broad Streets, Senate Room A, Richmond, Virginia. ♿

A general meeting to discuss the following items: Self-Sufficiency: Final Report; State Spending: 2005 Update; SOQ Spending: 2005 Update; VRS Semi-annual Investment Report; Internal Service Fund Rates; Department of Education: Student Assessment Procurement.

Contact: Trish Bishop, Principal Legislative Analyst, Joint Legislative Audit and Review Commission, General Assembly Bldg., 910 Capitol St., Suite 1100, Richmond, VA 23219, telephone (804) 786-1258, FAX (804) 371-0101, e-mail tbishop@leg.state.va.us.

HOUSE COMMITTEE ON FINANCE

† **December 16, 2005 - 9:30 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 House Committee Operations.

Contact: William L. Owen, House Committee Operations, General Assembly Building, 910 Capitol St., Richmond, VA 23219, telephone (804) 698-1540, e-mail bowen@house.state.va.us.

HOUSE AND SENATE SUBCOMMITTEES ON LAND CONSERVATION TAX CREDIT

† **December 12, 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 or David Rosenberg, Division of Legislative Services, (804) 786-3591.

Contact: William L. Owen, House Committee Operations, 910 Capitol St., Richmond, VA 23219, telephone (804) 698-1540, e-mail bowen@house.state.va.us.

Calendar of Events

JOINT SUBCOMMITTEE STUDYING THE COMMONWEALTH'S PROGRAM FOR PRISONER REENTRY TO SOCIETY

† **January 10, 2006 - 10 a.m.** -- Open Meeting
General Assembly Building, 9th and Broad Streets, 3rd Floor
East Conference Room, Richmond, Virginia. 

A regular meeting. For questions regarding the meeting agenda, contact Pat Davis, Division of Legislative Services, (804) 786-3591.

Contact: Nathan Hatfield, Senate Committee Operations, General Assembly Bldg., 910 Capitol St., Richmond, VA 23219, telephone (804) 698-7410, e-mail nhatfield@sov.state.va.us.

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.

CHRONOLOGICAL LIST

OPEN MEETINGS

December 12

Agriculture and Consumer Services, Department of
- Virginia Corn Board
† Audit and Review Commission, Joint Legislative
Branch Pilots, Board for
Chesapeake Bay Local Assistance Board
Environmental Quality, Department of
Highway Abatement Costs, Joint Subcommittee Studying
Reduction of
† Land Conservation Tax Credit, House and Senate
Subcommittees on
Long-Term Care Administrators, Board of
† Resources Authority, Virginia
† Tourism Authority, Virginia

December 13

Accountancy, Board of
Auctioneers Board
† Aviation Board, Virginia
† Conservation and Recreation, Department of
- Virginia Invasive Species Council
Contractors, Board for
Medical Assistance Services, Board of
† Medicine, Board of
† Mental Health, Mental Retardation and Substance Abuse
Services, Department of
Nursing, Board of
Resources Authority, Virginia

Virginia Citizen-Soldier Support Council

December 14

Agriculture and Consumer Services, Department of
- Consumer Affairs Advisory Committee
† Aviation Board, Virginia
Business Assistance, Department of
- Virginia Small Business Financing Authority
† Contractors, Board for
Environmental Quality, Department of
Health, Department of
Higher Education for Virginia, State Council of
Medicine, Board of
Retirement System, Virginia
Social Services, State Board of
Treasury Board
Water Control Board, State

December 15

Agriculture and Consumer Services, Department of
- Virginia Soybean Board
Contractors, Board for
Design-Build/Construction Management Review Board
Environmental Quality, Department of
Milk Commission, State
Natural Resources, Foundation for Virginia's
Nursing, Board of
† Real Estate Board
Retirement System, Virginia
Social Services, State Board of
Social Work, Board of
Transportation Board, Commonwealth

December 16

Conservation and Recreation, Board of
† Finance, House Committee on
† Health, Department of
† Health Professions, Board of
Medicine, Board of
Old Dominion University
Social Work, Board of
Virginia's Future, Council on

December 19

† Agriculture and Consumer Services, Department of
- Virginia Seed Potato Board
Alcoholic Beverage Control Board
† Protection and Advocacy, Virginia Office for
- Board for Protection and Advocacy

December 20

Marine Resources Commission

December 21

Compensation Board
Health, Department of

January 3, 2006

Museum of Fine Arts, Virginia
Water Control Board, State

January 4

† Emergency Planning Committee, Local
- City of Winchester
Water Control Board, State

January 5

Air Pollution Control Board, State
Environmental Quality, Department of
Water Control Board, State

January 6

Dentistry, Board of

January 10

Administrative Rules, Joint Commission on
† Blind and Vision Impaired, Board for the
Long-Term Care Administrators, Board of
† Prisoner Reentry to Society, Joint Subcommittee Studying
the Commonwealth's Program for
Psychology, Board of
Resources Authority, Virginia
Water Control Board, State

January 11

Education, Board of
Juvenile Justice, Board of
Lottery Board, State
† Protection and Advocacy, Virginia Office for
- Disabilities Advisory Council

January 12

Auctioneers Board
† Barbers and Cosmetology, Board for
† Contractors, Board for

January 17

Corrections, Board of
Health, Department of
† Housing and Community Development, Board of

January 18

Community Colleges, State Board for
Corrections, Board of

January 19

Community Colleges, State Board for
Manufactured Housing Board, Virginia

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

January 31

Agriculture and Consumer Services, Department of
- Virginia Horse Industry Board
† Asbestos, Lead, and Home Inspectors, Virginia Board for

February 1

Architects, Professional Engineers, Land Surveyors,
Certified Interior Designers and Landscape Architects,
Board for
Branch Pilots, Board for

February 2

Branch Pilots, Board for

February 3

Dentistry, Board of

February 6

† Education, Board of
- Advisory Board on Teacher Education and Licensure

February 7

Architects, Professional Engineers, Land Surveyors,
Certified Interior Designers and Landscape Architects,
Board for
Museum of Fine Arts, Virginia

February 8

Architects, Professional Engineers, Land Surveyors,
Certified Interior Designers and Landscape Architects,
Board for

February 9

Architects, Professional Engineers, Land Surveyors,
Certified Interior Designers and Landscape Architects,
Board for

February 10

Dentistry, Board of

February 13

Old Dominion University
Soil Scientists and Wetland Professionals, Board for
Professional

February 15

Architects, Professional Engineers, Land Surveyors,
Certified Interior Designers and Landscape Architects,
Board for
Education, Board of

February 16

† Protection and Advocacy, Virginia Office for
- PAIMI Advisory Council

March 2

† Dentistry, Board of

March 3

† Dentistry, Board of

March 7

† Museum of Fine Arts, Virginia

March 8

† Waterworks and Wastewater Works Operators, Board for

PUBLIC HEARINGS

December 16

Mental Health, Mental Retardation and Substance Abuse
Services, Department of

January 9, 2006

Waste Management Board, Virginia

January 11

Juvenile Justice, Board of

January 12

Air Pollution Control Board, State

January 17

Education, Board of

Calendar of Events
