
TABLE OF CONTENTS

CUMULATIVE TABLE OF VIRGINIA ADMINISTRATIVE CODE SECTIONS ADOPTED, AMENDED, OR REPEALED

Cumulative Table.....1221

PETITIONS FOR RULEMAKING

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF MEDICINE

Agency Decision

Regulations Governing the Practice of Medicine, Osteopathic Medicine, Podiatry and Chiropractic (18 VAC 85-20).1229

NOTICES OF INTENDED REGULATORY ACTION

TITLE 2. AGRICULTURE

Virginia Pesticide Control Board.....1230

TITLE 4. CONSERVATION AND NATURAL RESOURCES

Virginia Soil and Water Conservation Board1230

TITLE 6. CRIMINAL JUSTICE AND CORRECTIONS

State Board of Juvenile Justice1231

TITLE 12. HEALTH

Department of Medical Assistance Services1231

State Mental Health, Mental Retardation and Substance Abuse Services Board.....1232

TITLE 22. SOCIAL SERVICES

State Board of Social Services1232

PROPOSED REGULATIONS

TITLE 9. ENVIRONMENT

STATE WATER CONTROL BOARD

Virginia Water Protection General Permit for Impacts Less Than One-Half of an Acre (amending 9 VAC 25-660-10 through 9 VAC 25-660-100; adding 9 VAC 25-660-95).1234

Virginia Water Protection General Permit for Facilities and Activities of Utility and Public Service Companies Regulated by the Federal Energy Regulatory Commission or the State Corporation Commission and Other Utility Line Activities (amending 9 VAC 25-670-10 through 9 VAC 25-670-100;

adding 9 VAC 25-670-95). 1248

Virginia Water Protection General Permit for Linear Transportation Projects (amending 9 VAC 25-680-10 through 9 VAC 25-680-100; adding 9 VAC 25-680-95)..... 1268

Virginia Water Protection General Permit for Impacts from Development and Certain Mining Activities (amending 9 VAC 25-690-10 through 9 VAC 25-690-100; adding 9 VAC 25-690-95)..... 1289

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

VIRGINIA BOARD FOR ASBESTOS, LEAD, AND HOME INSPECTORS

Virginia Asbestos Licensing Regulations (amending 18 VAC 15-20-20, 18 VAC 15-20-60, 18 VAC 15-20-70, 18 VAC 15-20-400 through 18 VAC 15-20-451, 18 VAC 15-20-453, 18 VAC 15-20-456, 18 VAC 15-20-470; adding 18 VAC 15-20-31, 18 VAC 15-20-32, 18 VAC 15-20-33, 18 VAC 15-20-34, 18 VAC 15-20-51, 18 VAC 15-20-52, 18 VAC 15-20-53, 18 VAC 15-20-461, 18 VAC 15-20-462, 18 VAC 15-20-463, 18 VAC 15-20-464; repealing 18 VAC 15-20-30, 18 VAC 15-20-40, 18 VAC 15-20-50, 18 VAC 15-20-80 through 18 VAC 15-20-150, 18 VAC 15-20-250 through 18 VAC 15-20-361, 18 VAC 15-20-459.6 through 18 VAC 15-20-460). 1312

Virginia Lead-Based Paint Activities Regulations (amending 18 VAC 15-30-420, 18 VAC 15-30-510, 18 VAC 15-30-810, and 18 VAC 15-30-820; adding 18 VAC 15-30-51 through 18 VAC 15-30-54, 18 VAC 15-30-161 through 18 VAC 15-30-167, 18 VAC 15-30-332, and 18 VAC 15-30-334; repealing 18 VAC 15-30-30, 18 VAC 15-30-40, 18 VAC 15-30-50, and 18 VAC 15-30-100 through 18 VAC 15-30-330). 1333

BOARD FOR BARBERS AND COSMETOLOGY

Body-Piercing Regulations (adding 18 VAC 41-60-10 through 18 VAC 41-60-220). 1348

FINAL REGULATIONS

TITLE 4. CONSERVATION AND NATURAL RESOURCES

DEPARTMENT OF CONSERVATION AND RECREATION

Standard Fees for Use of Department of Conservation and Recreation Facilities, Programs, and Services (amending 4 VAC 5-36-10, 4 VAC 5-36-20, 4 VAC 5-36-40 through 4 VAC 5-36-160, and 4 VAC 5-36-180 through 4 VAC 5-36-210)..... 1367

TITLE 9. ENVIRONMENT

STATE WATER CONTROL BOARD

General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Seafood Processing Facilities (amending 9 VAC 25-115-10 through 9 VAC 25-115-50). 1395

Table of Contents

General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Concrete Products Facilities (amending 9 VAC 25-193-10, 9 VAC 25-193-20, 9 VAC 25-193-40 through 9 VAC 25-193-70). 1395

General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Coin-Operated Laundry (adding 9 VAC 25-810-10 through 9 VAC 25-810-70). 1396

TITLE 13. HOUSING

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

Rules and Regulations for the Allocation of Low-Income Housing Tax Credits (amending 13 VAC 10-180-10, 13 VAC 10-180-50, 13 VAC 10-180-60, and 13 VAC 10-180-90).. 1403

BOARD OF MEDICINE

Regulations Governing the Practice of Medicine, Osteopathic Medicine, Podiatry, and Chiropractic (amend 18 VAC 85-20-22). 1418

Regulations Governing the Practice of Respiratory Care Practitioners (amending 18 VAC 85-40-35). 1418

Regulations Governing the Practice of Physician Assistants (amending 18 VAC 85-50-35). 1418

Regulations Governing the Licensure of Occupational Therapists (amending 18 VAC 85-80-26). 1418

Regulations Governing the Licensure of Radiologic Technologists and Radiologic Technologists-Limited (amending 18 VAC 85-101-25). 1418

Regulations Governing the Practice of Licensed Acupuncturists (amending 18 VAC 85-110-35). 1418

Regulations Governing the Licensure of Athletic Trainers (amending 18 VAC 85-120-150). 1418

BOARD OF SOCIAL WORK

Regulations Governing the Practice of Social Work (amending 18 VAC 140-20-30). 1420

STATE BOARD OF SOCIAL SERVICES

Investigation of Child Abuse and Neglect in Out of Family Complaints (amending 22 VAC 40-730-115). 1421

EMERGENCY REGULATIONS

TITLE 6. CRIMINAL JUSTICE AND CORRECTIONS

STATE BOARD OF JUVENILE JUSTICE

Regulations Governing Juvenile Work Release Programs (adding 6 VAC 35-190-10 through 6 VAC 35-190-120).... 1423

GENERAL NOTICES/ERRATA

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Referendum on the Levy of an Increase on the Assessment of Cotton 1426

DEPARTMENT OF CRIMINAL JUSTICE SERVICES

Edward Byrne Memorial Justice Assistance Grant (JAG) Program 1427

Compulsory Minimum Training Standards for Entry Level Law Enforcement Officers 1427

DEPARTMENT OF ENVIRONMENTAL QUALITY

Notice of Availability of Data Concerning the Presence of Toxic Contaminants 1428

Notice of Periodic Review - Litter Receptacle Regulations 1428

Updates to the Enforceable Policies of the Virginia Coastal Resources Management Program 1428

Total Maximum Daily Load (TMDL) for Chestnut Creek .. 1429

Total Maximum Daily Load (TMDL) for Knox Creek and Pawpaw Creek..... 1429

Total Maximum Daily Load (TMDL) for Laurel Fork 1430

Total Maximum Daily Load (TMDL) for North Fork Holston River 1431

Total Maximum Daily Load (TMDL) for Pigg River Watershed 1431

Total Maximum Daily Load (TMDL) for Staunton (Roanoke) River Watershed 1431

Total Maximum Daily Load (TMDL) for Stock Creek..... 1432

Lynnhaven Watershed No Discharge Zone 1432

BOARD OF MEDICINE

Periodic Review of Regulations 1433

STATE WATER CONTROL BOARD

Approval of Eleven Total Maximum Daily Load (TMDL) Reports 1433

Approval of Two Total Maximum Daily Load Implementation Plans (TMDL IPs) 1435

Proposed Consent Special Order for Augusta Cooperative Farm Bureau, Inc. 1436

Proposed Consent Special Order for Town of Culpeper.. 1436

VIRGINIA CODE COMMISSION

Notice to State Agencies..... 1436

Forms for Filing Material for Publication in the Virginia Register of Regulations..... 1436

ERRATA

TITLE 12. HEALTH

STATE BOARD OF HEALTH

Regulations for the Licensure of Hospitals in Virginia (12 VAC
5-410) 1445

CALENDAR OF EVENTS

EXECUTIVE

Open Meetings and Public Hearings 1438

INDEPENDENT

Open Meetings and Public Hearings 1458

LEGISLATIVE

Open Meetings and Public Hearings 1459

CHRONOLOGICAL LIST

Open Meetings 1460

Public Hearings 1462

Table of Contents

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 1. Administration			
1 VAC 55-20-320	Amended	22:8 VA.R. 1174	3/15/06
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 5-15-10	Amended	22:7 VA.R. 1000	1/11/06
4 VAC 5-15-40	Amended	22:7 VA.R. 1004	1/11/06
4 VAC 5-15-60	Amended	22:7 VA.R. 1004	1/11/06
4 VAC 5-15-80	Amended	22:7 VA.R. 1005	1/11/06
4 VAC 5-15-100	Amended	22:7 VA.R. 1005	1/11/06
4 VAC 5-15-110	Amended	22:7 VA.R. 1006	1/11/06
4 VAC 5-15-130	Repealed	22:7 VA.R. 1006	1/11/06
4 VAC 5-15-140	Amended	22:7 VA.R. 1006	1/11/06
4 VAC 5-15-150	Amended	22:7 VA.R. 1008	1/11/06
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 20-20-20	Amended	22:8 VA.R. 1183	12/1/05-12/30/05
4 VAC 20-20-50	Amended	22:8 VA.R. 1183	12/1/05-12/30/05
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 20-252-30	Amended	22:7 VA.R. 1013	11/14/05
4 VAC 20-252-90	Amended	22:1 VA.R. 81	9/1/05
4 VAC 20-252-100	Amended	22:1 VA.R. 81	9/1/05
4 VAC 20-252-135	Amended	22:7 VA.R. 1013	11/14/05
4 VAC 20-252-160	Amended	22:7 VA.R. 1014	11/14/05
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 20-490-20	Amended	22:8 VA.R. 1113	12/1/05

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
4 VAC 20-490-40	Amended	22:8 VA.R. 1114	12/1/05
4 VAC 20-490-41	Added	22:8 VA.R. 1115	12/1/05
4 VAC 20-490-42	Added	22:8 VA.R. 1115	12/1/05
4 VAC 20-490-43	Added	22:8 VA.R. 1115	12/1/05
4 VAC 20-490-50	Amended	22:8 VA.R. 1115	12/1/05
4 VAC 20-490-60	Repealed	22:8 VA.R. 1115	12/1/05
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 20-720-70	Amended	22:8 VA.R. 1184	12/1/05-12/30/05
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
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 20-910-45	Amended	22:8 VA.R. 1184	12/1/05-12/30/05
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 20-1090	Erratum	22:8 VA.R. 1198	--
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 20-230-10 through 6 VAC 20-230-350	Added	21:26 VA.R. 3680-3691	10/5/05
6 VAC 20-230-160	Erratum	22:2 VA.R. 296	--
6 VAC 20-230-210	Erratum	22:2 VA.R. 296	--
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

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
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
9 VAC 25-110-80	Amended	22:4 VA.R. 597	11/30/05
9 VAC 25-180-10 through 9 VAC 25-180-70	Repealed	22:4 VA.R. 605	11/30/05
9 VAC 25-260-30	Amended	22:3 VA.R. 381	*
9 VAC 25-260-310	Amended	22:7 VA.R. 1015	**
9 VAC 25-260-410	Amended	22:7 VA.R. 1017	**
9 VAC 25-260-530	Amended	22:7 VA.R. 1018	**
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 25-720-60	Amended	22:7 VA.R. 1019	1/11/06
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 25-720-120	Amended	22:7 VA.R. 1021	1/11/06
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 25-780-10 through 9 VAC 25-780-190	Added	22:2 VA.R. 238-246	11/2/05
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	--

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

** Effective upon submittal of notice of EPA approval to the Registrar of Regulations.

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
9 VAC 25-780-140	Erratum	22:4 VA.R. 660	--
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 5-371-180	Amended	22:7 VA.R. 1023	1/11/06
12 VAC 5-371-210	Amended	22:7 VA.R. 1024	1/11/06
12 VAC 5-371-240	Amended	22:7 VA.R. 1024	1/11/06
12 VAC 5-371-300	Amended	22:7 VA.R. 1025	1/11/06
12 VAC 5-371-320	Amended	22:7 VA.R. 1025	1/11/06
12 VAC 5-371-340	Amended	22:7 VA.R. 1025	1/11/06
12 VAC 5-371-350	Repealed	22:7 VA.R. 1026	1/11/06
12 VAC 5-371-360	Amended	22:7 VA.R. 1026	1/11/06
12 VAC 5-371-370	Amended	22:7 VA.R. 1027	1/11/06
12 VAC 5-371-410	Amended	22:7 VA.R. 1027	1/11/06
12 VAC 5-371-425	Added	22:7 VA.R. 1028	1/11/06
12 VAC 5-371-430 through 12 VAC 5-371-560	Repealed	22:7 VA.R. 1028-1031	1/11/06
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 5-410-260 through 12 VAC 5-410-290	Amended	22:8 VA.R. 1116-1117	1/25/06
12 VAC 5-410-340 through 12 VAC 5-410-390	Amended	22:8 VA.R. 1117-1119	1/25/06
12 VAC 5-410-442	Amended	22:8 VA.R. 1119	1/25/06
12 VAC 5-410-444	Amended	22:8 VA.R. 1121	1/25/06
12 VAC 5-410-445	Amended	22:8 VA.R. 1125	1/25/06
12 VAC 5-410-450	Amended	22:8 VA.R. 1128	1/25/06
12 VAC 5-410-480	Amended	22:8 VA.R. 1128	1/25/06
12 VAC 5-410-490	Amended	22:8 VA.R. 1128	1/25/06
12 VAC 5-410-500	Amended	22:8 VA.R. 1128	1/25/06
12 VAC 5-410-510 through 12 VAC 5-410-640	Repealed	22:8 VA.R. 1129-1130	1/25/06
12 VAC 5-410-650	Amended	22:8 VA.R. 1130	1/25/06
12 VAC 5-410-655	Added	22:8 VA.R. 1130	1/25/06
12 VAC 5-410-660 through 12 VAC 5-410-710	Repealed	22:8 VA.R. 1131-1132	1/25/06
12 VAC 5-410-720	Amended	22:8 VA.R. 1132	1/25/06
12 VAC 5-410-730	Repealed	22:8 VA.R. 1132	1/25/06
12 VAC 5-410-740	Repealed	22:8 VA.R. 1132	1/25/06
12 VAC 5-410-750	Repealed	22:8 VA.R. 1132	1/25/06
12 VAC 5-410-760	Amended	22:8 VA.R. 1134	1/25/06
12 VAC 5-410-770 through 12 VAC 5-410-1140	Repealed	22:8 VA.R. 1134-1151	1/25/06
12 VAC 5-410-1250	Amended	22:8 VA.R. 1151	1/25/06
12 VAC 5-410-1260	Amended	22:8 VA.R. 1151	1/25/06
12 VAC 5-410-1290	Amended	22:8 VA.R. 1151	1/25/06
12 VAC 5-410-1310 through 12 VAC 5-410-1340	Repealed	22:8 VA.R. 1151-1152	1/25/06
12 VAC 5-410-1350	Amended	22:8 VA.R. 1152	1/25/06
12 VAC 5-410-1360	Repealed	22:8 VA.R. 1152	1/25/06
12 VAC 5-410-1370	Repealed	22:8 VA.R. 1153	1/25/06

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
12 VAC 5-410-1380	Amended	22:8 VA.R. 1153	1/25/06
12 VAC 5-410-1390 through 12 VAC 5-410-1420, Appendices A, B, and C	Repealed	22:8 VA.R. 1153-1154	1/25/06
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 30-30-60	Added	22:8 VA.R. 1185	1/1/06-12/31/06
12 VAC 30-40-10	Amended	22:8 VA.R. 1186	1/1/06-12/31/06
12 VAC 30-50-35	Added	22:8 VA.R. 1187	1/1/06-12/31/06
12 VAC 30-50-75	Added	22:8 VA.R. 1187	1/1/06-12/31/06
12 VAC 30-50-130	Amended	22:8 VA.R. 1155	1/25/06
12 VAC 30-50-530	Amended	22:8 VA.R. 1188	1/1/06-12/31/06
12 VAC 30-60-61	Amended	22:8 VA.R. 1157	1/25/06
12 VAC 30-80-30	Amended	22:8 VA.R. 1188	12/2/05-12/1/06
12 VAC 30-80-40	Amended	22:3 VA.R. 414	11/16/05
12 VAC 30-120-280	Amended	22:8 VA.R. 1178	4/3/06
12 VAC 30-120-370	Amended	22:8 VA.R. 1180	4/3/06
12 VAC 30-120-1600 through 12 VAC 30-120-1660 emer	Added	22:2 VA.R. 255-261	9/14/05-9/13/06
12 VAC 30-130-860 through 12 VAC 30-130-890	Amended	22:8 VA.R. 1158-1163	1/25/06
12 VAC 30-141-10 emer	Amended	21:25 VA.R. 3553	8/1/05-7/31/06
12 VAC 30-141-10 emer	Amended	21:25 VA.R. 3561	8/1/05-7/31/06
12 VAC 30-141-40 emer	Amended	21:25 VA.R. 3555	8/1/05-7/31/06
12 VAC 30-141-100 emer	Amended	21:25 VA.R. 3555	8/1/05-7/31/06
12 VAC 30-141-100 emer	Amended	21:25 VA.R. 3563	8/1/05-7/31/06
12 VAC 30-141-120 emer	Amended	21:25 VA.R. 3564	8/1/05-7/31/06
12 VAC 30-141-150 emer	Amended	21:25 VA.R. 3564	8/1/05-7/31/06
12 VAC 30-141-160 emer	Amended	21:25 VA.R. 3557	8/1/05-7/31/06
12 VAC 30-141-170 emer	Repealed	21:25 VA.R. 3557	8/1/05-7/31/06
12 VAC 30-141-175 emer	Added	21:25 VA.R. 3559	8/1/05-7/31/06
12 VAC 30-141-200 emer	Amended	21:25 VA.R. 3560	8/1/05-7/31/06
12 VAC 30-141-660	Amended	22:8 VA.R. 1182	4/3/06
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
12 VAC 35-45-25	Added	22:8 VA.R. 1191	12/2/05-12/1/06
12 VAC 35-105-925	Added	22:8 VA.R. 1193	12/6/05-12/5/06
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

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
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
13 VAC 10-160-10	Amended	22:7 VA.R. 1032	12/1/05
13 VAC 10-160-30	Amended	22:7 VA.R. 1033	12/1/05
13 VAC 10-160-55	Amended	22:7 VA.R. 1034	12/1/05
13 VAC 10-160-60	Amended	22:7 VA.R. 1034	12/1/05
13 VAC 10-160-80	Amended	22:7 VA.R. 1035	12/1/05
13 VAC 10-160-90	Amended	22:7 VA.R. 1035	12/1/05
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
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

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
18 VAC 47-20-270 emer	Added	21:25 VA.R. 3576	8/1/05-7/31/06
18 VAC 50-22-10	Amended	22:8 VA.R. 1163	2/1/06
18 VAC 50-22-20	Amended	22:8 VA.R. 1164	2/1/06
18 VAC 50-22-30	Amended	22:8 VA.R. 1165	2/1/06
18 VAC 50-22-50	Amended	22:8 VA.R. 1168	2/1/06
18 VAC 50-22-60	Amended	22:8 VA.R. 1169	2/1/06
18 VAC 50-22-260	Amended	22:8 VA.R. 1169	2/1/06
18 VAC 50-22-270	Repealed	22:8 VA.R. 1171	2/1/06
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 85-40-66	Amended	22:7 VA.R. 1036	1/11/06
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 90-25-80	Amended	22:8 VA.R. 1171	1/25/06
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
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 110-20-320	Amended	22:7 VA.R. 1037	1/11/06
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

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
18 VAC 115-20-130	Amended	22:7 VA.R. 1039	1/11/06
18 VAC 115-20-140	Amended	22:7 VA.R. 1040	1/11/06
18 VAC 115-20-150	Amended	22:7 VA.R. 1041	1/11/06
18 VAC 115-30-30	Amended	22:2 VA.R. 250	1/21/06
18 VAC 115-50-110	Amended	22:7 VA.R. 1041	1/11/06
18 VAC 115-50-120	Amended	22:7 VA.R. 1042	1/11/06
18 VAC 115-50-130	Amended	22:7 VA.R. 1043	1/11/06
18 VAC 115-60-130	Amended	22:7 VA.R. 1043	1/11/06
18 VAC 115-60-140	Amended	22:7 VA.R. 1045	1/11/06
18 VAC 115-60-150	Amended	22:7 VA.R. 1045	1/11/06
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

PETITIONS FOR RULEMAKING

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF MEDICINE

Agency Decision

Title of Regulation: **18 VAC 85-20. Regulations Governing the Practice of Medicine, Osteopathic Medicine, Podiatry and Chiropractic.**

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

Name of Petitioner: David A. Ellington, M.D., on behalf of the Medical Society of Virginia.

Nature of Petitioner's Request: Amend regulations to eliminate the requirement that 15 of the Type 1 hours of continuing education be earned in face-to-face or other interactive courses.

Agency's Decision: Request granted.

Statement of Reasons for Decision: At the meeting on December 16, 2005, the Legislative Committee recommended that the board proceed with the publication of a Notice of Intended Regulatory Action to consider elimination of the face-to-face hours and the ratio of Type 1 and Type 2 hours. Also, on December 16, the Executive Committee adopted the recommendation.

Agency Contact: William L. Harp, M.D., Executive Director, Board of Medicine, 6603 West Broad Street, Richmond, VA 23230-1712, telephone (804) 662-7423, FAX (804) 662-9943, or e-mail william.harp@dhp.virginia.gov.

VA.R. Doc. No. R06-94; Filed December 20, 2005, 9:16 a.m.

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 4. CONSERVATION AND NATURAL RESOURCES

VIRGINIA SOIL AND WATER CONSERVATION BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Virginia Soil and Water Conservation Board intends to consider amending regulations entitled **4 VAC 50-20, Impounding Structure Regulations**. The purpose of the proposed action is to (i) establish an alternative procedure (decision matrix) that would allow for the evaluation of spillway design floods (SDF) less than the probable maximum flood (PMF) where there would be unreasonable or significant increase in hazard to life and property; (ii) establish alteration permit requirements similar to construction permit requirements; (iii) expand the requirements of an emergency

action plan to meet federal requirements; (iv) amend references to new and existing dams to clarify that the regulations refer to all dams unless otherwise specified; (v) improve the applicability and consistency of Table 1 in 4 VAC 50-20-50 and improve the risk classification system; (vi) establish permit application fees for the administration of the dam safety program; (vii) amend or remove the forms that are incorporated by reference; (viii) clarify the meanings of terminologies such as "significantly," "appropriate," and "reasonable" as well as the threshold at which "probable" becomes "possible"; and (ix) revise the regulations as needed to improve the administration and implementation of the Virginia Dam Safety Program.

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

Statutory Authority: § 10.1-604 of the Code of Virginia.

Public comments may be submitted until February 24, 2006.

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 or e-mail david.dowling@dcr.virginia.gov.

VA.R. Doc. No. R06-130; Filed December 7, 2005, 9:51 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Virginia Soil and Water Conservation Board intends to consider amending regulations entitled **4 VAC 50-60, Stormwater Management Regulations**. The Virginia Stormwater Management Program was created by Chapter 372 of the 2004 Virginia Acts of Assembly (HB1177) and this action transferred the responsibility of the permitting programs for MS4s and construction activities from the State Water Control Board and DEQ to the Virginia Soil and Water Conservation Board and DCR. The law authorized the board to delegate to the department or to an approved locality any of the powers and duties vested in it except the adoption and promulgation of regulations. The purpose of this proposed action is to consider the development and adoption of revised regulations to establish minimal criteria of a local stormwater management program and board approval procedures for the delegation of the stormwater management program for construction activities, or parts thereof, to localities per §10.1-603.3 of the Code of Virginia; and to revise the regulation, as needed, to improve the administration and implementation of the Virginia Stormwater Management Act (§ 10.1-603.2 et seq.) per the requirements set forth in the federal Clean Water Act and its attendant regulations.

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

Notices of Intended Regulatory Action

Statutory Authority: §§ 10.1-107 and 10.1-603.4 of the Code of Virginia.

Public comments may be submitted until February 24, 2006.

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 or e-mail david.dowling@dcr.virginia.gov.

VA.R. Doc. No. R06-128; Filed December 7, 2005, 10:04 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Virginia Soil and Water Conservation Board intends to consider amending regulations entitled **4 VAC 50-60, Stormwater Management Regulations**. The purpose of the proposed action is to consider the development and adoption of regulations that establish or revise the statewide stormwater permit fees at a level sufficient to carry out the stormwater management program per § 10.1-603.4.5 of the Code of Virginia; and to revise the related provisions in the regulations, as needed, to improve the administration and implementation of fees under the Virginia Stormwater Management Act (§ 10.1-603.2 et seq.).

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

Statutory Authority: §§ 10.1-107 and 10.1-603.4 of the Code of Virginia.

Public comments may be submitted until February 24, 2006.

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 or e-mail david.dowling@dcr.virginia.gov.

VA.R. Doc. No. R06-129; Filed December 7, 2005, 10:04 a.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 adopting regulations entitled **6 VAC 35-190, Regulations Governing Juvenile Work Release Programs**. The purpose of the proposed action is establish a new regulation, mandated by Chapter 648 of the 2005 Acts of Assembly, that sets forth the rules and criteria by which the department may operate work release programs whereby committed juveniles may (i) be employed by private individuals, corporations, or state agencies at places of

business or (ii) attend educational or other related community activity programs outside of a juvenile correctional facility. Chapter 648 requires the department to provide juveniles committed to the department with opportunities to work and participate in career training or technical education programs as operated by DJJ or by the Department of Correctional Education (DCE) and sets forth requirements to be included in the regulation, including eligibility for work release, compensation, custody, and penalties for violating the terms of work release.

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

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

Public comments may be submitted until February 8, 2006.

Contact: Donald R. Carignan, Regulatory Coordinator, Department of Juvenile Justice, 700 E. Franklin Street, 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. R06-139; Filed December 14, 2005, 11:42 a.m.

TITLE 12. HEALTH

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Medical Assistance Services intends to consider amending regulations entitled **12 VAC 30-30, Groups Covered and Agencies Responsible for Eligibility Determinations; 12 VAC 30-30, Eligibility Conditions and Requirements; and 12 VAC 30-50, Amount, Duration and Scope of Medical and Remedial Care Services**. The purpose of the proposed action is to implement a new program for prescription drug coverage for Medicaid/Medicare dual eligibles.

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

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

Public comments may be submitted until January 27, 2006.

Contact: Jack Quigley, Policy and Research Division, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-1300, FAX (804) 786-1680 or e-mail jack.quigley@dmas.virginia.gov.

VA.R. Doc. No. R06-132; Filed December 7, 2005, 9:51 a.m.

Notices of Intended Regulatory Action

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Medical Assistance Services intends to consider amending regulations entitled **12 VAC 30-80, Methods and Standards for Establishing Payment Rates; Other Types of Care**. The purpose of the proposed action is to implement a new supplemental payment method for faculty in dental pediatric residency programs.

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

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

Public comments may be submitted until January 25, 2006.

Contact: William Lessard, Provider Reimbursement Division, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 225-4593, FAX (804) 786-1680 or e-mail william.lessard@dmas.virginia.gov.

VA.R. Doc. No. R06-125; Filed December 2, 2005, 4:36 p.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 35-45, Regulations for Providers of Mental Health, Mental Retardation and Substance Abuse Residential Services for Children**. The purpose of the proposed action is to add provisions for issuing an order of summary suspension of the license to operate a group home or residential facility for children.

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

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

Public comments may be submitted until January 25, 2006.

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

VA.R. Doc. No. R06-123; Filed December 2, 2005, 11:27 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 repealing regulations entitled **22 VAC 40-20, Food Stamp Program - Income Conversion Method**. The purpose of the proposed action is to repeal 22 VAC 40-20, which requires local social services workers to use conversion factors of 4.3 for weekly income amounts and 2.15 for biweekly amounts when calculating income to determine eligibility and benefit level for the Food Stamp Program. The provisions of this regulation will be included in a proposed new regulation, 22 VAC 40-601, Food Stamp Program.

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

Statutory Authority: § 63.2-217 of the Code of Virginia.

Public comments may be submitted until January 25, 2006.

Contact: Celestine Jackson, Program Specialist, Division of Benefit Programs, Department of Social Services, 7 N. 8th St., Richmond, VA 23219, telephone (804) 726-7376, FAX (804) 726-7356 or e-mail celestine.jackson@dss.virginia.gov.

VA.R. Doc. No. R06-135; Filed December 7, 2005, 10:32 a.m.

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 repealing regulations entitled **22 VAC 40-540, Allowance of Telephone Costs in the Food Stamp Program**. The purpose of the proposed action is to repeal 22 VAC 40-20, which requires local social services workers to use a standard telephone amount when calculating shelter expenses to determine eligibility and benefit level for the Food Stamp Program. The provisions of this regulation will be included in a proposed new regulation, 22 VAC 40-601, Food Stamp Program.

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

Statutory Authority: § 63.2-217 of the Code of Virginia.

Public comments may be submitted until January 25, 2006.

Contact: Celestine Jackson, Program Specialist, Division of Benefit Programs, Department of Social Services, 7 N. 8th St., Richmond, VA 23219, telephone (804) 726-7376, FAX (804) 726-7356 or e-mail celestine.jackson@dss.virginia.gov.

VA.R. Doc. No. R06-136; Filed December 7, 2005, 10:32 a.m.

Notices of Intended Regulatory Action

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 repealing regulations entitled **22 VAC 40-600, Food Stamp Program - Administrative Disqualification Hearings**. The purpose of the proposed action is to repeal 22 VAC 40-600, which establishes an administrative process to determine if an individual has committed an intentional act against the Food Stamp Program. The provisions of this regulation will be included in a proposed new regulation, 22 VAC 40-601, Food Stamp Program.

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

Statutory Authority: § 63.2-217 of the Code of Virginia.

Public comments may be submitted until January 25, 2006.

Contact: Celestine Jackson, Program Specialist, Division of Benefit Programs, Department of Social Services, 7 N. 8th St., Richmond, VA 23219, telephone (804) 726-7376, FAX (804) 726-7356 or e-mail celestine.jackson@dss.virginia.gov.

VA.R. Doc. No. R06-137; Filed December 7, 2005, 10:32 a.m.

Contact: L. Richard Martin, Jr., Manager, Office of Legislative and Regulatory Affairs, Department of Social Services, 7 N. 8th St., Richmond, VA 23219, telephone (804) 726-7902 or e-mail richard.martin@dss.virginia.gov.

VA.R. Doc. No. R05-109; Filed December 16, 2005, 1:47 p.m.



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 40-601, Food Stamp Program**. The purpose of the proposed action is to promulgate a new regulation for determining eligibility and benefit level for the Food Stamp Program. The new regulation will establish calculation methods for determining monthly income, require use of a standard amount for telephone expenses, and establish a process for administrative hearings to determine when intentional acts have been committed. 22 VAC 40-20, 22 VAC 40-540, and 22 VAC 40-600 will be repealed and provisions incorporated into the proposed regulation, 22 VAC 40-601.

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

Statutory Authority: § 63.2-217 of the Code of Virginia.

Public comments may be submitted until January 25, 2006.

Contact: Celestine Jackson, Program Specialist, Division of Benefit Programs, Department of Social Services, 7 N. 8th St., Richmond, VA 23219, telephone (804) 726-7376, FAX (804) 726-7356 or e-mail celestine.jackson@dss.virginia.gov.

VA.R. Doc. No. R06-138; Filed December 7, 2005, 10:32 a.m.

† Withdrawal of Notice of Intended Regulatory Action

At its meeting on December 14, 2005, the State Board of Social Services voted to **withdraw** the Notice of Intended Regulatory Action for **22 VAC 40-705, Child Protective Services**, that was published 21:11 VA.R. 1279 February 7, 2005.

PROPOSED REGULATIONS

For information concerning Proposed Regulations, see Information Page.

Symbol Key

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

TITLE 9. ENVIRONMENT

STATE WATER CONTROL BOARD

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

Title of Regulation: **9 VAC 25-660. Virginia Water Protection General Permit for Impacts Less Than One-Half of an Acre (amending 9 VAC 25-660-10 through 9 VAC 25-660-100; adding 9 VAC 25-660-95).**

Statutory Authority: §§ 62.1-44.15 and 62.1-44.15:5 of the Code of Virginia; § 401 of the Clean Water Act (33 USC § 1251 et seq.).

Public Hearing Date: February 6, 2006 - 3:30 p.m.

Public comments may be submitted until 5 p.m. on March 10, 2006.

(See Calendar of Events section for additional information)

Agency Contact: Catherine M. Harold, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4047, FAX (804) 698-4347, or e-mail cmharold@deq.virginia.gov.

Summary:

Virginia Water Protection (VWP) General Permit WP1 will expire on October 1, 2006. The proposed revisions include minor changes to improve the processing and coordination of authorizations, both for the public, DEQ, and other agencies. These VWP general permit regulations generally reduce the permitting burden to the public and minimize the amount of agency duplication in processing permit authorizations and it is in the interest of all to continue to provide this level of service through the renewal of this general permit.

The substance of the revisions include the addition and deletion of definitions; minor grammatical changes;

formatting, consolidating and reordering of text to improve readability; clarification of existing requirements; prohibiting the use of this general permit for wetlands, open waters and streams that are protected by deed restrictions or similar protective covenants imposed by previous state or federal permit actions; extending the life of the general permit regulations to 10 years instead of the current five years; reiteration of provisions in the main VWP regulation for purposes of emphasis; and amending the thresholds of coverage for wetlands and open waters and stream impacts, which were previously combined together as "surface waters." The proposed revisions to General Permit WP1 govern the permanent and temporary impacts to less than 1/2 acre of nontidal wetlands or open water and up to 300 linear feet of nontidal stream bed.

9 VAC 25-660-10. Definitions.

The words and terms used in this chapter shall have the meanings defined in the State Water Control Law (§ 62.1-44.2 et seq. of the Code of Virginia) and the Virginia Water Protection (VWP) Permit Regulation (9 VAC 25-210) unless the context clearly indicates otherwise or unless otherwise indicated below.

"Bank protection" means measures employed to stabilize channel banks and combat existing erosion problems. Such measures may include the construction of riprap revetments, sills, rock vanes, beach nourishment, breakwaters, bulkheads, groins, spurs, levees, marsh toe stabilization, anti-scouring devices, and submerged sills.

"Bioengineering method" means a biological measure incorporated into a facility design to benefit water quality and minimize adverse effects to aquatic resources, to the maximum extent practicable, for long-term aquatic resource protection and improvement.

"Channelization" means the alteration of a stream channel by widening, deepening, straightening, cleaning or paving certain areas.

~~"Conversion" means changing one type of surface water to another type of surface water, either permanently or temporarily. The permanent conversion of a forested wetland to an emergent wetland is considered to be a permanent impact for the purposes of this regulation.~~

"Cross-sectional drawing" means a graph or plot of ground elevation across a waterbody or a portion of it, usually along a line perpendicular to the waterbody or direction of flow.

"Emergent wetland" means a class of wetlands characterized by erect, rooted, herbaceous plants growing in water or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content, excluding mosses and lichens. This vegetation is present for most of the growing season in most years and is usually dominated by perennial plants.

"FEMA" means the Federal Emergency Management Agency.

"Forested wetland" means a class of wetlands characterized by woody vegetation that is six meters (20 feet) tall or taller. These areas typically possess an overstory of trees, an understory of trees or shrubs, and an herbaceous layer.

"Histosols" means organic soils that are often called mucks, peats, or mucky peats. The list of histosols in the Commonwealth includes, but is not limited to, the following soil series: Back Bay, Belhaven, Dorovan, Lanexa, Mattamuskeet, Mattan, Palms, Pamlico, Pungo, Pocaty, and Rappahannock. Histosols are identified in the Hydric soils list generated by the United States Department of Agriculture's Natural Resources Conservation Service.

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

"Independent utility" means a test to determine what constitutes a single and complete project. A project is considered to have independent utility if it would be constructed absent the construction of other projects in the project area. Portions of a ~~multi-phase~~ *phased* project that depend upon other phases of the project do not have independent utility. ~~Phases~~ *Portions of a phased project that would be constructed even if the other phases are not built can be considered as separate single and complete projects with independent utility.*

"Isolated Wetland of Minimal Ecological Value (IWOMEV)" means a wetland that (i) does not have a surface water connection to other state waters; (ii) is less than one-tenth of an acre in size; (iii) is not located in a Federal Emergency Management Agency designated 100-year floodplain; (iv) is not identified by the Virginia Natural Heritage Program as a rare or state significant natural community; (v) is not forested; and (vi) does not contain listed federal or state threatened or endangered species.

"Less than one-half of an acre" means ~~0.00 to~~ 0.49 acre (~~0 to~~ 21,779 square feet) or less.

"Open water" means an area that, during a year with normal patterns of precipitation, has standing water for sufficient duration to establish an ordinary high water mark. The term "open water" includes lakes and ponds but does not include ephemeral waters, stream beds, or wetlands.

"Ordinary high water" or "ordinary high water mark" means the line on the shore established by the fluctuations of water and indicated by physical characteristics such as clear, natural line impressed on the bank; shelving; changes in the character of soil; destruction of terrestrial vegetation; the presence of litter and debris; or other appropriate means that consider the characteristics of the surrounding areas.

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

"Permanent impacts" ~~are~~ *means* those impacts to surface waters, including wetlands, that cause a permanent alteration of the physical, chemical, or biological properties of the surface waters, or of the functions and values of a wetland.

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

"Riprap" means a layer of nonerodible material such as stone or chunks of concrete.

"Single and complete project" means the total project proposed or accomplished by a person ~~and~~ , which *also* has independent utility, as *defined in this section*. For linear projects, the "single and complete project" (~~is~~ *e.g.*, a single and complete crossing) ~~may but does not always will~~ apply to each crossing of a separate surface water (~~is~~ *e.g.*, a single waterbody) and to multiple crossings of the same waterbody at separate and distinct locations. Phases of a project that have independent public and economic utility may each be considered single and complete.

"State ~~programmatic~~ *program* general permit (SPGP)" means a general permit *that is* issued by the Department of the Army in accordance 33 USC 1344(e), with 33 CFR ~~Part 325~~ 325.2(e)(2), and 33 CFR 325.3(b) *and* that is founded on a state program ~~and~~ . *The SPGP is designed to avoid duplication between the federal and state programs.*

"Stream bed" means the substrate of a stream, as measured between the ordinary high water marks along a length of stream. The substrate may consist of organic matter, bedrock or inorganic particles that range in size from clay to boulders, or a combination of both. Areas contiguous to the stream bed, but outside of the ordinary high water marks, are not considered part of the stream bed. Ditches, swales, and open water are not considered to be stream bed for the purposes of this regulation.

"Surface waters" means all state waters that are not ground water as defined in § 62.1-255 of the Code of Virginia.

"Temporary impacts" are those impacts to surface waters, including wetlands, that do not cause a permanent alteration of the physical, chemical, or biological properties of the surface water, or of the functions and values of a wetland. Temporary impacts include activities in which the ground is restored to its preconstruction *conditions*, contours ~~and~~ , or elevations, such that previous functions and values are restored.

~~"Up to 125 linear feet of perennial stream channel" means 0.00 to 125.00 linear feet of perennial stream, rounded to the second decimal place, as measured along the center of the main channel of the stream segment.~~

~~"Up to 300 linear feet of stream channel" means >0.00 to 300.00 linear feet of any stream, rounded to the second decimal place, as measured along the center of the main channel of the stream segment.~~

~~"Up to 1500 linear feet of nonperennial stream channel" means 0.00 to 1500.00 linear feet of nonperennial stream, rounded to the second decimal place, as measured along the center of the main channel of the stream segment.~~

Proposed Regulations

~~"Up to one acre" means 0.00 to 1.00 acre (0 to 43,560 square feet).~~

~~"Up to one-tenth of an acre" means 0.00 to 0.10 acre (0 to 4,356 square feet) or less.~~

~~"Up to two acres" means 0.00 to 2.00 acres (0 to 87,120 square feet).~~

~~"Utility line" means any a pipe or pipeline for the transportation of any a gaseous, liquid, liquifiable liquefiable or slurry substance, for any purpose, and any a cable, line, or wire for the transmission for any purpose of electrical energy, telephone, and telegraph messages and radio and television communication. The term "utility line" does not include activities that drain a surface water to convert it to an upland, such as drainage tiles or french drains; however, it does apply to pipes conveying drainage from another area.~~

9 VAC 25-660-20. Purpose; delegation of authority; effective date of VWP general permit.

A. The purpose of this regulation is to establish VWP General Permit Number WP1 under the VWP permit program regulation to govern *permanent and temporary* impacts to less than one-half of an acre of nontidal ~~surface waters including wetlands or open water and up to 425 300 linear feet of perennial stream channel and up to 1,500 linear feet of nonperennial nontidal stream channel bed.~~ Applications for coverage under by this VWP general permit shall be processed for approval, approval with conditions, or denial by the board. *Authorization, authorization with conditions, or denial by the board shall constitute the VWP general permit action. Each VWP general permit action shall follow all provisions in the State Water Control Law (§ 62.1-44.2 et seq. of the Code of Virginia), except for the public comment and participation provisions, from which each VWP general permit action is exempt.*

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

C. This VWP general permit regulation will become effective on ~~October 1, 2004~~ (insert effective date), and will expire on ~~October 1, 2006~~ (insert date that is 10 years after effective date).

D. Authorization to impact surface waters under this VWP general permit is effective upon compliance with all the provisions of 9 VAC 25-660-30. Notwithstanding the expiration date of this general permit regulation, authorization to impact surface waters under this VWP general permit will continue for ~~a maximum of three years.~~

9 VAC 25-660-30. Authorization to impact surface waters.

A. Any person governed by this VWP general permit is authorized to *permanently or temporarily* impact less than one-half of an acre of ~~surface waters including nontidal wetlands or open water and up to 425 300 linear feet of perennial nontidal stream channel and up to 1,500 linear feet of nonperennial stream channel bed,~~ provided that the person ~~submits notification as required in 9 VAC 25-660-50 and 9 VAC 25-660-60, remits the required application processing fee (9 VAC 25-20), complies with the limits and other~~

~~requirements of 9 VAC 25-660-100, receives approval from the board, and provided that:~~

~~1. The applicant submits notification as required in 9 VAC 25-660-50 and 9 VAC 25-660-60.~~

~~2. The applicant remits the required application processing fee in accordance with 9 VAC 25-20.~~

~~3. The applicant complies with the limitations and other requirements of 9 VAC 25-660-100.~~

~~4. The applicant receives approval from the Virginia Department of Environmental Quality.~~

~~4. 5. The applicant shall has not have been required to obtain a VWP individual permit under the VWP permit regulation (9 VAC 25-210) for the proposed project impacts. The applicant, at his discretion, may seek a VWP individual permit, or coverage under another applicable VWP general permit, in lieu of coverage under this VWP general permit.~~

~~2- 6. Impacts, both temporary and permanent, result from a single and complete project, including all attendant features.~~

~~a. Where a road segment (~~is e.g.,~~ the shortest segment of a road with independent utility that is part of a larger project) has multiple crossings of surface waters (several single and complete projects), the board may, at its discretion, require a VWP individual permit.~~

~~b. For the purposes of this chapter, when an interchange has multiple crossings of surface waters, the entire interchange shall be considered the single and complete project.~~

~~3- 7. The stream impact criterion applies to all components of the project, including any structures and stream channel manipulations.~~

~~4- 8. Compensation for unavoidable impacts is provided in the form of the purchase or use of credits from an approved mitigation bank credits or a contribution to an approved in-lieu fee fund.~~

~~B. Only activities in nontidal waters may qualify for coverage under this VWP general permit.~~

~~C. The board waives the requirement for coverage under a VWP general permit for activities that occur in an isolated wetland of minimal ecological value as defined in 9 VAC 25-210-10 9 VAC 25-660-10. Any person claiming this waiver bears the burden to demonstrate that he qualifies for the waiver.~~

~~D. Receipt of this VWP general permit does not relieve any the permittee of the responsibility to comply with any other applicable federal, state or local statute, ordinance or regulation.~~

~~E. In issuing this VWP general permit, the board has not taken into consideration the structural stability of the proposed structure or structures.~~

~~F. Coverage under a nationwide or regional permit promulgated by the U.S. Army Corps of Engineers (USACE), and for which the board has issued § 401 certification existing as of ~~October 1, 2004~~ the effective date of this regulation, shall constitute coverage under this VWP general permit~~

unless a state programmatic program general permit is approved for the covered activity or impact. Notwithstanding any other provision, activities authorized under a nationwide or regional permit promulgated by the USACE and certified by the board in accordance with 9 VAC 25-210-130 do not need to obtain coverage under this VWP general permit unless a state programmatic general permit is approved for the covered activity or impact.

G. When the board determines on a case-by-case basis that concerns for water quality and the aquatic environment so indicate, the board may require individual applications and VWP individual permits rather than approving coverage under this VWP general permit.

9 VAC 25-660-40. Exceptions to coverage.

A. Authorization for coverage under this VWP general permit will not apply in the following areas:

1. Wetlands composed of 10% or more of the following species (singly or in combination) in ~~any a vegetative~~ stratum: Atlantic white cedar (*Chamaecyparis thyoides*), bald cypress (*Taxodium distichum*), water tupelo (*Nyssa aquatica*), or overcup oak (*Quercus lyrata*). Percentages shall be based on either basal area or percent areal cover in the area of impact.

2. Wetlands underlain by histosols.

3. Nontidal wetlands adjacent to tidal waters.

4. 100-year floodplains as identified by FEMA's flood insurance rate maps or FEMA-approved local floodplain maps.

5. Surface waters where the proposed activity will impact federal or state listed or proposed threatened or endangered species or proposed or designated critical habitat.

B. Authorization for coverage under this VWP general permit cannot be used in combination with authorizations for coverage under other VWP general permits in order to impact greater than one-half of an acre of nontidal ~~surface waters, up to 125 wetlands or open water or greater than 300 linear feet of perennial stream channel, or up to 1,500 linear feet of nonperennial nontidal stream channel bed.~~ More than one authorization for coverage under this VWP general permit for a single and complete project is prohibited, except when the cumulative impact to surface waters does not exceed the limits specified here.

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

D. The board shall deny coverage under this VWP general permit to any applicant for activities that cause, may reasonably be expected to cause, or may be contributing to a violation of water quality standards, including discharges or discharge-related activities that are likely to ~~adversely~~ significantly affect aquatic life, or for activities that together with other existing or proposed impacts to wetlands will cause or contribute to a significant impairment of state waters or fish and wildlife resources.

E. This VWP general permit does not authorize activities that cause more than minimal changes to the peak hydraulic flow characteristics, that significantly increase flooding, or that cause more than minimal degradation of the water quality of ~~any a~~ stream.

F. This VWP general permit may not be used for:

1. Any stormwater management facility that is located in perennial streams or in waters designated as oxygen or temperature impaired; (*does not include wetlands*).

2. The construction of an irrigation impoundment on a perennial stream;

3. Any water withdrawal activities;

4. The location of animal feeding operations or waste storage facilities in state waters;

5. The pouring of wet concrete or the use of tremie concrete or grout bags in state waters, unless the area is contained within a cofferdam or the work is performed in the dry;

6. Dredging or maintenance dredging;

7. Return flow discharges from dredge disposal sites;

8. The construction of new ski areas or oil and gas wells;

9. The taking of threatened or endangered species in accordance with the following:

a. As pursuant to § 29.1-564 of the Code of Virginia—, the taking, transportation, processing, sale or offer for sale within the Commonwealth of any fish or wildlife appearing on any list of threatened or endangered species published by the United States Secretary of the Interior pursuant to the provisions of the federal Endangered Species Act of 1973 (P.L. 93-205), or any modifications or amendments thereto, is prohibited except as provided in § 29.1-568."

b. As pursuant to § 29.1-566 of the Code of Virginia and 4 VAC 15-20-130 B and C, the taking, transportation, processing, sale, or offer for sale within the Commonwealth of any state-listed endangered or threatened species is prohibited except as provided in § 29.1-568 of the Code of Virginia.

10. *Proposed activities in wetlands, open water, streams, or compensatory mitigation sites that are under a deed restriction, conservation easement, restrictive covenant, or other land use protective instrument (hereafter protected areas), where such restriction, easement, covenant, or instrument is the result of a federal or state permit action and is specific to activities in wetlands and compensatory mitigation sites, and where the proposed activities incur up to 1/10 acre of wetland or open water impacts or up to 300 linear feet of stream bed impacts. Where the proposed activities in protected areas impact greater than 1/10 acre wetlands or open water, or greater than 300 linear feet of stream bed, the applicant may submit a full and complete permit application for further consideration by the board.*

9 VAC 25-660-50. Notification.

A. Notification to the board will be required prior to commencing construction, as follows:

Proposed Regulations

1. An application for authorization ~~for~~ of proposed, permanent *nontidal wetland or open water* impacts greater than one-tenth of an acre, or ~~for~~ of proposed, permanent *nontidal stream channel bed* impacts greater than 300 linear feet shall be submitted via an application that includes all information pursuant to 9 VAC 25-660-60 B. *Once permanent impacts exceed these limits, compensatory mitigation may be required for all permanent impacts in accordance with Parts I, II, and III of this VWP general permit regulation. All temporary impacts shall be restored to preexisting conditions, as per Parts I, II, and III of this VWP general permit regulation.*

2. ~~An application for the authorization of proposed, permanent surface nontidal wetland or open water impacts up to one-tenth of an acre, which may include up to or of proposed, permanent nontidal stream bed impacts up to 300 linear feet of stream channel, shall be reported~~ submitted via an application that includes only the following information: subdivisions 1 through 8, 9, 13, 15, 20, and 21 of 9 VAC 25-660-60 B, *and documentation that verifies the quantity and type of impacts. If permanent impacts remain below these limits, compensatory mitigation is not required for permanent impacts. All temporary impacts shall be restored to preexisting conditions, as per Parts I and III of this VWP general permit regulation.*

B. A Joint Permit Application (JPA) or Virginia Department of Transportation Interagency Coordination Meeting Joint Permit Application (VDOT IACM JPA) shall serve as an application under this regulation.

C. The board will determine whether the proposed activity requires coordination with the United States Fish and Wildlife Service, the Virginia Department of Conservation and Recreation, the Virginia Department of Agriculture and Consumer Services and the Virginia Department of Game and Inland Fisheries regarding the presence of ~~any~~ federal or state proposed or listed threatened and endangered species or proposed or designated critical habitat. Based upon consultation with these agencies, the board may deny coverage under this general permit. *The applicant may also consult with these agencies prior to submitting an application. Species or habitat information that the applicant provides will assist DEQ in reviewing and processing the application.*

9 VAC 25-660-60. Application.

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

1. The applicant shall file a complete application ~~as described in accordance with~~ 9 VAC 25-660-50 for a VWP General Permit WP1 for impacts to ~~surface waters nontidal wetlands or open water of less than one-half of an acre, including and up to 425~~ 300 linear feet of ~~perennial stream channel and up to 4,500 linear feet of nonperennial nontidal stream channel bed,~~ which will serve as a notice of intent for coverage under this VWP general permit.

2. The VDOT may use its monthly IACM process for submitting applications.

B. The required application shall contain the following information, if applicable to the project:

1. The applicant's name, mailing address, and telephone number; *and, if applicable, fax number.*

2. The authorized agent's (if applicable) name, mailing address, telephone number and, if applicable, fax number and electronic mail address;.

3. The existing VWP permit number (if applicable);.

4. The name of the project, narrative description of project purpose, and a description of the proposed activity in surface waters;.

5. The name of the water body or water bodies or receiving stream, as applicable;.

6. The hydrologic unit code (HUC) for the project area;.

7. The name of the city or county where the project is located;.

8. Latitude and longitude (to the nearest second) from a central location within the project limits;.

9. A detailed location map (e.g., a United States Geologic Survey topographic quadrangle map) of the project area, including the project boundary. The map shall be of sufficient detail such that the site may be easily located for site inspection;.

10. (Reserved.);

11. The project plan view. ~~All~~ Plan view sketches shall include, at a minimum, north arrow, scale, existing structures, existing contours, proposed contours (if available), limit of surface water areas, direction of flow, ordinary high water, impact limits, and location and dimension of all proposed structures in impact areas. *In addition, cross-sectional or profile sketches, as appropriate, with the above information in this subdivision, shall may be required as appropriate to demonstrate minimization of impacts; detail impact areas.*

12. (Reserved.);

13. Surface water impact information (wetlands, streams, or open water) for both permanent and temporary impacts, including a description of the impact, the areal extent of the impact (area of wetland in square feet and acres; area of stream, length of stream, and average width);, the location (latitude and longitude) at the center of the impact, or at the center of each impact for linear projects; and the type of *surface water* impact (*open water; wetlands* according to the Cowardin classification or similar terminology; *or perennial and nonperennial for streams*);. *The board encourages applicants to coordinate the determination of perennial or nonperennial streams with the appropriate local government agency in Tidewater Virginia.*

14. (Reserved.);

15. A description of the specific on-site measures considered or taken during project design and development both to avoid and minimize impacts to surface waters to the maximum extent practicable;.

16. A conceptual plan for the intended compensation for unavoidable impacts, including:

a. ~~Any applicant~~ Applicants proposing compensation involving contributions to an in-lieu fee fund shall state such as their conceptual compensation plan. Written documentation of the willingness of the entity to accept the donation and documentation of how the amount of the contribution was calculated shall be submitted prior to issuance of this VWP general permit authorization; and

b. ~~Any applicant~~ Applicants proposing compensation involving the purchase or use of mitigation banking credits shall include as their conceptual compensation plan:

(1) The name of the proposed mitigation bank and the HUC in which it is located;

(2) The number of credits proposed to be purchased or used; and

(3) Certification from the bank owner of the availability of credits;

17. A delineation map of the geographic area of a delineated wetland for all wetlands on the site, in accordance with 9 VAC 25-210-45, including the wetlands data sheets. *The delineation map shall also include the on-site location of streams, open water, and the approximate limits of Chesapeake Bay Resource Protection Areas (RPAs), as other state or local requirements may apply if the project is located within an RPA.* Wetland types shall be noted according to their Cowardin classification or similar terminology. A copy of the USACE delineation confirmation, or other correspondence from the USACE indicating their approval of the wetland boundary, shall ~~also~~ be provided at the time of application, or if not available at that time, as soon as it becomes available during the VWP permit review. ~~The delineation map shall also include the location of streams, open water and other surface waters on the site. The approximate limits of any Chesapeake Bay Resource Protection Areas (RPAs) shall be shown on the map, as other state or local requirements may apply if the project is located within an RPA;~~

18. A copy of the FEMA flood insurance rate map or FEMA-approved local floodplain map for the project site; *(impacts that include linear feet of stream bed must be converted to a square footage or acreage using the stream width in order to calculate the permit application fee).*

19. The appropriate application processing fee for a VWP general permit ~~{ in accordance with 9 VAC 25-20; and~~ . *The permit application fee for VWP permit authorizations is based on acres only. Therefore, impacts that include linear feet of stream bed must be converted to an acreage in order to calculate the permit application fee.*

20. A written disclosure identifying all wetlands, open water, streams, and associated upland buffers within the proposed project or compensation areas that are under a deed restriction, conservation easement, restrictive covenant, or other land use protective instrument (protected areas). *Such disclosure shall include the nature of the prohibited activities within the protected areas.*

~~20.~~ 21. The following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision

in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment for knowing violations."

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

D. Upon receipt of an application by the appropriate DEQ office, the board has 15 days to review the application and either determine that the information requested in subsection B of this section is complete or inform the applicant that additional information is required to make the application complete. Coverage under this VWP general permit shall be approved, approved with conditions, or denied within 45 days of receipt of a complete application. If the board fails to act within 45 days on a complete application, coverage under this VWP general permit shall be deemed approved.

1. In evaluating the application, the board shall make an assessment of the impacts associated with the project in combination with other existing or proposed impacts. Coverage under this VWP general permit shall be denied if the cumulative impacts will cause or contribute to a significant impairment of state waters or fish and wildlife resources.

2. The board may place additional conditions on a project in order to approve authorization under this VWP general permit. However, these conditions must be consistent with the VWP permit program regulation.

E. Incomplete application. Where an application is incomplete, the board may require the submission of additional information and ~~shall~~ *may* suspend processing the application until such time as the applicant has supplied the ~~missing or deficient requested~~ information and the application is complete. ~~Further,~~ Where the applicant becomes aware that he omitted one or more relevant facts from an application, or submitted incorrect information in an application or in ~~any report~~ reports to the board, ~~he~~ *the applicant* shall immediately submit such facts or the correct information. ~~Such~~ *A revised* application with new information shall be deemed a new application, but shall not require an additional permit application fee. *An incomplete permit application may be administratively withdrawn from processing by the board after 180 days from the date that the original permit application was received by the board. Resubmittal of a permit application for the same or similar project, after such time that the original permit application was administratively withdrawn, shall require submittal of an additional permit application fee.*

9 VAC 25-660-70. Compensation.

A. *In accordance with 9 VAC 25-660-50 A 1, compensatory mitigation may be required for all permanent, nontidal surface water impacts once the notification limits are exceeded. All*

Proposed Regulations

temporary, nontidal surface water impacts shall be restored to preexisting conditions.

~~A. B. Generally, the sequence of preferred compensation options shall be restoration, then creation, then mitigation banking, and then in-lieu fee fund. Also, on-site, in-kind compensatory mitigation, when available, shall be deemed the most ecologically preferable form of compensation for project impacts, in most cases. However, for the purposes of this VWP general permit, the board shall assume that the purchase or use of mitigation bank credits or a contribution to an in-lieu fee fund is ecologically preferable to practicable on-site or other off-site surface water compensation options, and no further demonstration is necessary.~~

~~C. In order for contribution to an in-lieu fee fund to be an acceptable form of compensation, the fund must be approved for use by the board according to the provisions of 9 VAC 25-210-115 E. The applicant shall provide proof of contribution to DEQ prior to commencing activities in impact areas.~~

~~D. In order for purchase or use of bank credits to be an acceptable form of compensation, the bank shall be operating in accordance with the provisions of § 62.1-44.15:5 E of the Code of Virginia and 9 VAC 25-210-115 F. The applicant shall provide proof of purchase, use, or debit to DEQ prior to commencing activities in impact areas.~~

~~B. E. Compensation for unavoidable, permanent wetland impacts shall be provided at a 2:1 replacement to impact ratio, as calculated on an area basis.~~

~~C. Compensation for unavoidable stream impacts shall be provided through the purchase or use of stream mitigation bank credits or contribution to an in-lieu fee fund that includes watershed enhancements. F. Compensation for stream bed impacts shall be appropriate to replace lost functions and water quality benefits. One factor determining the required compensation shall be an analysis of stream impacts utilizing a stream impact assessment methodology approved by the board acceptable to DEQ.~~

~~D. G. Compensation for permanent open water impacts other than to streams may be required, as appropriate, at a 1:1 replacement to impact ratio, as calculated on an area basis, to protect offset impacts to state waters and fish and wildlife resources from significant impairment.~~

~~E. H. Compensation for conversion impacts to wetlands shall be required at a 1:1 replacement to impact ratio, as calculated on an area basis, when such conversion results in a permanent alteration of the functions and values of the wetland. For example, the permanent conversion of a forested wetland to an emergent wetland is considered to be a permanent impact for the purposes of this regulation. Compensation for conversion of other types of surface waters may be required, as appropriate, to offset impacts to state waters and fish and wildlife resources from significant impairment.~~

~~F. In order for contribution to an in-lieu fee fund to be an acceptable form of compensation, the fund must be approved for use by the board according to the provisions of 9 VAC 25-210-115 E.~~

~~G. In order for purchase or use of bank credits to be an acceptable form of compensation, the bank shall be operating in accordance with the provisions of § 62.1-44.15:5 E of the Code of Virginia and 9 VAC 25-210-115 F. The applicant shall provide proof of purchase, use, or debit to DEQ prior to commencing activities in impact areas.~~

9 VAC 25-660-80. Notice of planned changes.

~~A. The permittee shall notify the board in advance of the planned change, and the planned change request will be reviewed according to all provisions of this regulation.~~

~~A. B. Authorization under this VWP general permit may be modified subsequent to issuance if the permittee determines that additional permanent wetland, open water, or stream impacts are necessary, provided that the additional impacts are associated with the previously authorized activities in authorized locations within the same phase of development, the cumulative increase in acreage of wetland or open water impacts is not greater than 1/4 acre and, the cumulative increase in stream bed impacts is not greater than 50 100 linear feet, and provided that the additional impacts are fully mitigated. In no case can this authorization be modified to exceed the general permit threshold for use. Prior to a planned change approval, DEQ may require submission of a compensatory mitigation plan for the additional impacts. In cases where the original impacts totaled less than 1/10 acre of wetlands or open water, or less than 300 linear feet of stream bed, and the additional impacts result in these limits being exceeded, the notice of planned change will not be approved. However, the applicant may submit a new permit application and permit application fee for the total impacts to be considered under this VWP general permit, another VWP general permit, or a VWP individual permit.~~

~~B. C. Authorization under this VWP general permit may be modified after issuance if the project results in less wetland or stream impacts. Compensation requirements may be modified in relation to the adjusted impacts at the request of the permittee, provided that the adjusted compensation meets the initial authorization compensation goals. DEQ shall not be responsible for ensuring refunds for mitigation bank credit purchases, mitigation bank usage, or in-lieu fee fund contributions.~~

~~C. D. Authorization under this VWP general permit may be modified after issuance for a change in project plans that does not result in a change in project impacts.~~

~~D. E. Authorization under the VWP general permit may be modified for a change to the mitigation bank at which credits are purchased or used, provided that the same amount of credits are purchased or used and all criteria for use in 9 VAC 25-210-115 F are met.~~

~~E. F. Authorization under the VWP general permit may be modified after issuance for typographical errors.~~

~~F. G. A Notice of Planned Change is not required after authorization issuance for additional temporary impacts to surface waters, provided that DEQ is notified in writing regarding additional temporary impacts, and the area is restored to preexisting conditions in accordance with Part I C 11 of this general permit. In no case can the additional~~

temporary impacts exceed the general permit threshold for use.

~~G. The permittee shall notify the board in advance of the planned change, and the planned change request shall be reviewed according to all provisions of this regulation. H. In no case can this authorization be modified to exceed the general permit threshold for use.~~

I. A notice of planned change shall be denied if fish and wildlife resources are significantly impacted or if the criteria in subsection B are not met. However, the original VWP general permit authorization shall remain in effect. The applicant may submit a new permit application and permit application fee for consideration under a VWP individual permit.

9 VAC 25-660-90. Termination of authorization by consent.

When all permitted activities requiring notification under 9 VAC 25-660-50 A 1 and all compensatory mitigation requirements have been completed, or if the authorized impacts will not occur, the permittee shall submit a request for termination by consent within 30 days of project completion or project cancellation. When submitted for project completion, the termination by consent shall constitute a notice of completion in accordance with 9 VAC 25-210-130. The director may accept this termination of authorization on behalf of the board. The permittee shall submit the following information:

1. Name, mailing address and telephone number of the permittee;
2. Name and location of the activity;
3. The VWP permit authorization number; and
4. One of the following certifications:
 - a. For project completion:

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

- b. For project cancellation:

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

c. For events beyond permittee control, the permittee shall provide a detailed explanation of the events, to be approved by DEQ, and the following certification statement:

"I certify under penalty of law that all the activities or the required compensatory mitigation authorized by a VWP general permit have changed as the result of events beyond my control (see attached). I understand that by submitting this notice of termination I am no longer authorized to perform activities in surface waters in accordance with the VWP general permit, and that performing activities in surface waters is unlawful where the activity is not authorized by a VWP permit. I also understand that the submittal of this notice does not release me from liability for any violations of this VWP general permit authorization, nor does it allow me to resume the permitted activities without reapplication and reauthorization."

9 VAC 25-660-95. Transition.

A. All applications received on or after (insert effective date) will be processed in accordance with these new procedures.

B. VWP general permit authorizations issued prior to (insert effective date) will remain in full force and effect until such authorizations expire, are revoked, or are terminated.

C. Notices of Planned Change and all other types of notification that are received by the board prior to (insert effective date) will be processed in accordance with the VWP general permit regulation in effect at that time. Notices of Planned Change and all other types of notification to the board that are received on or after (insert effective date) will be processed in accordance with these new procedures.

9 VAC 25-660-100. VWP general permit.

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

VWP General Permit No. WP1

Authorization effective date:

Authorization expiration date:

Authorization Note(s):

VWP GENERAL PERMIT FOR IMPACTS LESS THAN ONE-HALF OF AN ACRE UNDER THE VIRGINIA WATER PROTECTION PERMIT AND THE VIRGINIA STATE WATER CONTROL LAW

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

Proposed Regulations

Subject to the provisions of the Clean Water Act, as amended, and pursuant to the State Water Control Law and regulations adopted pursuant to it, the permittee is authorized to ~~permanently or temporarily~~ impact less than one-half of an acre of nontidal ~~surface waters including wetlands or open water~~ and up to ~~425 300~~ linear feet of ~~perennial stream channel~~ and up to ~~1,500~~ linear feet of nonperennial nontidal stream channel bed.

Permittee:

Address:

Activity Location:

Activity Description:

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

Director, Department of Environmental Quality

Date

Part I. Special Conditions.

A. Authorized activities.

1. This permit authorizes *permanent or temporary* impacts to less than one-half of an acre of nontidal ~~surface waters, including wetlands or open water~~ and up to ~~425 300~~ linear feet of ~~perennial stream channel~~, and up to ~~1,500~~ linear feet of nonperennial nontidal stream channel bed, according to the information provided in the approved *and complete* application.

2. Any changes to the authorized permanent impacts to surface waters associated with this project shall require either a notice of planned change in accordance with 9 VAC 25-660-80, or another VWP permit application.

3. Any changes to the authorized temporary impacts to surface waters associated with this project shall require written notification to DEQ and restoration to preexisting conditions in accordance with the conditions of this permit authorization.

4. Modification to compensation requirements may be approved at the request of the permittee when a decrease in the amount of authorized surface waters impacts occurs, provided that the adjusted compensation meets the initial authorization compensation goals.

5. The activities authorized by this VWP general permit must commence and be completed within three years of the date of this authorization.

B. Continuation of coverage. Reapplication for continuation of coverage under this VWP general permit or a new VWP permit may be necessary if any portion of the authorized activities or any VWP general permit requirement (*including compensation*) has not been completed within three years of the date of authorization. The request for continuation of coverage must be made no less than 60 days prior to the expiration date of this VWP general permit authorization, at

which time the board will determine if continuation of the VWP general permit authorization is necessary.

C. Overall project conditions.

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

2. No activity may substantially disrupt the movement of aquatic life indigenous to the water body, including those species that normally migrate through the area, unless the primary purpose of the activity is to impound water. Culverts placed in streams must be installed to maintain low flow conditions. The requirement to countersink does not apply to extensions or maintenance of existing culverts that are not countersunk, floodplain culverts being placed above ordinary high water, culverts being placed on bedrock, or culverts required to be placed on slopes 5.0% or greater. No activity may cause more than minimal adverse effect on navigation. Furthermore, the activity must not impede the passage of normal or expected high flows and the structure or discharge must withstand expected high flows.

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

4. All fill material shall be clean and free of contaminants in toxic concentrations or amounts in accordance with all applicable laws and regulations.

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

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

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

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

9. Heavy equipment in temporarily impacted wetland areas shall be placed on mats, geotextile fabric, or other suitable material to minimize soil disturbance to the maximum extent practicable. Equipment and materials shall be removed immediately upon completion of work.

10. All nonimpacted surface waters *and compensatory mitigation areas* within 50 feet of ~~any~~ permitted activities and

within the project or right-of-way limits shall be clearly flagged or marked for the life of the construction activity at that location to preclude ~~any~~ unauthorized disturbances to these surface waters *and compensatory mitigation areas* during construction. The permittee shall notify ~~all~~ contractors that *no activities are to occur in these marked areas* ~~are~~ surface waters ~~where no activities are to occur~~.

11. Temporary disturbances to surface waters during construction shall be avoided and minimized to the maximum extent practicable. All temporarily disturbed wetland areas shall be restored to ~~preconstruction~~ *preexisting* conditions within 30 days of completing work *at each respective temporary impact area*, which shall include reestablishing preconstruction contours, and planting or seeding with appropriate wetland vegetation according to cover type (emergent, scrub/shrub, or forested). The permittee shall take all appropriate measures to promote and maintain revegetation of temporarily disturbed wetland areas with wetland vegetation through the second year post-disturbance. All temporarily impacted streams and streambanks shall be restored to their original contours within 30 days following the construction at that stream segment, and the banks seeded or planted with the same vegetation cover type originally present along the streambanks, including supplemental erosion control grasses if necessary, except for invasive species identified on DCR's Invasive Alien Plant Species of Virginia list.

12. ~~All~~ Materials (including fill, construction debris, and excavated and woody materials) temporarily stockpiled in wetlands shall be placed on mats or geotextile fabric, immediately stabilized to prevent entry into state waters, managed such that leachate does not enter state waters, and completely removed within 30 days following completion of that construction activity. Disturbed areas shall be returned to original contours, restored within 30 days following removal of the stockpile, and restored with the same vegetation cover type originally present, including supplemental erosion control grasses if necessary, except for invasive species identified on DCR's Invasive Alien Plant Species of Virginia list.

13. Continuous flow of perennial springs shall be maintained by the installation of spring boxes, french drains, or other similar structures.

14. The permittee shall employ measures to prevent spills of fuels or lubricants into state waters.

15. The permittee shall conduct his activities in accordance with ~~any~~ *the* time-of-year restrictions recommended by the Virginia Department of Game and Inland Fisheries ~~or~~, the Virginia Marine Resources Commission, *or other interested and affected agencies* and shall ensure that all contractors are aware of ~~any~~ *the* time-of-year restrictions imposed.

16. Water quality standards shall not be violated as a result of the construction activities, unless allowed by this permit authorization.

17. Untreated stormwater runoff shall be prohibited from directly discharging into ~~any~~ surface waters, unless allowed by this permit authorization. Appropriate best management

practices shall be deemed suitable treatment prior to discharge into state waters.

18. If stream channelization or relocation is required, all work in surface waters shall be done in the dry, unless authorized by this VWP general permit, and all flows shall be diverted around the channelization or relocation area until the new channel is stabilized. This work shall be accomplished by leaving a plug at the inlet and outlet ends of the new channel during excavation. Once the new channel has been stabilized, flow shall be routed into the new channel by first removing the downstream plug and then the upstream plug. The rerouted stream flow must be fully established before construction activities in the old stream channel can begin.

D. Road crossings.

1. Access roads and associated bridges or culverts shall be constructed to minimize the adverse effects on surface waters to the maximum extent practicable. Access roads constructed above preconstruction contours and elevations in surface waters must be bridged or culverted to maintain surface flows.

2. Installation of road crossings shall occur in the dry via the implementation of cofferdams, sheetpiling, stream diversions, or other similar structures.

E. Utility lines.

1. All utility line work in surface waters shall be performed in a manner that minimizes disturbance, and the area must be returned to its original contours and restored within 30 days of completing work in the area, unless otherwise authorized by this VWP general permit. Restoration shall be the seeding or planting of the same vegetation cover type originally present, including supplemental erosion control grasses if necessary, except for invasive species identified on DCR's Invasive Alien Plant Species of Virginia list.

2. Material resulting from trench excavation may be temporarily sidcast into wetlands not to exceed a total of 90 days, provided the material is not placed in a manner such that it is dispersed by currents or other forces.

3. The trench for a utility line cannot be constructed in a manner that drains wetlands (e.g., backfilling with extensive gravel layers creating a french drain effect). For example, utility lines may be backfilled with clay blocks to ensure that the trench does not drain surface waters through which the utility line is installed.

F. Stream modification and stream bank protection.

1. Riprap bank stabilization shall be of an appropriate size and design in accordance with the Virginia Erosion and Sediment Control Handbook, Third Edition, 1992.

2. Riprap apron for all outfalls shall be designed in accordance with the Virginia Erosion and Sediment Control Handbook, Third Edition, 1992.

3. For stream bank protection activities, the structure and backfill shall be placed as close to the stream bank as practicable. No material shall be placed in excess of the minimum necessary for erosion protection.

Proposed Regulations

4. All stream bank protection control structures shall be located to eliminate or minimize impacts to vegetated wetlands to the maximum extent practicable.

5. Asphalt and materials containing asphalt or other toxic substances shall not be used in the construction of submerged sills or breakwaters.

6. Redistribution of existing stream substrate for the purpose of erosion control is prohibited.

7. No material removed from the stream bottom shall be disposed of in surface waters, unless authorized by this permit.

G. Stormwater management facilities.

1. Stormwater management facilities shall be installed in accordance with best management practices and watershed protection techniques (i.e. e.g., vegetated buffers, siting considerations to minimize adverse effects to aquatic resources, bioengineering methods incorporated into the facility design to benefit water quality and minimize adverse effects to aquatic resources) that provide for long-term aquatic resources protection and enhancement, to the maximum extent practicable.

2. Compensation for unavoidable impacts shall not be allowed within maintenance areas of stormwater management facilities.

3. Maintenance activities within stormwater management facilities shall not require additional permit authorization, or compensation, provided that the maintenance activities do not exceed the original contours of the facility, as approved and constructed, and are accomplished in designated maintenance areas as indicated in the facility maintenance or design plan.

Part II. Construction and Compensation Requirements, Monitoring, and Reporting.

A. ~~Compensation~~ Minimum compensation requirements.

1. The permittee shall provide appropriate and practicable compensation for all impacts meeting the conditions outlined in this VWP general permit.

2. The types of compensation options that may be considered under this VWP general permit include: *the purchase or use of mitigation bank credits or a contribution to an in-lieu fee fund in accordance with 9 VAC 25-210-115 and 9 VAC 25-660-70, provided that all impacts are compensated at a 2:1 ratio.*

~~a. Purchases or use of credits from approved mitigation banks meeting the requirements of 9 VAC 25-210-115 F in accordance with 9 VAC 25-660-70 and provided that all impacts are compensated at a 2:1 ratio; or~~

~~b. Contributions to an in lieu fee fund approved in accordance with 9 VAC 25-210-115 E and dedicated to the achievement of no net loss of wetland acreage and function, provided that wetland impacts are compensated at a 2:1 ratio.~~

3. A written statement that conveys the applicant's proposal to use a mitigation bank or in-lieu fee fund for compensation shall be submitted with the application and shall constitute the

~~final compensation plan for the approved project. A site change will require a modification to the authorization. The board shall review and provide written comments on the plan within 30 days of receipt or it shall be deemed approved. The final compensation plan as approved by the board shall be an enforceable requirement of this VWP general permit authorization. Deviations from the approved plan must be submitted and approved in advance by the board.~~

4. The permittee shall not initiate work in permitted impact areas until documentation of the mitigation bank credit purchase or usage or of the fund contribution has been submitted to and received by DEQ.

~~5. The compensation plan shall be approved by the board prior to any construction activity in permitted impact areas. The board shall review and provide written comments on the plan within 30 days of receipt or it shall be deemed approved. The final compensation plan as approved by the board shall be an enforceable requirement of this VWP general permit authorization. Any deviations from the approved plan must be submitted and approved in advance by the board.~~

B. Impact site construction monitoring.

1. Construction activities authorized by this permit that are within impact areas shall be monitored and documented. The monitoring shall document the ~~preconstruction~~ *preexisting* conditions, activities during construction, and post-construction conditions. Monitoring shall consist of one of the following options:

a. Photographs shall be taken during construction at the end of the first, second and third months ~~of~~ *after commencing* construction, and then ~~semi-annually every six months thereafter,~~ for the remainder of the construction project, ~~except.~~ *Photos are not required* during periods of no activity within impact areas;

b. An ortho-rectified photograph shall be taken prior to construction, and *then* annually thereafter until all impacts are taken, ~~and.~~ All photos shall clearly show the delineated surface waters and authorized impact areas; ~~or.~~

c. In lieu of photographs, and with prior approval from DEQ, the permittee may submit a written narrative that summarizes site construction activities in impact areas. The narrative shall be submitted at the end of the first, second, and third months ~~of~~ *after commencing* construction ~~in impact areas,~~ and then ~~semi-annually every six months thereafter,~~ for the remainder of the construction activities ~~in impact areas,~~ ~~except.~~ *Narratives are not required* during periods of no activity within the impact areas.

2. As part of construction monitoring, photographs taken at the photo stations or the narrative shall document site activities and conditions, which may include installation and maintenance of erosion and sediment controls; *surface water discharges from the site;* condition of adjacent nonimpact surface waters; flagged nonimpact surface waters; construction access and staging areas; filling, excavation, and dredging activities; culvert installation; dredge disposal; and site stabilization, grading, and associated restoration activities. With the exception of the preconstruction photographs, photographs at an individual impact site shall not be required

until construction activities are initiated at that site. With the exception of the post-construction photographs, photographs at an individual impact site shall not be required once the site is stabilized following completion of construction at that site.

3. Each photograph shall be labeled to include the following information: permit number, impact area and photo station number, date and time of the photograph, name of the person taking the photograph, photograph orientation, and photograph subject description.

4. Monitoring of water quality parameters shall be conducted during permanent relocation of perennial streams through new channels in the following manner: *noted below. The permittee shall report violations of water quality standards to DEQ in accordance with the procedures in Part II E. Corrective measures and additional monitoring may be required if water quality standards are not met. Reporting shall not be required if water quality standards are not violated.*

a. A sampling station shall be located upstream and immediately downstream of the relocated channel;

b. Temperature, pH and dissolved oxygen (D.O.) measurements shall be taken every 30 minutes for at least two hours at each station prior to opening the new channels and immediately before opening new channels.

c. Temperature, pH and D.O. readings shall be taken after opening the channels and every 30 minutes for at least three hours at each station.

~~The permittee shall report violations of water quality standards to DEQ in accordance with the procedures in Part II E. Corrective measures and additional monitoring may be required if water quality standards are not met. Reporting shall not be required if water quality standards are not violated.~~

C. Reporting.

1. Written communications required by this VWP general permit shall be submitted to the appropriate Department of Environmental Quality (DEQ) office. The VWP general permit authorization number shall be included on all correspondence.

2. DEQ shall be notified in writing at least 10 days prior to the start of construction activities at the first permitted site authorized by this VWP general permit authorization so that inspections of the project can be planned, if deemed necessary by DEQ. The notification shall include a projected schedule for initiation and completion of work at each permitted impact area.

3. Construction monitoring reports shall be submitted to DEQ no later than the 10th day of the month following the month in which the monitoring event specified in Part II B takes place. The reports shall include the following, as appropriate:

a. For each permitted impact area, a written narrative stating whether work was performed during the monitoring period, and if work was performed, a description of the work performed, when the work was initiated, and expected date of completion.

b. ~~Properly~~ Photographs labeled photographs with the permit number, the photo station number, the photo orientation, (to

~~include the date and time of the photo, the name of the person taking the photograph, and a brief description, and VWP permit number) showing representative of the construction activities (including, but not limited to, flagging nonimpact wetland areas, site grading and excavation, installation and maintenance of erosion and sediment controls, culvert installation, bridge and ramp construction, dredging, dredge disposal, etc.). The post-construction photographs shall be submitted within 30 days of documenting post-construction conditions. The first construction monitoring report shall include the photographs taken at each impact site prior to initiation of construction in any a permitted impact area. Written notification and photographs demonstrating that all temporarily disturbed wetland and stream areas have been restored in compliance with the permit conditions shall be submitted within 30 days of restoration. The post-construction photographs shall be submitted within 30 days of documenting post-construction conditions.~~

c. Summary of activities conducted to comply with the permit conditions.

d. Summary of permit noncompliance events or problems encountered, subsequent notifications, and corrective actions.

e. Summary of anticipated work to be completed during the next monitoring period and an estimated date of construction completion at all impact areas.

f. Labeled site map depicting all impact areas and photo stations.

4. DEQ shall be notified in writing within 30 days following the completion of all activities in all permitted impact areas authorized under this permit.

5. The permittee shall notify DEQ in writing when unusual or potentially complex conditions are encountered that require debris removal or involve a potentially toxic substance. Measures to remove the obstruction, material, or toxic substance or to change the location of any a structure are prohibited until approved by DEQ.

6. The permittee shall report any fish kills or spills of oil or fuel immediately upon discovery. If spills or fish kills occur between the hours of 8:15 a.m. to 5 p.m., Monday through Friday, the appropriate DEQ regional office shall be notified; otherwise, the Department of Emergency Management shall be notified at 1-800-468-8892.

7. Violations of state water quality standards shall be reported within 24 hours to the appropriate DEQ office.

8. All Submittals required by this VWP general permit shall contain the following signed certification statement:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for

Proposed Regulations

submitting false information, including the possibility of fine and imprisonment for knowing violation."

Part III. Conditions Applicable to All VWP General Permits.

A. Duty to comply. The permittee shall comply with all conditions of the VWP general permit. Nothing in this VWP general permit shall be construed to relieve the permittee of the duty to comply with all applicable federal and state statutes, regulations and toxic standards and prohibitions. ~~Any~~ VWP general permit noncompliance is a violation of the Clean Water Act and State Water Control Law, and is grounds for enforcement action, VWP general permit authorization termination for cause, VWP general permit authorization revocation, or denial of a continuation of coverage request.

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

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

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

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

F. Severability. The provisions of this VWP general permit authorization are severable.

G. Right of entry. The permittee shall allow the board or its agents, upon the presentation of credentials, at reasonable times and under reasonable circumstances: ~~1-~~ to enter the permittee's property, public or private, and have access to, inspect and copy ~~any~~ records that must be kept as part of the VWP general permit conditions; ~~2-~~ to inspect ~~any~~ facilities, operations or practices (including monitoring and control equipment) regulated or required under the VWP general permit; ~~3-~~ and to sample or monitor any substance, parameter or activity for the purpose of assuring compliance with the conditions of the VWP general permit or as otherwise authorized by law. For the purpose of this section, the time for inspection shall be deemed reasonable during regular business hours. Nothing contained herein shall make an inspection time unreasonable during an emergency.

H. Transferability of VWP general permit authorization. This VWP general permit authorization may be transferred to another person by a permittee ~~if: when all of the criteria listed below are met. On the date of the VWP general permit authorization transfer, the transferred VWP general permit authorization shall be as fully effective as if it had been issued directly to the new permittee.~~

1. The current permittee notifies the board of the transfer of the title to the facility or property;

2. The notice to the board includes a written agreement between the ~~existing current~~ and new ~~permittee~~ permittees containing a specific date of transfer of VWP general permit authorization responsibility, coverage and liability to the new permittee, or that the ~~existing current~~ permittee will retain such responsibility, coverage, or liability, including liability for compliance with the requirements of ~~any~~ enforcement activities related to the permitted activity; ~~and~~

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

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

I. Notice of planned change. Authorization under this VWP general permit may be modified subsequent to issuance ~~if: (i) the in one or more of the cases listed below. A notice of planned change is not required if the project results in additional temporary impacts to surface waters, provided that DEQ is notified in writing, the additional temporary impacts are restored to preexisting conditions in accordance with Part I C 11 of this general permit, and the additional temporary impacts do not exceed the general permit threshold for use. The permittee shall notify the board in advance of the planned change, and the planned change request will be reviewed according to all provisions of this regulation.~~

1. The permittee determines that additional permanent wetland, open water, or stream impacts are necessary, provided that the additional impacts are associated with the previously authorized activities in authorized locations within the same phase of development, the cumulative increase in acreage of wetland or open water impacts is not greater than 1/4 acre ~~and~~, the cumulative increase in stream bed impacts is not greater than ~~50~~ 100 linear feet, and ~~provided that the all additional impacts are fully compensated; (ii) the~~

2. The project results in less wetland or stream impacts, in which case compensation requirements may be modified in relation to the adjusted impacts at the request of the permittee, provided that the adjusted compensation meets the initial authorization compensation goals; ~~(iii) there~~

3. There is a change in the project plans that does not result in a change in project impacts; ~~(iv) there~~

4. There is a change in the mitigation bank at which credits are purchased or used, provided that the same amount of credits are purchased or used and all criteria for use are met, as detailed in 9 VAC 25-210-115; ~~or (v) topographical F.~~

~~5. *Typographical errors need to be corrected. A notice of planned change is not required if the project results in additional temporary impacts to surface waters, provided that DEQ is notified in writing, the additional temporary impacts are restored to preexisting conditions in accordance with Part I C 11 of this general permit, and the additional temporary impacts do not exceed the general permit threshold for use. The permittee shall notify the board in advance of the planned change, and the planned change request will be reviewed according to all provisions of this regulation.*~~

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

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

K. VWP general permit authorization termination by consent. This VWP general permit authorization may be terminated by consent when all permitted activities requiring notification under ~~9 VAC 25-690-50~~ 9 VAC 25-660-50 A 1 ~~and all compensatory mitigation have been completed, or when the authorized impacts will not occur, or when a planned change occurs that involves substituting a specified, approved mitigation bank or banks with another specified, approved mitigation bank.~~ The permittee shall submit a request for termination by consent within 30 days of project completion or project cancellation. *When submitted for project completion, the termination by consent shall constitute a notice of completion in accordance with 9 VAC 25-210-130.* The director may accept this termination of authorization on behalf of the board. The request for termination by consent shall contain the following information:

1. Name, mailing address and telephone number of the permittee;
2. Name and location of the activity;
3. The VWP permit authorization number; and
4. One of the following certifications:
 - a. For project completion:

"I certify under penalty of law that all activities *and any required compensatory mitigation* authorized by a VWP general permit have been completed. I understand that by submitting this notice of termination I am no longer authorized to perform activities in surface waters in accordance with the VWP general permit, and that performing activities in surface

waters is unlawful where the activity is not authorized by a VWP permit. I also understand that the submittal of this notice does not release me from liability for any violations of this VWP general permit authorization."

b. For project cancellation:

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

c. For events beyond permittee control, the permittee shall provide a detailed explanation of the events, to be approved by DEQ, and the following certification statement:

"I certify under penalty of law that ~~all~~ *the activities or the required compensatory mitigation* authorized by a VWP general permit have changed as the result of events beyond my control (see attached). I understand that by submitting this notice of termination I am no longer authorized to perform activities in surface waters in accordance with the VWP general permit, and that performing activities in surface waters is unlawful where the activity is not authorized by a VWP permit. I also understand that the submittal of this notice does not release me from liability for any violations of this VWP general permit authorization, nor does it allow me to resume the permitted activities without reapplication and reauthorization."

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

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

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

O. Duty to provide information.

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

Proposed Regulations

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

P. Monitoring and records requirements.

1. Monitoring of parameters, other than pollutants, shall be conducted according to approved analytical methods as specified in the VWP permit. Analysis of pollutants will be conducted according to 40 CFR Part 136 (2000), Guidelines Establishing Test Procedures for the Analysis of Pollutants.

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

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

4. Records of monitoring information shall include, as appropriate:

a. The date, exact place and time of sampling or measurements;

b. The name of the individuals who performed the sampling or measurements;

c. The date and time the analyses were performed;

d. The name of the individuals who performed the analyses;

e. The analytical techniques or methods supporting the information such as observations, readings, calculations and bench data used;

f. The results of such analyses; and

g. Chain of custody documentation.

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

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

2. Excavate in a wetland;

3. Otherwise alter the physical, chemical, or biological properties of state waters and make them detrimental to the public health, to animal or aquatic life, to the uses of such waters for domestic or industrial consumption, for recreation, or for other uses; or

4. On and after October 1, 2001, conduct the following activities in a wetland:

a. New activities to cause draining that significantly alter or degrade existing wetland acreage or functions;

b. Filling or dumping;

c. Permanent flooding or impounding; or

d. New activities that cause significant alteration or degradation of existing wetland acreage or functions.

VA.R. Doc. No. R05-286; Filed December 16, 2005, 9:41 a.m.

* * * * *

Title of Regulation: 9 VAC 25-670. Virginia Water Protection General Permit for Facilities and Activities of Utility and Public Service Companies Regulated by the Federal Energy Regulatory Commission or the State Corporation Commission and Other Utility Line Activities (amending 9 VAC 25-670-10 through 9 VAC 25-670-100; adding 9 VAC 25-670-95).

Statutory Authority: §§ 62.1-44.15 and 62.1-44.15:5 of the Code of Virginia; § 401 of the Clean Water Act (33 USC § 1251 et seq.).

Public Hearing Date: February 6, 2006 - 3:30 p.m.

Public comments may be submitted until 5 p.m. on March 10, 2006.

(See Calendar of Events section for additional information)

Agency Contact: Catherine M. Harold, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23229, telephone (804) 698-4047, FAX (804) 698-4347, or e-mail cmharold@deq.virginia.gov.

Summary:

Virginia Water Protection (VWP) General Permit WP2 will expire on October 1, 2006. The proposed revisions include minor changes to improve the processing and coordination of authorizations, both for the public, DEQ, and other agencies. These VWP general permit regulations generally reduce the permitting burden to the public and minimize the amount of agency duplication in processing permit authorizations; it is in the interest of all to continue to provide this level of service through the renewal of this general permit.

The amendments (i) modify definitions; (ii) make minor grammatical changes; (iii) format, reconsolidate and reorder text to improve readability; (iv) clarify existing requirements; (v) prohibit the use of this general permit for wetlands, open waters and streams that are protected by deed restrictions or similar protective covenants imposed by previous state or federal permit actions; (vi) extend the life of the general permit regulations to 10 years instead of the current five years; (vii) extend the permit authorization period to up to seven years; (viii) reiterate provisions in the main VWP regulation for purposes of emphasis; and (ix) amend the thresholds of coverage for wetlands and open waters and stream impacts, which were previously combined together as "surface waters." Due to limited interest expressed in the discussions among the Technical Advisory Committee, consideration for repealing this general permit and incorporating its provisions into WP4 has been dropped.

9 VAC 25-670-10. Definitions.

The words and terms used in this chapter shall have the meanings defined in the State Water Control Law (§ 62.1-44.2

et seq. of the Code of Virginia) and the Virginia Water Protection (VWP) Permit Regulation (9 VAC 25-210) unless the context clearly indicates otherwise or unless otherwise indicated below.

"Bank protection" means measures employed to stabilize channel banks and combat existing erosion problems. Such measures may include the construction of riprap revetments, sills, rock vanes, beach nourishment, breakwaters, bulkheads, groins, spurs, levees, marsh toes stabilization, anti-scouring devices, and submerged sills.

"Channelization" means the alteration of a stream channel by widening, deepening, straightening, cleaning or paving certain areas.

~~"Conversion" means changing one type of surface water to another type of surface water, either permanently or temporarily. The permanent conversion of a forested wetland to an emergent wetland is considered to be a permanent impact for the purposes of this regulation.~~

"Cross-sectional sketch" means a graph or plot of ground elevation across a waterbody or a portion of it, usually along a line perpendicular to the waterbody or direction of flow.

"Emergent wetland" means a class of wetlands characterized by erect, rooted, herbaceous plants growing in water or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content, excluding mosses and lichens. This vegetation is present for most of the growing season in most years and are usually dominated by perennial plants.

"FEMA" means Federal Emergency Management Agency.

"Forebay" means a deeper area at the upstream end of a stormwater management facility that would be maintained through excavation.

"Forested wetland" means a class of wetlands characterized by woody vegetation that is six meters (20 feet) tall or taller. These areas normally possess an overstory of trees, an understory of trees or shrubs, and an herbaceous layer.

"Greater than one acre" means more than 1.00 acre (43,560 square feet).

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

"Independent utility" means a test to determine what constitutes a single and complete project. A project is considered to have independent utility if it would be constructed absent the construction of other projects in the project area. Portions of a ~~multi-phase~~ *phased* project that depend upon other phases of the project do not have independent utility. ~~Phases~~ *Portions of a phased project* that would be constructed even if the other phases are not built can be considered as separate single and complete projects with independent utility.

"Isolated Wetland of Minimal Ecological Value (IWOMEV)" means a wetland that: (i) does not have a surface water connection to other state waters; (ii) is less than one-tenth of

an acre in size; (iii) is not located in a Federal Emergency Management Agency designated 100-year floodplain; (iv) is not identified by the Virginia Natural Heritage Program as a rare or state significant natural community; (v) is not forested; and (vi) does not contain listed federal or state threatened or endangered species.

"Less than one-half of an acre" means ~~0.00 to~~ 0.49 acre (0 ~~to~~ 21,779 square feet) or less.

"Open water" means an area that, during a year with normal patterns of precipitation, has standing water for sufficient duration to establish an ordinary high water mark. The term "open water" includes lakes and ponds but does not include ephemeral waters, stream beds, or wetlands.

"Ordinary high water" or "ordinary high water mark" means the line on the shore established by the fluctuations of water and indicated by physical characteristics such as clear, natural line impressed on the bank; shelving; changes in the character of soil; destruction of terrestrial vegetation; the presence of litter and debris; or other appropriate means that consider the characteristics of the surrounding areas.

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

"Permanent impacts" ~~are~~ means those impacts to surface waters, including wetlands, that cause a permanent alteration of the physical, chemical, or biological properties of the surface waters, or of the functions and values of a wetland.

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

"Riprap" means a layer of nonerodible material such as stone or chunks of concrete.

"Scrub-shrub wetland" means a class of wetlands dominated by woody vegetation less than six meters (20 feet) tall. The species include tree shrubs, young trees, and trees or shrubs that are small or stunted because of environmental conditions.

"Single and complete project" means the total project proposed or accomplished by a person ~~and~~, which *also* has independent utility, *as defined in this section*. For linear projects, the "single and complete project" (~~i.e. e.g., a single and complete crossing~~) ~~may but does not always will~~ apply to each crossing of a separate surface water (~~i.e. e.g., a single waterbody~~) and to multiple crossings of the same waterbody at separate and distinct locations. Phases of a project that have independent public and economic utility may each be considered single and complete.

"State ~~programmatic~~ program general permit (SPGP)" means a general permit issued by the Department of the Army in accordance with 33 USC 1344(e), 33 CFR ~~Part 325~~ 325.2(e)(2), and 33 CFR 325.3(b) that is founded on a state program ~~and~~. The SPGP is designed to avoid duplication between the federal and state programs.

Proposed Regulations

Stream bed means the substrate of a stream, as measured between the ordinary high water marks along a length of stream. The substrate may consist of organic matter, bedrock or inorganic particles that range in size from clay to boulders, or a combination of both. Areas contiguous to the stream bed, but outside of the ordinary high water marks, are not considered part of the stream bed. Ditches, swales, and open water are not considered to be stream bed for the purposes of this regulation.

Surface waters means all state waters that are not ground water as defined in § 62.1-255 of the Code of Virginia.

"Temporary impacts" are those impacts to surface waters, including wetlands, that do not cause a permanent alteration of the physical, chemical, or biological properties of the surface water, or of the functions and values of a wetland. Temporary impacts include activities in which the ground is restored to its preconstruction conditions, contours and elevations, such that previous functions and values are restored.

"Up to 300 linear feet of stream channel" means >0.00 to 300.00 linear feet of any stream, rounded to the second decimal place, as measured along the center of the main channel of the stream segment.

~~"Up to 500 linear feet of perennial stream channel" means 0.00 to 500.00 linear feet of perennial stream, rounded to the second decimal place, as measured along the center of the main channel of the stream segment.~~

~~"Up to 1500 linear feet of nonperennial stream channel" means >0.00 to 1500.00 linear feet of nonperennial stream, rounded to the second decimal place, as measured along the center of the main channel of the stream segment.~~

"Up to one-tenth of an acre" means 0.00 to 0.10 acre (0 to 4,356 square feet) or less.

~~"Up to one acre" means 0.00 to 1.00 acre (0 to 43,560 square feet).~~

"Up to two acres" means 0.00 to 2.00 acres (0 to 87,120 square feet) or less.

"Utility line" means any a pipe or pipeline for the transportation of any a gaseous, liquid, liquefiable or slurry substance, for any purpose, and any a cable, line, or wire for the transmission for any purpose of electrical energy, telephone, and telegraph messages and radio and television communication. The term utility line does not include activities which drain a surface water to convert it to an upland, such as drainage tiles or french drains; however, it does apply to pipes conveying drainage from another area.

9 VAC 25-670-20. Purpose; delegation of authority; effective date of VWP general permit.

A. The purpose of this regulation is to establish VWP General Permit Number WP2 under the VWP permit program regulation to govern permanent and temporary impacts related to the construction and maintenance of utility lines. Applications for coverage under this VWP general permit shall be processed for approval, approval with conditions, or denial by the board. Authorization, authorization with conditions, or

denial by the board shall constitute the VWP general permit action. Each VWP general permit action shall follow all provisions in the State Water Control Law (§ 62.1-44.2 et seq. of the Code of Virginia), except for the public comment and participation provisions, from which each VWP general permit action is exempt.

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

C. This VWP general permit regulation will become effective on ~~October 1, 2004~~ (insert effective date), and will expire on ~~October 1, 2006~~ (insert date that is 10 years after effective date).

D. Authorization to impact surface waters under this VWP general permit is effective upon compliance with all the provisions of 9 VAC 25-670-30. Notwithstanding the expiration date of this general permit regulation, authorization to impact surface waters under this VWP general permit will continue for a maximum of three seven years.

9 VAC 25-670-30. Authorization to impact surface waters.

A. Any person governed by this VWP general permit is authorized to permanently or temporarily impact up to one acre of nontidal surface waters, including wetlands or open water and up to 500 1,500 linear feet of perennial nontidal stream channel and up to 1,500 linear feet of nonperennial stream channel, bed for facilities and activities of utilities and public service companies regulated by the Federal Energy Regulatory Commission or the State Corporation Commission and other utility line activities, provided that the person submits notification as required in 9 VAC 25-670-50 and 9 VAC 25-670-60, remits the required application processing fee (9 VAC 25-20), complies with the limitations and other requirements of 9 VAC 25-670-100, receives approval from the board, and provided that:

1. The applicant submits notification as required in 9 VAC 25-670-50 and 9 VAC 25-670-60.

2. The applicant remits the required application processing fee in accordance with 9 VAC 25-20.

3. The applicant complies with the limitations and other requirements of 9 VAC 25-670-100.

4. The applicant receives approval from the Virginia Department of Environmental Quality.

~~4-~~ 5. The applicant shall not have been required to obtain a VWP individual permit under the VWP permit regulation (9 VAC 25-210) for the proposed project impacts. The applicant, at his discretion, may seek a VWP individual permit or coverage under another applicable VWP general permit in lieu of this VWP general permit.

~~2-~~ 6. Impacts, both temporary and permanent, result from a single and complete project, including all attendant features.

a. Where a utility line has multiple crossings of surface waters (several single and complete projects) with more than minimal impacts, the board may at its discretion require a VWP individual permit for the project.

b. Where an access road segment (i.e., e.g., the shortest segment of a road with independent utility that is part of a larger project) has multiple crossings of surface waters (several single and complete projects), the board may, at its discretion, require a VWP individual permit.

7. The stream impact criterion applies to all components of the project, including any structures and stream channel manipulations.

8. When functions and values of surface waters are permanently adversely affected, such as for conversion of forested to emergent wetlands in a permanently maintained utility right-of-way, compensation shall be required for impacts outside of a 20-foot wide permanently maintained corridor. Compensation shall not be required for impacts within the 20-foot wide portion of permanently maintained corridor. For example, with a 50-foot wide, permanently maintained corridor, compensation on each side of the 20-foot portion would be required for impacts that occur between the 20-foot and the 50-foot marks.

~~3-9. Compensation for unavoidable impacts is provided in the form of any one or combination of the following: creation, restoration, the purchase or use of mitigation bank credits, or a contribution to an approved in-lieu fee fund. For wetlands compensation may incorporate preservation of wetlands, or preservation or restoration of upland buffers adjacent to state waters, when utilized in conjunction with creation, restoration or mitigation bank credits. For other surface waters, compensation may incorporate preservation and enhancement of stream channels, or preservation or restoration and enhancement of adjacent riparian buffers accordance with 9 VAC 25-670-70.~~

~~4. The stream impact criterion applies to all components of the project, including any structures and stream channel manipulations.~~

~~5. When functions and values of surface waters are permanently adversely affected, such as for conversion of forested to emergent wetlands in permanently maintained utility right-of-ways, compensation will be required. Permanently maintained access corridors no wider than 20 feet will be allowed without compensation.~~

B. Activities that may be authorized under this VWP general permit include the following:

1. The construction, maintenance or repair of utility lines, including outfall structures and the excavation, backfill or bedding for utility lines provided there is no change in preconstruction contours;

2. The construction, maintenance or expansion of a substation facility or pumping station associated with a power line or utility line;

3. The construction or maintenance of foundations for overhead utility line towers, poles or anchors, provided the foundations are the minimum size necessary and separate footings for each tower leg (rather than a single pad) are used where feasible; and

4. The construction of access roads for the construction or maintenance of utility lines including overhead power lines

and utility line substations, provided the activity in combination with any substation does not exceed the threshold limit of this VWP general permit.

C. The board waives the requirement for coverage under a VWP general permit for activities that occur in an isolated wetland of minimal ecological value, as defined in ~~9 VAC 25-240-40~~ 9 VAC 25-670-10. Any person claiming this waiver bears the burden to demonstrate that he qualifies for the waiver.

D. Receipt of this VWP general permit does not relieve any the permittee of the responsibility to comply with any other applicable federal, state or local statute, ordinance or regulation.

E. In issuing this VWP general permit, the board has not taken into consideration the structural stability of the proposed structure or structures.

F. Coverage under a nationwide or regional permit promulgated by the U.S. Army Corps of Engineers (USACE), and for which the board has issued § 401 certification existing as of ~~October 1, 2004~~ (insert the effective date of this regulation), shall constitute coverage under this VWP general permit unless a state programmatic general permit is approved for the covered activity or impact. Notwithstanding any other provision, activities authorized under a nationwide or regional permit promulgated by the USACE and certified by the board in accordance with 9 VAC 25-210-130 do not need to obtain coverage under this VWP general permit unless a state programmatic general permit is approved for the covered activity or impact.

G. When the board determines on a case-by-case basis that concerns for water quality and the aquatic environment so indicate, the board may require individual applications and VWP individual permits rather than approving coverage under this VWP general permit.

9 VAC 25-670-40. Exceptions to coverage.

A. Authorization for coverage under this VWP general permit will not apply in the following areas:

1. Wetlands composed of 10% or more of the following species (singly or in combination) in any a vegetative stratum: Atlantic white cedar (*Chamaecyparis thyoides*), bald cypress (*Taxodium distichum*), water tupelo (*Nyssa aquatica*), or overcup oak (*Quercus lyrata*). Percentages shall be based upon either basal area or percent areal cover in the area of impact.

2. Surface waters where the proposed activity will impact federal or state listed or proposed threatened or endangered species or proposed or designated critical habitat.

B. Authorization for coverage under this VWP general permit cannot be used in combination with authorizations for coverage under other VWP general permits in order to impact greater than one acre of nontidal surface waters, or more wetlands or open water or greater than 500 1,500 linear feet of perennial nontidal stream channel or more than 1,500 linear feet of nonperennial stream channel bed. More than one authorization for coverage under this VWP general permit for a single and complete project is prohibited, except when the

Proposed Regulations

cumulative impact to surface waters does not exceed the limits specified here.

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

D. The board shall deny coverage under this VWP general permit to any applicant for activities that cause, may reasonably be expected to cause, or may be contributing to a violation of water quality standards, including discharges or discharge-related activities that are likely to ~~adversely~~ *significantly* affect aquatic life, or for activities that together with other existing or proposed impacts to wetlands will cause or contribute to a significant impairment of state waters or fish and wildlife resources.

E. This VWP general permit does not authorize activities that cause more than minimal changes to the peak hydraulic flow characteristics, that significantly increase flooding, or that cause more than minimal degradation of the water quality of ~~any~~ a stream.

F. This VWP general permit may not be used for:

1. ~~Any~~ Construction of a stormwater management facility;
2. Any water withdrawal ~~activity~~; *activities*.
3. The pouring of wet concrete or the use of tremie concrete or grout bags in state waters, unless the area is contained within a cofferdam or the work is performed in the dry;
4. Dredging or maintenance dredging;
5. The taking of threatened or endangered species in accordance with the following:
 - a. As pursuant to § 29.1-564 of the Code of Virginia—, the taking, transportation, processing, sale or offer for sale within the Commonwealth of any fish or wildlife appearing on any list of threatened or endangered species published by the United States Secretary of the Interior pursuant to the provisions of the federal Endangered Species Act of 1973 (P.L. 93-205), or any modifications or amendments thereto, is prohibited except as provided in § 29.1-568."
 - b. As pursuant to § 29.1-566 of the Code of Virginia and 4 VAC 15-20-130 B and C, the taking, transportation-, processing, sale or offer for sale within the Commonwealth of any state-listed endangered or threatened species is prohibited except as provided in § 29.1-568 of the Code of Virginia.
6. *Proposed activities in wetlands, open water, streams, or compensatory mitigation sites that are under a deed restriction, conservation easement, restrictive covenant, or other land use protective instrument (hereafter protected areas), where such restriction, easement, covenant, or instrument is the result of a federal or state permit action and is specific to activities in wetlands and compensatory mitigation sites, and where the proposed activities incur up to 1/10 acre of wetland or open water impacts or up to 300 linear feet of stream bed impacts. Where the proposed activities in protected areas impact greater than 1/10 acre wetlands or open water, or greater than 300 linear feet of stream bed, the*

applicant may submit a full and complete permit application for further consideration by the board.

9 VAC 25-670-50. Notification.

A. Notification to the board is not required for utility line activities that have only temporary impacts provided ~~they~~ *the impacts* do not involve mechanized land clearing of forested wetlands.

B. Notification to the board will be required prior to *commencing* construction, as follows:

1. An application for *authorization of* proposed, permanent *nontidal wetland or open water* impacts greater than one-tenth of an acre ~~of surface waters~~, or for *proposed permanent nontidal stream bed* impacts greater than 300 linear feet of stream channel, shall be submitted via an application that includes all information pursuant to 9 VAC 25-670-60 B. *Once permanent impacts exceed these limits, compensatory mitigation may be required for all permanent impacts in accordance with Parts I, II, and III of this VWP general permit regulation. All temporary impacts shall be restored to preexisting conditions, as per Parts I, II, and III of this VWP general permit regulation.*

2. *An application for the authorization of* proposed, permanent ~~surface~~ *nontidal wetland or open water* impacts up to one-tenth of an acre, ~~which may include~~ or or *proposed, permanent nontidal stream bed* impacts up to 300 linear feet ~~of stream channel~~, shall be ~~reported~~ *submitted* via an application that includes only the following information: subdivisions 1 through 8, 9, 13, 15, 20, and ~~20~~ 21 of 9 VAC 25-670-60 B, *and documentation that verifies the quantity and type of impacts. If permanent impacts remain below these limits, compensatory mitigation is not required for permanent impacts. All temporary impacts shall be restored to preexisting conditions, as per Parts I and III of this VWP general permit regulation.*

C. A Joint Permit Application (JPA) or Virginia Department of Transportation Interagency Coordination Meeting Joint Permit Application (VDOT IACM JPA) shall serve as an application under this regulation.

D. The board will determine whether the proposed activity requires coordination with the United States Fish and Wildlife Service, the Virginia Department of Conservation and Recreation, the Virginia Department of Agriculture and Consumer Services and the Virginia Department of Game and Inland Fisheries regarding the presence of ~~any~~ federal or state proposed or listed threatened and endangered species or proposed or designated critical habitat. Based upon consultation with these agencies, the board may deny coverage under this general permit. *The applicant may also consult with these agencies prior to submitting an application. Species or habitat information that the applicant provides will assist DEQ in reviewing and processing the application.*

9 VAC 25-670-60. Application.

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

1. The applicant shall file a complete application ~~as described~~ *in accordance with* 9 VAC 25-670-50 for a VWP General Permit WP2 for impacts to surface waters resulting from

activities of utilities, which will serve as a notice of intent for coverage under this VWP general permit.

2. The VDOT may use its monthly IACM process for submitting applications.

B. The required application shall contain the following information, if applicable to the project:

1. The applicant's name, mailing address, and telephone number; *and, if applicable, fax number.*

2. The authorized agent's (if applicable) name, mailing address, telephone number and, if applicable, fax number and electronic mail address.

3. The existing VWP permit number (if applicable).

4. The name of the project, narrative description of project purpose, and a description of the proposed activity in surface waters.

5. The name of the water body or water bodies or receiving stream, as applicable.

6. The hydrologic unit code (HUC) for the project area.

7. The name of the city or county where the project is located.

8. Latitude and longitude, to the nearest second, from a central location within the project limits.

9. A detailed location map (e.g., a United States Geologic Survey topographic quadrangle map) of the project area, including the project boundary. The map shall be of sufficient detail such that the site may be easily located for site inspection.

10. (Reserved.)

11. Project plan view. ~~All~~ Plan view sketches shall include, at a minimum, north arrow, scale, existing structures, existing and proposed contours (if available), limit of surface water areas, direction of flow, ordinary high water, impact limits, and location and dimension of all proposed structures in impact areas. *In addition, cross-sectional or profile sketches, as appropriate, with the above information, shall may be required as appropriate to demonstrate minimization of impacts; detail impact areas.*

12. (Reserved.)

13. Surface water impact information (wetlands, streams, or open water) for both permanent and temporary impacts, including a description of the impact, the areal extent of the impact (area of wetland in square feet and acres; area of stream, length of stream, and average width), the location (latitude and longitude at the center of the impact, or at the center of each impact for linear projects) and the type of *surface water* impact (*open water; wetlands* according to the Cowardin classification or similar terminology); *or perennial and nonperennial for streams*). *The board encourages applicants to coordinate the determination of perennial or nonperennial streams with the appropriate local government agency in Tidewater Virginia.*

14. Functional values assessment for impacts to wetlands greater than one acre, which shall consist of a summary of

field observations of the existing wetland functions and values and an assessment of the impact that the project will have on these functions and values. The following parameters/ *and* functions shall be directly addressed: surrounding land uses and cover types; nutrient, sediment, and pollutant trapping; flood control and flood storage capacity; erosion control and shoreline stabilization; groundwater recharge and discharge; aquatic and wildlife habitat; and unique or critical habitats.

15. A description of the specific on-site measures considered ~~or~~ *and* taken during project design and development both to avoid and minimize impacts to surface waters to the maximum extent practicable.

16. A conceptual plan for the intended compensation for unavoidable impacts, including:

a. For wetlands, the conceptual compensation plan shall include: the goals and objectives in terms of replacement of wetland acreage and function; a detailed location map (e.g., a United States Geologic Survey topographic quadrangle map), including latitude and longitude (to the nearest second) at the center of the site; a description of the surrounding land use; a hydrologic analysis, including a draft water budget based on expected monthly inputs and outputs which will project water level elevations for a typical year, a dry year, and a wet year; groundwater elevation data, if available, or the proposed location of groundwater monitoring wells to collect these data; a map for existing surface water areas on the proposed site or sites, including a wetland delineation confirmation for any existing wetlands; a conceptual grading plan; a conceptual planting scheme, including suggested plant species and zonation of each vegetation type proposed; and a description of existing soils, including general information on topsoil and subsoil conditions, permeability, and the need for soil amendments.

b. For streams, the conceptual compensation plan shall include: the goals and objectives in terms of water quality benefits and replacement of stream functions; a detailed location map (e.g., a United States Geologic Survey topographic quadrangle map), including the latitude and longitude ~~and the hydrologic unit code (HUC) at the center of the site to the nearest second;~~ the proposed stream segment restoration locations, including plan view and cross-section sketches; the stream deficiencies that need to be addressed; the proposed restoration measures to be employed, including channel measurements, proposed design flows and types of instream structures; and reference stream data, if available.

c. Applicants proposing to compensate off-site, including purchase or use of mitigation bank credits, or contribution to an in-lieu fee fund shall submit an evaluation of the feasibility of on-site compensation. If on-site compensation is practicable, applicants shall provide documentation as to why the proposed off-site compensation is ecologically preferable. The evaluation shall include, but not be limited to, the following assessment criteria: water quality benefits, hydrologic source, hydrologic regime, watershed, surface water functions and values, vegetation type, soils, impact acreage, distance from impacts, timing of compensation versus impacts, acquisition, constructability, and cost.

Proposed Regulations

d. ~~Any applicant~~ *Applicants* proposing compensation involving contributions to an in-lieu fee fund shall state such as the conceptual compensation plan. Written documentation of the willingness of the entity to accept the donation and documentation of how the amount of the contribution was calculated shall be submitted prior to issuance of this general permit authorization.

e. ~~Any applicant~~ *Applicants* proposing compensation involving the purchase or use of mitigation banking credits shall include as their conceptual compensation plan:

(1) The name of the proposed mitigation bank and the HUC in which it is located;

(2) The number of credits proposed to be purchased or used; and

(3) Certification from the bank owner of the availability of credits;

17. A delineation map must be provided of the geographic area of a delineated wetland for all wetlands on the site, in accordance with 9 VAC 25-210-45, including the wetlands data sheets. *The delineation map shall also include the location of streams, open water, and the approximate limits of Chesapeake Bay Resource Protection Areas (RPAs), as other state or local requirements may apply if the project is located within an RPA.* Wetland types shall be noted according to their Cowardin classification or similar terminology. A copy of the USACE delineation confirmation, or other correspondence from the USACE indicating their approval of the wetland boundary, shall also be provided at the time of application, or if not available at that time, as soon as it becomes available during the VWP permit review. ~~The delineation map shall also include the location of streams, open water and other surface waters on the site. The approximate limits of any Chesapeake Bay Resource Protection Areas (RPAs) shall be shown on the map, as other state or local requirements may apply if the project is located within an RPA;~~

18. A copy of the FEMA flood insurance rate map or FEMA-approved local floodplain map for the project site;

19. The appropriate application processing fee for a VWP general permit ~~(in accordance with 9 VAC 25-20); and. The permit application fee for VWP permit authorizations is based on acres only. Therefore, impacts that include linear feet of stream bed must be converted to an acreage in order to calculate the permit application fee.~~

20. A written disclosure identifying all wetlands, open water, streams, and associated upland buffers within the proposed project or compensation areas that are under a deed restriction, conservation easement, restrictive covenant, or other land use protective instrument (protected areas). Such disclosure shall include the nature of the prohibited activities within the protected areas.

~~20-21.~~ The following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who

manage the system or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment for knowing violations."

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

D. Upon receipt of an application by the appropriate DEQ office, the board has 15 days to review the application and either determine the information requested in subsection B of this section is complete or inform the applicant that additional information is required to make the application complete. Coverage under the VWP general permit shall be approved, approved with conditions, or denied within 45 days of receipt of a complete application. If the board fails to act within 45 days on a complete application, coverage under the VWP general permit shall be deemed approved.

1. In evaluating the application, the board shall make an assessment of the impacts associated with the project in combination with other existing or proposed impacts. Coverage under the VWP general permit shall be denied if the cumulative impacts will cause or contribute to a significant impairment of surface waters or fish and wildlife resources.

2. The board may place additional conditions on a project in order to approve authorization under this VWP general permit. However, these conditions must be consistent with the VWP permit regulation.

E. Incomplete application. Where an application is incomplete, the board shall require the submission of additional information and ~~shall may~~ suspend processing the application until such time as the applicant has supplied the ~~missing or deficient requested~~ information and the application is complete. ~~Further,~~ Where the applicant becomes aware that he omitted one or more relevant facts from an application, or submitted incorrect information in an application or in ~~any report~~ reports to the board, he shall immediately submit such facts or the correct information. ~~Such~~ A revised application with new information shall be deemed a new application, but shall not require an additional permit application fee. *An incomplete permit application may be administratively withdrawn from processing by the board after 180 days from the date that the original permit application was received by the board. Resubmittal of a permit application for the same or similar project, after such time that the original permit application was administratively withdrawn, shall require submittal of an additional permit application fee.*

9 VAC 25-670-70. Compensation.

A. *In accordance with 9 VAC 25-670-50 B 1, compensatory mitigation may be required for all permanent, nontidal surface water impacts once the notification limits are exceeded. All temporary, nontidal surface water impacts shall be restored to preexisting conditions.*

B. *Generally, the sequence of preferred compensation options shall be restoration, then creation, then mitigation banking,*

and then in-lieu fee fund. Also, on-site, in-kind compensatory mitigation, when available, shall be deemed the most ecologically preferable form of compensation for project impacts, in most cases. However, off-site or out-of-kind compensation opportunities that prove to be more ecologically preferable or practicable may be considered. When the applicant can demonstrate satisfactorily that an off-site or out-of-kind compensatory mitigation proposal is practicable and ecologically preferable, then such proposal may be deemed appropriate for compensation of project impacts.

~~A.-C. For the purposes of this VWP general permit, the board may accept any one or combination of the following as compensation compensatory mitigation for unavoidable wetland impacts may be met through the following: wetland creation, wetland or stream restoration, the purchase or use of mitigation bank credits, or a contribution to an in-lieu fee fund. Preservation of wetlands, or preservation or restoration of upland buffers adjacent to state waters, may only be applied toward wetland compensation when utilized in conjunction with one or more of the above-mentioned compensation options. Preservation or enhancement of stream channels, or preservation, restoration, or enhancement of adjacent riparian buffers, may be applied toward stream compensation as appropriate.~~

- ~~1. Wetland creation.~~
- ~~2. Wetland restoration.~~
- ~~3. The purchase or use of credits from a mitigation bank, pursuant to § 62.1-44.15:5 E of the Code of Virginia.~~
- ~~4. A contribution to an approved in-lieu fee fund.~~
- ~~5. Preservation of upland buffers adjacent to state waters, when utilized in conjunction with subdivision 1, 2, or 3 of this subsection and when consistent with 9 VAC 25-210-115 C.~~
- ~~6. Restoration of upland buffers adjacent to state waters, when utilized in conjunction with subdivision 1, 2, or 3 of this subsection and when consistent with 9 VAC 25-210-115 C.~~
- ~~7. Preservation of wetlands, when utilized in conjunction with subdivision 1, 2, or 3 of this subsection.~~

~~D. For the purposes of this VWP general permit, compensatory mitigation for unavoidable stream impacts may be met through the following:~~

- ~~1. Stream channel restoration or enhancement.~~
- ~~2. Riparian buffer restoration or enhancement.~~
- ~~3. Riparian buffer preservation, when consistent with 9 VAC 25-210-115 C.~~
- ~~4. A contribution to an approved in-lieu fee fund.~~
- ~~5. The purchase or use of credits from a mitigation bank, pursuant to § 62.1-44.15:5 E of the Code of Virginia.~~

~~E. In order for contribution to an in-lieu fee fund to be an acceptable form of compensation, the fund must be approved for use by the board according to the provisions of 9 VAC 25-210-115 E. The applicant shall provide proof of contribution to DEQ prior to commencing activities in impact areas.~~

~~F. In order for purchase or use of bank credits to be an acceptable form of compensation, the bank shall be operating in accordance with the provisions of § 62.1-44.15:5 E of the Code of Virginia and 9 VAC 25-210-115 F. The applicant shall provide proof of purchase, use, or debit to DEQ prior to commencing activities in impact areas.~~

~~B. G. Compensation for unavoidable permanent wetland impacts shall be provided at the following minimum compensation to impact ratios:~~

- ~~1. Impacts to forested wetlands shall be mitigated at 2:1, as calculated on an area basis.~~
- ~~2. Impacts to scrub-shrub wetlands shall be mitigated at 1.5:1, as calculated on an area basis.~~
- ~~3. Impacts to emergent wetlands shall be mitigated at 1:1, as calculated on an area basis.~~

~~C. Compensation for unavoidable impacts to streams shall be provided and shall include, as practicable and appropriate, stream restoration, riparian buffer restoration or enhancement, or preservation or enhancement of stream corridors. The purchase or use of stream mitigation bank credits or contribution to an in-lieu fee fund that includes watershed enhancements is also acceptable. H. Compensation for stream bed impacts shall be appropriate to replace lost functions and water quality benefits. One factor in determining the required compensation shall be an analysis of stream impacts utilizing a stream impact assessment methodology approved by the board acceptable to DEQ.~~

~~D. I. Compensation for permanent open water impacts other than to streams may be required at a 1:1 replacement to impact ratio, as appropriate calculated on an area basis, to protect offset impacts to state waters and fish and wildlife resources from significant impairment.~~

~~E. J. Compensation for conversion impacts to wetlands shall be required at a 1:1 replacement to impact ratio, as calculated on an area basis, when such conversion results in a permanent alteration of the functions and values of the wetland. For example, the permanent conversion of a forested wetland to an emergent wetland is considered to be a permanent impact for the purposes of this regulation. Compensation for conversion of other types of surface waters may be required, as appropriate, to offset impacts to state waters and fish and wildlife resources from significant impairment.~~

~~F. In order for contribution to an in-lieu fee fund to be an acceptable form of compensation, the fund must be approved for use by the board according to the provisions of 9 VAC 25-210-115 E.~~

~~G. In order for purchase or use of bank credits to be an acceptable form of compensation, the bank shall be operating in accordance with the provisions of § 62.1-44.15:5 E of the Code of Virginia and 9 VAC 25-210-115 F. The applicant shall provide proof of purchase, use, or debit to DEQ prior to commencing activities in impact areas.~~

Proposed Regulations

9 VAC 25-670-80. Notice of planned changes.

~~A. The permittee shall notify the board in advance of the planned change, and the planned change request will be reviewed according to all provisions of this regulation.~~

B. Authorization under this VWP general permit may be modified subsequent to issuance if the permittee determines that additional permanent wetland, open water, or stream impacts are necessary, provided that *the additional impacts are associated with the previously authorized activities in authorized locations within the same phase of development, the cumulative increase in acreage of wetland or open water impacts is not greater than 1/4 acre—and, the cumulative increase in stream bed impacts is not great greater than 50 100 linear feet, and provided that the additional impacts are fully mitigated. In no case can this authorization be modified to exceed the general permit threshold for use. Prior to a planned change approval, DEQ may require submission of a compensatory mitigation plan for the additional impacts. In cases where the original impacts totaled less than 1/10 acre of wetlands or open water, or less than 300 linear feet of stream bed, and the additional impacts result in these limits being exceeded, the notice of planned change will not be approved. However, the applicant may submit a new permit application and permit application fee for the total impacts to be considered under this VWP general permit, another VWP general permit, or a VWP individual permit.*

~~B. C. Authorization under this VWP general permit may be modified after issuance if the project results in less wetland or stream impacts. Compensation requirements may be modified in relation to the adjusted impacts at the request of the permittee, provided that the adjusted compensation meets the initial authorization compensation goals. DEQ shall not be responsible for ensuring refunds for mitigation bank credit purchases, mitigation bank usage, or in-lieu fee fund contributions.~~

~~C. D. Authorization under this VWP general permit may be modified after issuance for a change in project plans that does not result in a change in project impacts.~~

~~D. E. Authorization under the VWP general permit may be modified for a change to the mitigation bank at which credits are purchased or used, provided that the same amount of credits are purchased or used and all criteria for use in 9 VAC 25-210-115 F are met.~~

~~E. F. Authorization under the VWP general permit may be modified after issuance for typographical errors.~~

F. G. A Notice of Planned Change is not required after authorization issuance for additional temporary impacts to surface waters, provided that DEQ is notified in writing regarding additional temporary impacts, and the area is restored to preexisting conditions in accordance with Part I C 11 of this general permit. In no case can the additional temporary impacts exceed the general permit threshold for use.

~~G. The permittee shall notify the board in advance of the planned change, and the planned change request will be reviewed according to all provisions of this regulation.~~
~~H. In no~~

case can this authorization be modified to exceed the general permit threshold for use.

1. A notice of planned change shall be denied if fish and wildlife resources are significantly impacted or if the criteria in subsection B of this section are not met. However, the original VWP general permit authorization shall remain in effect. The applicant may submit a new permit application and permit application fee for consideration under a VWP individual permit..

9 VAC 25-670-90. Termination of authorization by consent.

When all permitted activities requiring notification under 9 VAC 25-670-50 B 1 and all compensatory mitigation requirements have been completed, or if the authorized impacts will not occur, the applicant permittee shall submit a request for termination by consent within 30 days of project completion or project cancellation. When submitted for project completion, the termination by consent shall constitute a notice of completion in accordance with 9 VAC 25-210-130. The director may accept this termination of authorization on behalf of the board. The permittee shall submit the following information:

1. Name, mailing address and telephone number of the permittee;

2. Name and location of the activity;

3. The VWP permit authorization number; and

4. One of the following certifications:

a. For project completion:

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

b. For project cancellation:

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

c. For events beyond permittee control, the permittee shall provide a detailed explanation of the events, to be approved by DEQ, and the following certification statement:

"I certify under penalty of law that ~~all~~ the activities or the required compensatory mitigation authorized by a VWP general permit have changed as the result of events beyond my control (see attached). I understand that by submitting this notice of termination I am no longer authorized to perform activities in surface waters in accordance with the VWP general permit, and that performing activities in surface waters is unlawful where the activity is not authorized by a VWP permit. I also understand that the submittal of this notice does not release me from liability for any violations of this VWP general permit authorization, nor does it allow me to resume the permitted activities without reapplication and reauthorization."

9 VAC 25-690-95. Transition.

A. All applications received on or after (insert effective date) will be processed in accordance with these new procedures.

B. VWP general permit authorizations issued prior to (insert effective date) will remain in full force and effect until such authorizations expire, are revoked, or are terminated.

C. Notices of Planned Change and all other types of notification that are received by the board prior to (insert effective date) will be processed in accordance with the VWP general permit regulation in effect at that time. Notices of Planned Change and all other types of notification to the board that are received on or after (insert effective date) will be processed in accordance with these new procedures.

9 VAC 25-670-100. VWP general permit.

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

VWP General Permit No. WP2

Authorization effective date:

Authorization expiration date:

Authorization Note(s):

VWP GENERAL PERMIT FOR FACILITIES AND ACTIVITIES OF UTILITIES AND PUBLIC SERVICE COMPANIES REGULATED BY THE FEDERAL ENERGY REGULATORY COMMISSION OR THE STATE CORPORATION COMMISSION AND OTHER UTILITY LINE ACTIVITIES UNDER THE VIRGINIA WATER PROTECTION PERMIT AND THE VIRGINIA STATE WATER CONTROL LAW

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

Subject to the provisions of the Clean Water Act, as amended, and pursuant to the State Water Control Law and regulations adopted pursuant to it, the permittee is authorized to ~~permanently or temporarily~~ impact up to one acre of nontidal ~~surface waters, including wetlands or open water and~~ up to 500 ~~1,500~~ linear feet of ~~perennial nontidal stream channel and~~ up to 1,500 linear feet of nonperennial stream channel bed.

Permittee:

Address:

Activity Location:

Activity Description:

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

Director, Department of Environmental Quality

Date

Part I. Special Conditions.

A. Authorized activities.

1. This permit authorizes ~~permanent or temporary~~ impacts of up to one acre of nontidal ~~surface waters, including wetlands or open water and~~ up to 500 ~~1,500~~ linear feet of ~~perennial nontidal stream channel and up to 1,500 linear feet of nonperennial stream channel bed~~ according to the information provided in the approved application.

2. Any changes to the authorized permanent impacts to surface waters associated with this project shall require either a notice of planned change in accordance with 9 VAC 25-670-80 or another VWP permit application.

3. Any changes to the authorized temporary impacts to surface waters associated with this project shall require written notification to DEQ and restoration to preexisting conditions in accordance with the conditions of this permit authorization.

4. Modification to compensation requirements may be approved at the request of the permittee when a decrease in the amount of authorized surface waters impacts occurs, provided that the adjusted compensation meets the initial authorization compensation goals.

5. The activities authorized for coverage under this VWP general permit must commence and be completed within ~~three~~ seven years of the date of this authorization.

B. Continuation of coverage. Reapplication for continuation of coverage under this VWP general permit or a new VWP permit may be necessary if any portion of the authorized activities or any VWP permit requirement (including compensation) has not been completed within ~~three~~ seven years of the date of authorization. Notwithstanding any other provision, a request for continuation of coverage under a VWP general permit in order to complete monitoring requirements shall not be considered a new application, and no application fee will be charged. The request for continuation of coverage must be made no less than 60 days prior to the expiration

Proposed Regulations

date of this VWP general permit authorization, at which time the board will determine if continuation of the VWP general permit authorization is necessary.

C. Overall project conditions.

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

2. No activity may substantially disrupt the movement of aquatic life indigenous to the water body, including those species which normally migrate through the area, unless the primary purpose of the activity is to impound water. Culverts placed in streams must be installed to maintain low flow conditions. The requirement to countersink does not apply to extensions or maintenance of existing culverts that are not countersunk, floodplain culverts being placed above ordinary high water, culverts being placed on bedrock, or culverts required to be placed on slopes 5.0% or greater. No activity may cause more than minimal adverse effect on navigation. Furthermore the activity must not impede the passage of normal or expected high flows and the structure or discharge must withstand expected high flows.

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

4. All fill material shall be clean and free of contaminants in toxic concentrations or amounts in accordance with all applicable laws and regulations.

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

6. ~~Any~~ Exposed slopes and streambanks shall be stabilized immediately upon completion of work in each permitted area. All denuded areas shall be properly stabilized in accordance with the Virginia Erosion and Sediment Control Handbook, Third Edition, 1992.

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

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

9. Heavy equipment in temporarily impacted wetland areas shall be placed on mats, geotextile fabric, or other suitable material, to minimize soil disturbance to the maximum extent practicable. Equipment and materials shall be removed immediately upon completion of work.

10. All nonimpacted surface waters *and compensatory mitigation areas* within 50 feet of ~~any~~ permitted activities and within the project or right-of-way limits shall be clearly flagged or marked for the life of the construction activity at that location to preclude any unauthorized disturbances to these surface waters *and compensatory mitigation areas* during construction. The permittee shall notify ~~all~~ contractors that *no activities are to occur in these marked areas* ~~are~~ surface waters ~~where no activities are to occur~~.

11. Temporary disturbances to surface waters during construction shall be avoided and minimized to the maximum extent practicable. All temporarily disturbed wetland areas shall be restored to ~~preconstruction~~ *preexisting* conditions within 30 days of completing work *at each respective temporary impact area*, which shall include reestablishing preconstruction contours, and planting or seeding with appropriate wetland vegetation according to cover type (emergent, scrub-shrub or forested). The permittee shall take all appropriate measures to promote and maintain revegetation of temporarily disturbed wetland areas with wetland vegetation through the second year post-disturbance. All temporarily impacted streams and streambanks shall be restored to their original contours within 30 days following the construction at that stream segment, and the banks seeded or planted with the same vegetation cover type originally present along the streambanks, including supplemental erosion control grasses if necessary, except for invasive species identified on DCR's Invasive Alien Plant Species of Virginia list.

12. ~~All~~ Materials (including fill, construction debris, and excavated and woody materials) temporarily stockpiled in wetlands shall be placed on mats or geotextile fabric, immediately stabilized to prevent entry into state waters, managed such that leachate does not enter state waters, and completely removed within 30 days following completion of that construction activity. Disturbed areas shall be returned to original contours, restored within 30 days following removal of the stockpile, and restored with the same vegetation cover type originally present, including supplemental erosion control grasses if necessary, except for invasive species identified on DCR's Invasive Alien Plant Species of Virginia list.

13. Continuous flow of perennial springs shall be maintained by the installation of spring boxes, french drains, or other similar structures.

14. The permittee shall employ measures to prevent spills of fuels or lubricants into state waters.

15. The permittee shall conduct his activities in accordance with ~~any~~ *the* time-of-year restrictions recommended by the Virginia Department of Game and Inland Fisheries~~or~~, the Virginia Marine Resources Commission, *or other interested and affected agencies* and shall ensure that all contractors are aware of ~~any~~ *the* time-of-year restrictions imposed.

16. Water quality standards shall not be violated as a result of the construction activities unless allowed by this permit authorization.

17. Untreated stormwater runoff shall be prohibited from directly discharging into any surface waters unless allowed by

this permit authorization. Appropriate best management practices shall be deemed suitable treatment prior to discharge into state waters.

18. If stream channelization or relocation is required, all work in surface waters shall be done in the dry, unless authorized by this VWP general permit, and all flows shall be diverted around the channelization or relocation area until the new channel is stabilized. This work shall be accomplished by leaving a plug at the inlet and outlet ends of the new channel during excavation. Once the new channel has been stabilized, flow shall be routed into the new channel by first removing the downstream plug and then the upstream plug. The rerouted stream flow must be fully established before construction activities in the old stream channel can begin.

D. Road crossings.

1. Access roads and associated bridges or culverts shall be constructed to minimize the adverse effects on surface waters to the maximum extent practicable. Access roads constructed above preconstruction contours and elevations in surface waters must be bridged or culverted to maintain surface flows.

2. Installation of road crossings shall occur in the dry via the implementation of cofferdams, sheetpiling, stream diversions, or similar structures.

E. Utility lines.

1. All utility line work in surface waters shall be performed in a manner that minimizes disturbance, and the area must be returned to its original contours and restored within 30 days of completing work in the area, unless otherwise authorized by this VWP general permit. Restoration shall be the seeding or planting of the same vegetation cover type originally present, including supplemental erosion control grasses if necessary, except for invasive species identified on DCR's Invasive Alien Plant Species of Virginia list.

2. Material resulting from trench excavation may be temporarily sidecast into wetlands, not to exceed 90 days, provided the material is not placed in a manner such that it is dispersed by currents or other forces.

3. The trench for a utility line cannot be constructed in a manner that drains wetlands (e.g., backfilling with extensive gravel layers creating a trench drain effect.). For example, utility lines may be backfilled with clay blocks to ensure that the trench does not drain surface waters through which the utility line is installed.

F. Stream modification and stream bank protection.

1. Riprap bank stabilization shall be of an appropriate size and design in accordance with the Virginia Erosion and Sediment Control Handbook, Third Edition, 1992.

2. Riprap apron for all outfalls shall be designed in accordance with the Virginia Erosion and Sediment Control Handbook, Third Edition, 1992.

3. For stream bank protection activities, the structure and backfill shall be placed as close to the stream bank as practicable. No material shall be placed in excess of the minimum necessary for erosion protection.

4. All stream bank protection structures shall be located to eliminate or minimize impacts to vegetated wetlands to the maximum extent practicable.

5. Asphalt and materials containing asphalt or other toxic substances shall not be used in the construction of submerged sills or breakwaters.

6. Redistribution of existing stream substrate for the purpose of erosion control is prohibited.

7. No material removed from the stream bottom shall be disposed of in surface waters, unless authorized by this permit.

Part II. Construction and Compensation Requirements, Monitoring, and Reporting.

A. Minimum compensation requirements.

1. The permittee shall provide appropriate and practicable compensation for all impacts meeting the conditions outlined in this VWP general permit.

2. ~~The types of Compensation options that may be considered under this VWP general permit include wetland or stream creation or restoration, the purchase or use of mitigation bank credits, or a contribution to an approved in-lieu fee fund shall meet the criteria in 9 VAC 25-670-70.~~

3. ~~For wetlands, compensation may incorporate preservation of wetlands or preservation or restoration of upland buffers adjacent to state waters when utilized in conjunction with creation, restoration or mitigation bank credits. For other surface waters, compensation may incorporate preservation, restoration, or enhancement of stream channels, or preservation, restoration, or enhancement of adjacent riparian buffers.~~

4. 3. The site or sites depicted in the conceptual compensation plan submitted with the application shall constitute the compensation site for the approved project. A site change will require a modification to the authorization.

5. 4. For compensation involving the purchase or use of mitigation bank credits or a contribution to an in-lieu fee fund, the permittee shall not initiate work in permitted impact areas until documentation of the mitigation bank credit purchase or usage or of the fund contribution has been submitted to and received by DEQ.

6. ~~For projects proposing a contribution to an in-lieu fee fund, the permittee shall not initiate work in permitted impact areas until documentation of the in-lieu fee fund contribution has been submitted to and received by DEQ.~~

7. 5. All aspects of the compensation plan shall be finalized, submitted and approved by the board prior to any construction activity in permitted impact areas. The board shall review and provide written comments on the plan within 30 days of receipt or it shall be deemed approved. The final compensation plan as approved by the board shall be an enforceable requirement of this VWP general permit authorization. Any Deviations from the approved plan must be submitted and approved in advance by the board.

8. 6. The final wetlands compensation plan shall include:

Proposed Regulations

- a. The goals and objectives of the plan in terms of replacement of wetland acreage and functions, by wetland type;
 - b. Location map, including latitude and longitude (to the nearest second) at the center of the site;
 - c. Summary of the type and acreage of the existing wetland impacts anticipated during the construction of the compensation site and proposed compensation for these impacts;
 - d. Grading plan with existing and proposed elevations at one-foot or less contours;
 - e. Schedule for compensation site construction, including sequence of events with estimated dates;
 - f. Hydrologic analysis, including a water budget based on expected monthly inputs and outputs that will project water level elevations for a typical year, a dry year, and a wet year;
 - g. Groundwater elevation data for the site, or the ~~proposed~~ location of groundwater monitoring wells to collect these data, and groundwater data for reference wetlands, if applicable;
 - h. Design of water control structures;
 - i. Planting scheme and schedule, indicating plant species, zonation, and acreage of each vegetation type proposed;
 - j. An abatement and control plan covering all undesirable plant species, as listed on DCR's Invasive Alien Plant Species of Virginia list, that includes the proposed procedures for notifying DEQ of their presence, methods of removal, and the control of ~~any~~ such species;
 - k. Erosion and sedimentation control plan;
 - l. A soil preparation and amendment plan addressing both topsoil and subsoil conditions;
 - m. A discussion of ~~any~~ structures and features considered necessary for the success of the site;
 - n. A monitoring plan, including success criteria, monitoring goals and methodologies, monitoring and reporting schedule, and the locations of photographic stations and monitoring wells, ~~any~~ sampling points, and, if applicable, reference wetlands;
 - o. Site access plan;
 - p. The location and composition of any buffers; and
 - q. The mechanism for protection of the compensation areas.
- ~~9.~~ 7. The final stream compensation plan shall include:
- a. The goals and objectives of the compensation plan in terms of replacement of stream functions and ~~values~~ *water quality benefits*;
 - b. A location map, including latitude and longitude (to the nearest second) at the center of the site;
 - c. An evaluation, discussion, and plan sketches of existing conditions on the proposed compensation stream, including the identification of functional and physical deficiencies for which the measures are proposed, and summary of geomorphologic measurements (e.g., stream width, entrenchment ratio, width-depth ratio, sinuosity, slope, substrate, etc.);
 - d. The identification of existing geomorphological stream type being impacted and proposed geomorphological stream type for compensation purposes;
 - e. Detailed design information for the proposed restorative measures, including geomorphological measurements and reference reach information as appropriate;
 - f. Riparian buffer plantings, including planting scheme, species, buffer width;
 - g. Livestock access limiting measures, to the greatest extent possible;
 - h. A site access plan;
 - i. An erosion and sedimentation control plan, if appropriate;
 - j. An abatement and control plan covering all undesirable plant species, as listed on DCR's Invasive Alien Plant Species of Virginia list, that includes the proposed procedures for notifying DEQ of a their presence, methods for removal, and the control of any such species;
 - k. A schedule for compensation site construction including projected start date, sequence of events with projected dates, and projected completion date;
 - l. A monitoring plan, including a monitoring and reporting schedule; monitoring design and methodologies to evaluate the success of the proposed compensation measures, allowing comparison from year to year; proposed success criteria for appropriate compensation measures; location of all monitoring stations including photo stations, vegetation sampling points, survey points, bank pins, scour chains, and reference streams;
 - m. The mechanism for protection of the compensation area; and
 - n. Plan view sketch depicting the pattern and all compensation measures being employed, a profile sketch, and cross-section sketches of the proposed compensation stream.
- ~~40.~~ 8. For final wetland or stream compensation plans, ~~any~~ *the* vegetation used shall be native species common to the area, shall be suitable for growth in local wetland *or stream* conditions, and shall be from areas within the same or adjacent USDA Plant Hardiness Zone or NRCS Land Resource Region as that of the project site.
- ~~44.~~ 9. The final wetland or stream compensation plan(s) shall include a mechanism for protection in perpetuity of the compensation site(s) to include all state waters within the compensation site boundary or boundaries. Such protections shall be in place within 120 days of final plan approval. The restrictions, protections, or preservations, or similar instrument shall state that no activity will be performed on the property in any area designated as a compensation area with the exception of maintenance or corrective action measures authorized by the board. Unless specifically authorized by the board through the issuance of a VWP individual or general permit, or waiver thereof, this restriction applies to ditching,

land clearing or the discharge of dredge or fill material. Such instrument shall contain the specific phrase "ditching, land clearing or discharge of dredge or fill material" in the limitations placed on the use of these areas. The protective instrument shall be recorded in the chain of title to the property, or any equivalent instrument for government-owned lands. Proof of recordation shall be submitted within 120 days of survey or plat approval.

~~42-~~ 10. All work in permitted impact areas shall cease if compensation site construction has not commenced within 180 days of commencement of project construction, unless otherwise authorized by the board.

~~43-~~ 11. DEQ shall be notified in writing at least 10 days prior to the initiation of construction activities at the compensation site(s).

44. 12. Planting of woody plants shall occur when vegetation is normally dormant unless otherwise approved in the final wetland or stream compensation plan(s).

~~45-~~ 13. Point sources of stormwater runoff shall be prohibited from entering ~~any~~ a wetland compensation site prior to treatment by appropriate best management practices. Appropriate best management practices may include sediment traps, grassed waterways, vegetated filter strips, debris screens, oil and grease separators, or forebays.

~~46-~~ 14. The success of the compensation shall be based on meeting the success criteria established in the approved final compensation plan.

47. 15. Wetland hydrology shall be considered established if depths to the seasonal high water table are equal to or less than 12 inches below ground surface for at least 12.5% of the region's killing frost-free growing season, as defined in the soil survey for the locality of the compensation site or the NRCS WETS table, measured in consecutive days under typical precipitation conditions, and as defined in the water budget of the final compensation plan. For the purpose of this regulation, the growing season is defined as the period in which temperatures are expected to be above 28 degrees Fahrenheit in five out of 10 years, or the period during which the soil temperature in a wetland compensation site is greater than biological zero (five degrees Celsius) at a depth of 50 centimeters (19.6 inches), if such data is available.

~~48-~~ 16. The wetland plant community shall be considered established according to the performance criteria specified in the final compensation plan and approved by the board. The proposed vegetation success criteria in the final compensation plan shall include the following:

a. Species composition shall reflect the desired plant community types stated in the final wetlands compensation plan by the end of the first growing season and shall be maintained through the last monitoring year.

b. Species composition shall consist of greater than 50% facultative (FAC) or wetter (FACW or OBL) vegetation, as expressed by plant stem density or areal cover, by the end of the first growing season and shall be maintained through the last monitoring year.

~~49-~~ 17. Undesirable plant species shall be identified and controlled as described in the undesirable plant species control plan, such that they are not dominant species or do not change the desired community structure. The control plan shall include procedures to notify the board of any invasive species occurrences DEQ when undesirable plant species comprise greater than 5.0% of the vegetation by areal coverage on wetland or stream compensation sites. The notification shall include the methods of removal and control, and whether the methods are successful.

~~20-~~ 18. If the wetland or stream compensation area(s) ~~fail~~ fails to meet the specified success criteria in a *particular* monitoring year (~~with the exception of, other than~~ the final monitoring year), the reasons for this failure shall be determined and a corrective action plan (~~including proposed actions, a schedule, and monitoring plan~~) shall be submitted to DEQ for approval with or before that year's monitoring report. The ~~approved~~ corrective action plan *shall contain at a minimum the proposed actions, a schedule for those actions, and a monitoring plan, and* shall be implemented by the permittee in accordance with the approved schedule. Should significant changes be necessary to ensure success, the required monitoring cycle shall begin again, with monitoring year one being the year that the changes are complete, as confirmed by DEQ. ~~21-~~ If ~~all success criteria have not been met in the wetland or stream compensation area fails to meet the specified success criteria by~~ the final monitoring year, or if the wetland or stream compensation ~~site~~ area has not met the stated restoration goals, *reasons for this failure shall be determined and a corrective action plan, including proposed actions, a schedule, and a monitoring plan, shall be submitted with the final year monitoring report for DEQ approval. Corrective action shall be implemented by the permittee in accordance with the approved schedule. Annual monitoring shall be required for each consecutive year to continue* until two sequential, annual reports indicate that all criteria have been successfully satisfied and the site has met the overall restoration goals (~~i.e.~~ *e.g.*, that corrective actions were successful). ~~The reasons for this failure shall be determined and a corrective action plan (including proposed actions, a schedule, and a monitoring plan) shall be submitted with the monitoring report to DEQ for approval and implemented by the permittee in accordance with the approved schedule.~~

~~22-~~ 19. The surveyed wetland boundary for the compensation site shall be based on the results of the hydrology, soils, and vegetation monitoring data and shall be shown on the site plan. Calculation of total wetland acreage shall be based on that boundary at the end of the monitoring cycle. Data shall be submitted by December 31 of the final monitoring year.

~~23-~~ 20. Herbicides or algicides shall not be used in or immediately adjacent to the compensation site or sites without prior authorization by the board. All vegetation removal shall be done by manual means, unless authorized by DEQ in advance.

B. Impact site construction monitoring.

1. Construction activities authorized by this permit that are within impact areas shall be monitored and documented. The monitoring shall document the preexisting conditions, activities

Proposed Regulations

during construction, and post-construction conditions. Monitoring shall consist of one of the following options:

a. Photographs shall be taken during construction at the end of the first, second, and third months after commencing construction, and then every six months thereafter for the remainder of the construction project. Photos are not required during periods of no activity within impact areas.

b. An ortho-rectified photograph shall be taken by a firm specializing in ortho-rectified photography prior to construction, and then annually thereafter, until all impacts are taken. Photos shall clearly show the delineated surface waters and authorized impact areas.

c. In lieu of photographs, and with prior approval from DEQ, the permittee may submit a written narrative that summarizes site construction activities in impact areas. The narrative shall be submitted at the end of the first, second, and third months after commencing construction, and then every six months thereafter, for the remainder of the construction activities. Narratives are not required during periods of no activity within the impact areas.

2. As part of construction monitoring, photographs taken at the photo stations or the narrative shall document site activities and conditions, which may include installation and maintenance of erosion and sediment controls; surface water discharges from the site; condition of adjacent nonimpact surface waters; flagged nonimpact surface waters; construction access and staging areas; filling, excavation, and dredging activities; culvert installation; dredge disposal; and site stabilization, grading, and associated restoration activities. With the exception of the preconstruction photographs, photographs at an individual impact site shall not be required until construction activities are initiated at that site. With the exception of the post-construction photographs, photographs at an individual impact site shall not be required once the site is stabilized following completion of construction at that site.

3. Each photograph shall be labeled to include the following information: permit number, impact area and photo station number, date and time of the photograph, name of the person taking the photograph, photograph orientation, and photograph subject description.

4. Monitoring of water quality parameters shall be conducted during permanent relocation of perennial streams through new channels in the manner noted below. The permittee shall report violations of water quality standards to DEQ in accordance with the procedures in Part II E. Corrective measures and additional monitoring may be required if water quality standards are not met. Reporting shall not be required if water quality standards are not violated.

a. A sampling station shall be located upstream and immediately downstream of the relocated channel.

b. Temperature, pH and dissolved oxygen (D.O.) measurements shall be taken every 30 minutes for at least two hours at each station prior to opening the new channels and immediately before opening new channels.

c. Temperature, pH and D.O. readings shall be taken after opening the channels and every 30 minutes for at least three hours at each station.

C. Wetland compensation site monitoring.

1. An as-built ground survey, or an aerial survey provided by a firm specializing in aerial surveys, shall be conducted for the entire compensation site or sites including invert elevations for all water elevation control structures and spot elevations throughout the site or sites. Aerial surveys shall include the variation from actual ground conditions, such as +/- 0.2 feet. Either type of survey shall be certified by a licensed surveyor or by a registered professional engineer to conform to the design plans. The survey shall be submitted within 60 days of completing compensation site construction. Any Changes or deviations in the as-built survey or aerial survey shall be shown on the survey and explained in writing.

2. Photographs shall be taken at the compensation site or sites from the permanent markers identified in the final compensation plan, and established to ensure that the same locations and view directions at the site or sites are monitored in each monitoring period. These photographs shall be taken after the initial planting and at a time specified in the final compensation plan during every monitoring year.

3. Compensation site monitoring shall begin on the first day of the first complete growing season (monitoring year 1) after wetland compensation site construction activities, including planting, have been completed. Monitoring shall be required for monitoring years 1, 2, 3, and 5, unless otherwise approved by DEQ. In all cases, if all success criteria have not been met in the fifth monitoring year, then monitoring shall be required for each consecutive year until two annual sequential reports indicate that all criteria have been successfully satisfied.

4. The establishment of wetland hydrology shall be measured during the growing season, with the location and number of monitoring wells, and frequency of monitoring for each site, set forth in the final monitoring plan. All Hydrology monitoring well data shall be accompanied by precipitation data, including rainfall amounts, either from on site, or from the closest weather station. Once the wetland hydrology success criteria have been satisfied for a particular monitoring year, weekly monitoring may be discontinued for the remainder of that monitoring year following DEQ approval. After a period of three monitoring years, the permittee may request that hydrology monitoring be discontinued, providing that adequate hydrology has been established and maintained. Hydrology monitoring shall not be discontinued without written approval from DEQ.

5. The presence of hydric soils or soils under hydric conditions shall be evaluated in accordance with the final compensation plan.

6. The establishment of wetland vegetation shall be in accordance with the final compensation plan. Monitoring shall take place in August, September, or October during the growing season of each monitoring year, unless authorized in the monitoring plan.

7. The presence of undesirable plant species shall be documented.

8. All wetland compensation monitoring reports shall be submitted by ~~December 31 of the monitoring year. The reports shall include, as applicable, the following: in accordance with 9 VAC 25-670-100 Part II E 6.~~

~~a. General description of the site including a site location map identifying photo stations, vegetative and soil monitoring stations, monitoring wells, and wetland zones.~~

~~b. Summary of activities completed during the monitoring year.~~

~~c. Description of monitoring methods.~~

~~d. Analysis of all hydrology information, including monitoring well data, precipitation data, and gauging data from streams or other open water areas, as set forth in the final compensation plan.~~

~~e. Evaluation of hydric soils or soils under hydric conditions, as appropriate.~~

~~f. Analysis of all vegetative community information, including woody and herbaceous species, both planted and volunteers, as set forth in the final compensation plan.~~

~~g. Photographs labeled with the permit number, the name of the compensation site, the photo station number, the photograph orientation, the date and time of the photograph, the name of the person taking the photograph, and a brief description of the photograph subject. This information shall be provided as a separate attachment to each photograph, if necessary. Photographs taken after the initial planting shall be included in the first monitoring report after planting is complete.~~

~~h. Discussion of wildlife or signs of wildlife observed at the compensation site.~~

~~i. Comparison of site conditions from the previous monitoring year and reference site, if applicable.~~

~~j. Discussion of corrective measures or maintenance activities to control undesirable species, to repair any damaged water control device, or to replace any damaged planted vegetation.~~

~~k. Corrective action plan, which includes proposed actions, a schedule, and monitoring plan.~~

C. D. Stream compensation, restoration and monitoring.

1. Any Riparian buffer restoration activities shall be detailed in the final compensation plan and shall include, as appropriate, the planting of a variety of native species currently growing in the site area, including appropriate seed mixtures and woody species that are bare root, balled, or burlapped. A minimum buffer width of 50 feet, measured from the top of the stream bank at bankfull elevation landward on both sides of the stream, shall be required where practical.

2. The installation of root wads, vanes, and other instream structures, shaping of the stream banks, and channel relocation shall be completed in the dry whenever practicable.

3. Livestock access to the stream and designated riparian buffer shall be limited to the greatest extent practicable.

4. Stream channel restoration activities shall be conducted in the dry or during low flow conditions. When site conditions prohibit access from the streambank, heavy equipment shall be authorized for use within the stream channel.

5. Photographs shall be taken at the compensation site from the vicinity of the permanent photo stations identified in the final compensation plan. The photograph orientation shall remain constant during all monitoring events. At a minimum, photographs shall be taken from the center of the stream, facing downstream, with a sufficient number of photographs to view the entire length of the restoration site. Photographs shall document the completed restoration conditions. Photographs shall be taken prior to site activities, during instream and riparian compensation construction activities, within one week of completion of activities, and during at least one day of each monitoring year to depict restored conditions.

6. An as-built ground survey, or an aerial survey provided by a firm specializing in aerial surveys, shall be conducted for the entire compensation site or sites. Aerial surveys shall include the variation from actual ground conditions, such as +/- 0.2 feet. The survey shall be certified by the licensed surveyor or by a registered, professional engineer to conform to the design plans. The survey shall be submitted within 60 days of completing compensation site construction. Any Changes or deviations from the final compensation plans in the as-built survey or aerial survey shall be shown on the survey and explained in writing.

7. Compensation site monitoring shall begin on day one of the first complete growing season (monitoring year 1) after stream compensation site construction activities, including planting, have been completed. Monitoring shall be required for monitoring years 1 and 2, unless otherwise determined by DEQ. In all cases, if all success criteria have not been met in the final monitoring year, then monitoring shall be required for each consecutive year until two annual sequential reports indicate that all criteria have been successfully satisfied.

8. All stream compensation monitoring reports shall be submitted by ~~December 31 of the monitoring year. The reports shall include, as applicable, the following: in accordance with 9 VAC 25-670-100 Part II E 6.~~

~~a. General description of the site including a site location map identifying photo stations and monitoring stations.~~

~~b. Summary of activities completed during the monitoring year.~~

~~c. Description of monitoring methods.~~

~~d. An evaluation and discussion of the monitoring results in relation to the success criteria and overall goals of compensation.~~

~~e. Photographs labeled with the permit number, the name of the compensation site, the photo station number, the photograph orientation, the date and time of the photograph, the name of the person taking the photograph, and a brief description of the photograph subject. Photographs taken prior to compensation site construction activities, during instream and riparian restoration activities, and within one week of~~

Proposed Regulations

~~completion of activities shall be included in the first monitoring report.~~

~~f. A discussion of alterations, maintenance, or major storm events resulting in significant change in stream profile or cross section, and corrective actions conducted at the stream compensation site.~~

~~g. Documentation of undesirable plant species and summary of abatement and control measures.~~

~~h. A summary of wildlife or signs of wildlife observed at the compensation site.~~

~~i. Comparison of site conditions from the previous monitoring year and reference site, and as-built survey, if applicable.~~

~~j. A corrective action plan, which includes proposed actions, a schedule and monitoring plan.~~

~~k. Any additional submittals that were approved by DEQ in the final compensation plan.~~

~~D. Impact site construction monitoring.~~

~~1. Construction activities authorized by this permit that are within impact areas shall be monitored and documented. The monitoring shall document the preconstruction conditions, activities during construction, and post-construction conditions. Monitoring shall consist of one of the following options:~~

~~a. Photographs shall be taken during construction at the end of the first, second and third months of construction, and then semi-annually for the remainder of the construction project, except during periods of no activity within impact areas;~~

~~b. An ortho-rectified photograph shall be taken by a firm specializing in ortho-rectified photography prior to construction, and annually thereafter until all impacts are taken, and shall clearly show the delineated surface waters and authorized impact areas; or~~

~~c. In lieu of photographs, and with prior approval from DEQ, the permittee may submit a written narrative that summarizes site construction activities in impact areas. The narrative shall be submitted at the end of the first, second, and third months of construction in impact areas, and then semi-annually for the remainder of the construction activities in impact areas, except during periods of no activity within the impact areas.~~

~~2. As part of construction monitoring, photographs taken at the photo stations or the narrative shall document site activities and conditions, which may include installation and maintenance of erosion and sediment controls; condition of adjacent nonimpact surface waters; flagged nonimpact surface waters; construction access and staging areas; filling, excavation, and dredging activities; culvert installation; dredge disposal; and site stabilization, grading, and associated restoration activities. With the exception of the preconstruction photographs, photographs at an individual impact site shall not be required until construction activities are initiated at that site. With the exception of the post-construction photographs, photographs at an individual impact site shall not be required once the site is stabilized following completion of construction at that site.~~

~~3. Each photograph shall be labeled to include the following information: permit number, impact area and photo station number, date and time of the photograph, name of the person taking the photograph, photograph orientation, and photograph subject description.~~

~~4. Monitoring of water quality parameters shall be conducted during permanent relocation of perennial streams through new channels in the following manner:~~

~~a. A sampling station shall be located upstream and immediately downstream of the relocated channel.~~

~~b. Temperature, pH and dissolved oxygen (D.O.) measurements shall be taken every 30 minutes for at least two hours at each station prior to opening the new channels and immediately before opening new channels.~~

~~c. Temperature, pH and D.O. readings shall be taken after opening the channels and every 30 minutes for at least three hours at each station.~~

~~The permittee shall report violations of water quality standards to DEQ in accordance with the procedures in Part II E. Corrective measures and additional monitoring may be required if water quality standards are not met. Reporting shall not be required if water quality standards are not violated.~~

~~E. Reporting.~~

~~1. Written communications required by this VWP general permit shall be submitted to the appropriate Department of Environmental Quality (DEQ) office. The VWP general permit authorization number shall be included on all correspondence.~~

~~2. DEQ shall be notified in writing at least 10 days prior to the start of construction activities at the first permitted site authorized by this VWP general permit authorization so that inspections of the project can be planned, if deemed necessary by DEQ. The notification shall include projected schedule for initiation and completion of work at each permitted impact area.~~

~~3. Construction monitoring reports shall be submitted to DEQ not no later than the 10th day of the month following the month in which the monitoring event specified in Part II D-B takes place. The reports shall include the following, as appropriate:~~

~~a. For each permitted impact area, a written narrative stating whether work was performed during the monitoring period, and if work was performed, a description of the work performed, when the work was initiated, and the expected date of completion.~~

~~b. Properly Photographs labeled photographs (to include with permit number, the photo station number, the photo orientation, the date and time of the photo, the name of the person taking the photograph, and a brief description, and VWP permit number) showing representative of the construction activities (including, but not limited to, flagging nonimpact wetland areas, site grading and excavation, installation and maintenance of erosion and sediment controls, culvert installation, bridge and ramp construction, dredging, dredge disposal, etc.). The post-construction photographs shall be submitted within 30 days of documenting~~

~~post-construction conditions.~~ The first construction monitoring report shall include the photographs taken at each impact site prior to initiation of construction in ~~any~~ a permitted impact area. Written notification and photographs demonstrating that all temporarily disturbed wetland and stream areas have been restored in compliance with the permit conditions shall be submitted within 30 days of restoration. *The post-construction photographs shall be submitted within 30 days of documenting post-construction conditions.*

c. Summary of activities conducted to comply with the permit conditions.

d. Summary of permit noncompliance events or problems encountered, subsequent notifications, and corrective actions.

e. Summary of anticipated work to be completed during the next monitoring period and an estimated date of construction completion at all impact areas.

f. Labeled site map depicting all impact areas and photo stations.

4. DEQ shall be notified in writing within 30 days following the completion of all activities in all permitted impact areas authorized under this permit.

5. DEQ shall be notified in writing at least 10 days prior to the initiation of activities at the compensation site. The notification shall include a projected schedule of activities and construction completion.

6. All compensation monitoring reports shall be submitted annually by December 31, with the exception of the last year of authorization, in which case the report shall be submitted at least 60 days prior to expiration of authorization under the general permit. ~~Any alterations and maintenance conducted on the compensation sites shall be reported. Undesirable plant species occurrences and control of these occurrences shall also be reported to DEQ.~~

a. All wetland compensation monitoring reports shall include, as applicable, the following:

(1) General description of the site including a site location map identifying photo stations, vegetative and soil monitoring stations, monitoring wells, and wetland zones.

(2) Summary of activities completed during the monitoring year, including alterations or maintenance conducted at the site.

(3) Description of monitoring methods.

(4) Analysis of all hydrology information, including monitoring well data, precipitation data, and gauging data from streams or other open water areas, as set forth in the final compensation plan.

(5) Evaluation of hydric soils or soils under hydric conditions, as appropriate.

(6) Analysis of all vegetative community information, including woody and herbaceous species, both planted and volunteers, as set forth in the final compensation plan.

(7) Photographs labeled with the permit number, the name of the compensation site, the photo station number, the

photograph orientation, the date and time of the photograph, the name of the person taking the photograph, and a brief description of the photograph subject. This information shall be provided as a separate attachment to each photograph, if necessary. Photographs taken after the initial planting shall be included in the first monitoring report after planting is complete.

(8) Discussion of wildlife or signs of wildlife observed at the compensation site.

(9) Comparison of site conditions from the previous monitoring year and reference site.

(10) Discussion of corrective measures or maintenance activities to control undesirable species, to repair damaged water control devices, or to replace damaged planted vegetation.

(11) Corrective action plan, which includes proposed actions, a schedule, and monitoring plan.

b. All stream compensation monitoring reports shall include, as applicable, the following:

(1) General description of the site including a site location map identifying photo stations and monitoring stations.

(2) Summary of activities completed during the monitoring year, including alterations or maintenance conducted at the site.

(3) Description of monitoring methods.

(4) An evaluation and discussion of the monitoring results in relation to the success criteria and overall goals of compensation.

(5) Photographs shall be labeled with the permit number, the name of the compensation site, the photo station number, the photograph orientation, the date and time of the photograph, the name of the person taking the photograph, and a brief description of the photograph subject. Photographs taken prior to compensation site construction activities, during instream and riparian restoration activities, and within one week of completion of activities shall be included in the first monitoring report.

(6) A discussion of alterations, maintenance, or major storm events resulting in significant change in stream profile or cross section, and corrective actions conducted at the stream compensation site.

(7) Documentation of undesirable plant species and summary of abatement and control measures.

(8) A summary of wildlife or signs of wildlife observed at the compensation site.

(9) Comparison of site conditions from the previous monitoring year and reference site, and as-built survey, if applicable.

(10) A corrective action plan, which includes proposed actions, a schedule and monitoring plan.

(11) Additional submittals that were approved by DEQ in the final compensation plan.

Proposed Regulations

7. The permittee shall notify DEQ in writing when unusual or potentially complex conditions are encountered which require debris removal or involve potentially toxic substance. Measures to remove the obstruction, material, or toxic substance or to change the location of ~~any~~ a. structure are prohibited until approved by DEQ.

8. The permittee shall report ~~any~~ fish kills or spills of oil or fuel immediately upon discovery. If spills or fish kills occur between the hours of 8:15 a.m. to 5 p.m., Monday through Friday, the appropriate DEQ regional office shall be notified; otherwise, the Department of Emergency Management shall be notified at 1-800-468-8892.

9. Violations of state water quality standards shall be reported within 24 hours to the appropriate DEQ office.

10. All Submittals required by this VWP general permit shall contain the following signed certification statement:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violation."

Part III. Conditions Applicable to All VWP General Permits.

A. Duty to comply. The permittee shall comply with all conditions of the VWP general permit. Nothing in this VWP general permit shall be construed to relieve the permittee of the duty to comply with all applicable federal and state statutes, regulations and toxic standards and prohibitions. ~~Any~~ VWP general permit noncompliance is a violation of the Clean Water Act and State Water Control Law, and is grounds for enforcement action, VWP general permit authorization termination for cause, VWP general permit authorization revocation, or denial of a continuation of coverage request.

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

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

D. Compliance with state and federal law. Compliance with this VWP general permit constitutes compliance with the VWP permit requirements of the State Water Control Law. Nothing in this VWP general permit shall be construed to preclude the institution of any legal action under or relieve the permittee from any responsibilities, liabilities, or other penalties

established pursuant to any other state law or regulation or under the authority preserved by § 510 of the Clean Water Act.

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

F. Severability. The provisions of this VWP general permit authorization are severable.

G. Right of entry. The permittee shall allow the board or its agents, upon the presentation of credentials, at reasonable times and under reasonable circumstances: ~~1-~~ to enter the permittee's property, public or private, and have access to, inspect and copy any records that must be kept as part of the VWP general permit conditions; ~~2-~~ to inspect ~~any~~ facilities, operations or practices (including monitoring and control equipment) regulated or required under the VWP general permit; ~~3-~~ and to sample or monitor any substance, parameter or activity for the purpose of assuring compliance with the conditions of the VWP general permit or as otherwise authorized by law. For the purpose of this section, the time for inspection shall be deemed reasonable during regular business hours. Nothing contained herein shall make an inspection time unreasonable during an emergency.

H. Transferability of VWP general permit authorization. This VWP general permit authorization may be transferred to another person by a permittee if: ~~when all of the criteria listed below are met. On the date of the VWP general permit authorization transfer, the transferred VWP general permit authorization shall be as fully effective as if it had been issued directly to the new permittee.~~

1. The current permittee notifies the board of the transfer of the title to the facility or property;

2. The notice to the board includes a written agreement between the ~~existing current~~ and new ~~permittee~~ ~~permittees~~ containing a specific date of transfer of VWP general permit authorization responsibility, coverage and liability to the new permittee, or that the ~~existing current~~ permittee will retain such responsibility, coverage, or liability, including liability for compliance with the requirements of ~~any~~ enforcement activities related to the permitted activity; ~~and.~~

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

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

I. Notice of planned change. Authorization under this VWP general permit may be modified subsequent to issuance if: ~~(i)~~ ~~in one or more of the cases listed below. A notice of planned change is not required if the project results in additional temporary impacts to surface waters, provided that DEQ is~~

notified in writing, the additional temporary impacts are restored to preexisting conditions in accordance with Part I C 11 of this general permit, and the additional temporary impacts do not exceed the general permit threshold for use. The permittee shall notify the board in advance of the planned change, and the planned change request will be reviewed according to all provisions of this regulation.

1. The permittee determines that additional permanent wetland, open water, or stream impacts are necessary, provided that *the additional impacts are associated with the previously authorized activities in authorized locations within the same phase of development*, the cumulative increase in acreage of wetland or open water impacts is not greater than 1/4 acre-~~and~~, the cumulative increase in stream bed impacts is not greater than 50 100 linear feet, and ~~provided that the additional impacts are fully compensated;~~ ~~(ii).~~

2. The project results in less wetland or stream impacts, in which case, compensation requirements may be modified in relation to the adjusted impacts at the request of the permittee, provided that the adjusted compensation meets the initial authorization compensation goals; ~~(iii).~~

3. There is a change in the project plans that does not result in a change in project impacts; ~~(iv)~~

4. There is a change in the mitigation bank at which credits are purchased or used, provided that the same amount of credits are purchased or used and all criteria for use are met, as detailed in 9 VAC 25-210-115; ~~or (v) F.~~

5. ~~Typographical errors need to be corrected. A notice of planned change is not required if the project results in additional temporary impacts to surface waters, provided that DEQ is notified in writing, the additional temporary impacts are restored to preexisting conditions in accordance with Part I C 11 of this general permit, and the additional temporary impacts do not exceed the general permit threshold for use. The permittee shall notify the board in advance of the planned change, and the planned change request will be reviewed according to all provisions of this regulation.~~

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

1. Noncompliance by the permittee with any condition of the VWP general permit authorization;

2. The permittee's failure in the application or during the VWP general permit authorization issuance process to disclose fully all relevant facts or the permittee's misrepresentation of any relevant facts at any time;

3. The permittee's violation of a special or judicial order; and

4. A determination by the board that the permitted activity endangers human health or the environment and can be regulated to acceptable levels by VWP general permit authorization planned change or termination for cause.

K. VWP general permit authorization termination by consent. This VWP general permit authorization may be terminated by

consent when all permitted activities requiring notification under ~~9 VAC 25-690-50 A~~ 9 VAC 25-670-50 B 1 *and all compensatory mitigation* have been completed; or when the authorized impacts do not occur, ~~or when a planned change occurs that involves substituting a specified, approved mitigation bank or banks with another specified, approved mitigation bank.~~ The permittee shall submit a request for termination by consent within 30 days of project completion or project cancellation. *When submitted for project completion, the termination by consent shall constitute a notice of completion in accordance with 9 VAC 25-210-130.* The director may accept this termination of authorization on behalf of the board. The request for termination by consent shall contain the following information:

1. Name, mailing address and telephone number of the permittee;

2. Name and location of the activity;

3. The VWP permit authorization number; and

4. One of the following certifications:

a. For project completion:

"I certify under penalty of law that all activities *and any required compensatory mitigation* authorized by a VWP general permit have been completed. I understand that by submitting this notice of termination I am no longer authorized to perform activities in surface waters in accordance with the VWP general permit, and that performing activities in surface waters is unlawful where the activity is not authorized by a VWP permit. I also understand that the submittal of this notice does not release me from liability for any violations of this VWP general permit authorization."

b. For project cancellation:

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

c. For events beyond permittee control, the permittee shall provide a detailed explanation of the events, to be approved by DEQ, and the following certification statement:

"I certify under penalty of law that ~~at~~ *the activities or the required compensatory mitigation* authorized by a VWP general permit have changed as the result of events beyond my control (see attached). I understand that by submitting this notice of termination I am no longer authorized to perform activities in surface waters in accordance with the VWP general permit, and that performing activities in surface waters is unlawful where the activity is not authorized by a VWP permit. I also understand that the submittal of this notice does not release me from liability for any violations of this VWP

Proposed Regulations

general permit authorization, nor does it allow me to resume the permitted activities without reapplication and reauthorization."

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

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

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

O. Duty to provide information.

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

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

P. Monitoring and records requirements.

1. Monitoring of parameters, other than pollutants, shall be conducted according to approved analytical methods as specified in the VWP permit. Analysis of pollutants will be conducted according to 40 CFR Part 136 (2000), Guidelines Establishing Test Procedures for the Analysis of Pollutants.

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

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

4. Records of monitoring information shall include, as appropriate:

a. The date, exact place and time of sampling or measurements;

b. The name of the individuals who performed the sampling or measurements;

c. The date and time the analyses were performed;

d. The name of the individuals who performed the analyses;

e. The analytical techniques or methods supporting the information such as observations, readings, calculations and bench data used;

f. The results of such analyses; and

g. Chain of custody documentation.

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

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

2. Excavate in a wetland;

3. Otherwise alter the physical, chemical, or biological properties of state waters and make them detrimental to the public health, to animal or aquatic life, to the uses of such waters for domestic or industrial consumption, for recreation, or for other uses; or

4. On and after October 1, 2001, conduct the following activities in a wetland:

a. New activities to cause draining that significantly alters or degrades existing wetland acreage or functions;

b. Filling or dumping;

c. Permanent flooding or impounding; or

d. New activities that cause significant alteration or degradation of existing wetland acreage or functions.

FORMS

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

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

Joint Permit Application for Projects in Tidewater, Virginia (eff. 10/04).

Virginia Department of Transportation Inter-Agency Coordination Meeting Joint Permit Application (eff. 10/02).

VA.R. Doc. No. R05-287; Filed December 16, 2005, 9:46 a.m.

Title of Regulation: 9 VAC 25-680. Virginia Water Protection General Permit for Linear Transportation Projects (amending 9 VAC 25-680-10 through 9 VAC 25-680-100; adding 9 VAC 25-680-95).

Statutory Authority: §§ 62.1-44.15 and 62.1-44.15:5 of the Code of Virginia; § 401 of the Clean Water Act (33 USC § 1251 et seq.).

Public Hearing Date: February 6, 2006 - 3:30 p.m.

Public comments may be submitted until 5 p.m. on March 10, 2006.

(See Calendar of Events section for additional information)

Agency Contact: Catherine M. Harold, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4047, FAX (804) 698-4347, or e-mail cmharold@deq.virginia.gov.

Summary:

Virginia Water Protection (VWP) General Permit WP3 will expire on August 1, 2006. The proposed revisions include minor changes to improve the processing and coordination of authorizations, both for the public, DEQ, and other agencies. The VWP general permit regulations generally reduce the permitting burden to the public and minimize the amount of agency duplication in processing permit authorizations and it is in the interest of all to continue to provide this level of service through the renewal of this general permit.

The substance of the revisions include the addition and deletion of definitions; minor grammatical changes; formatting, consolidating and reordering of text to improve readability; clarification of existing requirements; prohibiting the use of this general permit for wetlands, open waters and streams that are protected by deed restrictions or similar protective covenants imposed by previous state or federal permit actions; extending the life of the general permit regulations to 10 years instead of the current five years; extending the permit authorization period to up to seven years; reiteration of provisions in the main VWP regulation for purposes of emphasis; and amending the thresholds of coverage for wetlands and open waters and stream impacts, which were previously combined together as "surface waters."

9 VAC 25-680-10. Definitions.

The words and terms used in this chapter shall have the meanings defined in the State Water Control Law (§ 62.1-44.2 et seq. of the Code of Virginia) and the Virginia Water Protection (VWP) Permit Regulation (9 VAC 25-210) unless the context clearly indicates otherwise or unless otherwise indicated below.

"Bank protection" means measures employed to stabilize channel banks and combat existing erosion problems. Such measures may include the construction of riprap revetments, sills, rock vanes, beach nourishment, breakwaters, bulkheads, groins, spurs, levees, marsh toe stabilization, anti-scouring devices, and submerged sills.

"Bioengineering method" means a biological measure incorporated into a facility design to benefit water quality and minimize adverse effects to aquatic resources, to the maximum extent practicable, for long-term aquatic resource protection and improvement.

"Channelization" means the alteration of a stream channel by widening, deepening, straightening, cleaning or paving certain areas.

~~"Conversion" means changing one type of surface water to another type of surface water, either permanently or temporarily. The permanent conversion of a forested wetland to an emergent wetland is considered to be a permanent impact for the purposes of this regulation.~~

"Cross-sectional drawing" means a graph or plot of ground elevation across a waterbody or a portion of it, usually along a line perpendicular to the waterbody or direction of flow.

"Emergent wetland" means a class of wetlands characterized by erect, rooted, herbaceous plants growing in water or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content, excluding mosses and lichens. This vegetation is present for most of the growing season in most years and is usually dominated by perennial plants.

"FEMA" means Federal Emergency Management Agency.

"Forebay" means a deeper area at the upstream end of a stormwater management facility that would be maintained through excavation.

"Forested wetland" means a class of wetlands characterized by woody vegetation that is six meters (20 feet) tall or taller. These areas normally possess an overstory of trees, an understory of trees or shrubs, and an herbaceous layer.

"Greater than one acre" means more than 1.00 acre (43,560 square feet).

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

"Independent utility" means a test to determine what constitutes a single and complete project. A project is considered to have independent utility if it would be constructed absent the construction of other projects in the project area. Portions of a multi-phase project that depend upon other phases of the project do not have independent utility. Phases of a project that would be constructed even if the other phases are not built can be considered as separate single and complete projects with independent utility.

"Isolated Wetland of Minimal Ecological Value (IWOMEV)" means a wetland that (i) does not have a surface water connection to other state waters; (ii) is less than one-tenth of an acre in size; (iii) is not located in a Federal Emergency Management Agency designated 100-year floodplain; (iv) is not identified by the Virginia Natural Heritage Program as a rare or state significant natural community; (v) is not forested; and (vi) does not contain listed federal or state threatened or endangered species.

"Less than one-half of an acre" means 0.00 to 0.49 acre (0 to 21,779 square feet).

"Linear transportation project" means a project for the construction, expansion, modification or improvement of features such as, but not limited to, roadways, railways, trails, bicycle and pedestrians paths, and airport runways and taxiways, including all attendant features both temporary and permanent. Nonlinear features commonly associated with transportation projects, such as, but not limited to, vehicle maintenance or storage buildings, parking lots, train stations, or aircraft hangars are not included in this definition.

~~"Less than one-half of an acre" means 0.00 to 0.49 acre (0 to 21,779 square feet).~~

Proposed Regulations

"Open water" means an area that, during a year with normal patterns of precipitation, has standing water for sufficient duration to establish an ordinary high water mark. The term "open water" includes lakes and ponds but does not include ephemeral waters, stream beds, or wetlands.

"Ordinary high water" or "ordinary high water mark" means the line on the shore established by the fluctuations of water and indicated by physical characteristics such as clear, natural line impressed on the bank; shelving; changes in the character of soil; destruction of terrestrial vegetation; the presence of litter and debris; or other appropriate means that consider the characteristics of the surrounding areas.

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

"Permanent impacts" are means those impacts to surface waters, including wetlands, that cause a permanent alteration of the physical, chemical, or biological properties of the surface waters, or of the functions and values of a wetland.

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

"Riprap" means a layer of *nonerodible* material such as stone or chunks of concrete on an ~~embankment slope for the purpose of preventing erosion.~~

"Scrub-shrub wetland" means a class of wetlands dominated by woody vegetation less than six meters (20 feet) tall. The species include tree shrubs, young trees, and trees or shrubs that are small or stunted because of environmental conditions.

"Single and complete project" means the total project proposed or accomplished by a person ~~and~~, which also has independent utility, as defined in this section. For linear projects, the "single and complete project" (~~i.e. e.g., a single and complete crossing~~) ~~may but does not always~~ will apply to each crossing of a separate surface water (~~i.e. e.g., a single waterbody~~) and to multiple crossings of the same waterbody at separate and distinct locations. Phases of a project that have independent public and economic utility may each be considered single and complete.

"State ~~programmatic~~ program general permit (SPGP)" means a general permit issued by the Department of the Army in accordance with 33 USC 1344(e), 33 CFR ~~Part 32S~~ 325.2(e)(2), and 33 CFR 325.3(b) and that is founded on a state program ~~and~~. The SPGP is designed to avoid duplication between the federal and state programs.

"Stream bed" means the substrate of a stream, as measured between the ordinary high water marks along a length of stream. The substrate may consist of organic matter, bedrock or inorganic particles that range in size from clay to boulders, or a combination of both. Areas contiguous to the stream bed, but outside of the ordinary high water marks, are not considered part of the stream bed. Ditches, swales, and open

water are not considered to be stream bed for the purposes of this regulation.

"Surface waters" means all state waters that are not ground water as defined in § 62.1-255 of the Code of Virginia.

"Temporary impacts" are those impacts to surface waters, including wetlands, that do not cause a permanent alteration of the physical, chemical, or biological properties of the surface water, or of the functions and values of a wetland. Temporary impacts include activities in which the ground is restored to its preconstruction conditions, contours ~~and~~, or elevations, such that previous functions and values are restored.

~~"Up to 300 linear feet of stream channel" means >0.00 to 300.00 linear feet of any stream, rounded to the second decimal place, as measured along the center of the main channel of the stream segment.~~

~~"Up to 500 linear feet of perennial stream channel" means 0.00 to 500.00 linear feet of perennial stream, rounded to the second decimal place, as measured along the center of the main channel of the stream segment.~~

~~"Up to 1500 linear feet of nonperennial stream channel" means >0.00 to 1500.00 linear feet of nonperennial stream, rounded to the second decimal place, as measured along the center of the main channel of the stream segment.~~

~~"Up to one acre" means 0.00 to 1.00 acre (0 to 43,560 square feet).~~

~~"Up to one-tenth of an acre" means 0.00 to 0.10 acre (0 to 4,356 square feet) or less.~~

~~"Up to two acres" means 0.00 to 2.00 acres (0 to 87,120 square feet) or less.~~

"Utility line" means ~~any~~ a pipe or pipeline for the transportation of any gaseous, liquid, ~~liquefiable~~ liquefiable or slurry substance, for any purpose, and ~~any~~ a cable, line, or wire for the transmission for any purpose of electrical energy, telephone, and telegraph messages and radio and television communication. The term utility line does not include activities which drain a surface water to convert it to an upland, such as drainage tiles or french drains; however, it does apply to pipes conveying drainage from another area.

9 VAC 25-680-20. Purpose; delegation of authority; effective date of VWP general permit.

A. The purpose of this regulation is to establish VWP General Permit Number WP3 under the VWP permit program regulation to govern impacts related to the construction and maintenance of Virginia Department of Transportation (VDOT) or other linear transportation projects. Applications for coverage under this VWP general permit shall be processed for approval, approval with conditions, or denial by the board. *Authorization, authorization with conditions, or denial by the board shall constitute the VWP general permit action. Each VWP general permit action shall follow all provisions in the State Water Control Law (§ 62.1-44.2 et seq. of the Code of Virginia), except for the public comment and participation provisions, from which each VWP general permit action is exempt.*

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

C. This VWP general permit regulation will become effective on ~~October 1, 2001~~ (insert effective date), and will expire on ~~October 1, 2006~~, for general linear transportation projects and will become effective August 1, 2001, and will expire August 1, 2006, for linear transportation projects of the Virginia Department of Transportation (insert date that is 10 years after effective date).

D. Authorization to impact surface waters under this VWP general permit is effective upon compliance with all the provisions of 9 VAC 25-680-30. Notwithstanding the expiration date of this general permit regulation, authorization to impact surface waters under this VWP general permit will continue for a maximum of ~~five~~ seven years.

9 VAC 25-680-30. Authorization to impact surface waters.

A. Any person governed by this VWP general permit is authorized to *permanently or temporarily* impact up to two acres of nontidal ~~surface waters including wetlands or open water~~ and up to ~~500~~ 1,500 linear feet of ~~perennial nontidal stream channel~~ and up to 1,500 linear feet of nonperennial stream channel, bed for linear transportation projects, provided that the applicant submits notification as required in ~~9 VAC 25-680-50~~ and ~~9 VAC 25-680-60~~, remits the required application processing fee (~~9 VAC 25-20~~), complies with the limitations and other requirements of ~~9 VAC 25-680-100~~, receives approval from the board, and provided that:

1. The applicant submits notification as required in ~~9 VAC 25-680-50~~ and ~~9 VAC 25-680-60~~.

2. The applicant remits the required application processing fee in accordance with ~~9 VAC 25-20~~.

3. The applicant complies with the limitations and other requirements of ~~9 VAC 25-680-100~~.

4. The applicant receives approval from the Virginia Department of Environmental Quality.

~~4.~~ 5. The applicant ~~shall~~ has not ~~have~~ been required to obtain a VWP individual permit under the VWP permit regulation (9 VAC 25-210) for the proposed project impacts. The applicant, at his discretion, may seek a VWP individual permit, or coverage under another applicable VWP general permit, in lieu of coverage under this VWP general permit.

~~2.~~ 6. Impacts, both temporary and permanent, result from a single and complete project, including all attendant features.

a. Where a road segment (~~i.e.~~ e.g., the shortest segment of a road with independent utility that is part of a larger project) has multiple crossings of state waters (several single and complete projects), the board may at its discretion require a VWP individual permit.

b. For the purposes of this chapter, when an interchange has multiple crossings of state waters, the entire interchange shall be considered the single and complete project.

~~3.~~ 7. The stream impact criterion applies to all components of the project, including ~~any~~ structures and stream channel manipulations.

~~4.~~ 8. Dredging does not exceed 5,000 cubic yards.

~~5.~~ 9. Compensation for unavoidable impacts is provided in the form of ~~any one or combination of the following: creation, restoration, the purchase or use of mitigation bank credits, or a contribution to an approved in-lieu fee fund.~~ For wetlands compensation may incorporate preservation of wetlands, or preservation or restoration of upland buffers adjacent to surface waters, when utilized in conjunction with creation, restoration or mitigation bank credits. For other surface waters, compensation may incorporate preservation and enhancement of stream channels, or preservation or restoration and enhancement of adjacent riparian buffers accordance with 9 VAC 25-680-70.

B. Activities that may be authorized under this VWP general permit include the construction, expansion, modification or improvement of linear transportation crossings (e.g., highways, railways, trails, bicycle and pedestrian paths, and airport runways and taxiways, including all attendant features both temporary and permanent).

C. The board waives the requirement for coverage under a VWP permit for activities that occur in an isolated wetland of minimal ecological value as defined in ~~9 VAC 25-210-10~~ 9 VAC 25-680-10. Any person claiming this waiver bears the burden to demonstrate that he qualifies for the waiver.

D. Receipt of this VWP general permit does not relieve ~~any~~ the permittee of the responsibility to comply with any other applicable federal, state or local statute, ordinance or regulation.

E. In issuing this VWP general permit, the board has not taken into consideration the structural stability of the proposed structure or structures.

F. Coverage under a nationwide or regional permit promulgated by the U.S. Army Corps of Engineers (USACE), and for which the board has issued § 401 certification existing as of the effective date of this regulation, shall constitute coverage under this VWP general permit unless a state ~~programmative~~ program general permit is approved for the covered activity or impact. Notwithstanding any other provision, activities authorized under a nationwide or regional permit promulgated by the USACE and certified by the board in accordance with 9 VAC 25-210-130 do not need to obtain coverage under this VWP general permit unless a state programmatic general permit is approved for the covered activity or impact.

G. When the board determines on a case-by-case basis that concerns for water quality and the aquatic environment so indicate, the board may require individual applications and VWP individual permits rather than approving coverage under this VWP general permit.

9 VAC 25-680-40. Exceptions to coverage.

A. Authorization for coverage under this VWP general permit will not apply in the following areas:

Proposed Regulations

1. Wetlands composed of 10% or more of the following species (singly or in combination) in ~~any~~ a vegetative stratum: Atlantic white cedar (*Chamaecyparis thyoides*), bald cypress (*Taxodium distichum*), water tupelo (*Nyssa aquatica*), or overcup oak (*Quercus lyrata*). Percentages shall be based upon either basal area or percent areal cover in the area of impact.

2. Surface waters where the proposed activity will impact federal or state listed or proposed threatened or endangered species or proposed or designated critical habitat.

B. Authorization for coverage under this VWP general permit cannot be used in combination with authorizations for coverage under other VWP general permits in order to impact greater than two acres of nontidal ~~surface waters, more wetlands or open water or greater than 500~~ 1,500 linear feet of ~~perennial nontidal stream channel, or more than 1,500 linear feet of nonperennial stream channel bed~~. More than one authorization for coverage under this VWP general permit for a single and complete project is prohibited, except when the cumulative impact to surface waters does not exceed the limits specified here.

C. This VWP general permit may not be used to authorize nonlinear features commonly associated with transportation projects, such as, but not limited to, vehicle maintenance or storage buildings, parking lots, train stations, or aircraft hangars.

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

E. The board shall deny coverage under this VWP general permit to any applicant conducting activities that cause, may reasonably be expected to cause, or may be contributing to a violation of water quality standards, including discharges or discharge-related activities that are likely to ~~adversely~~ significantly affect aquatic life, or for activities that together with other existing or proposed impacts to wetlands will cause or contribute to a significant impairment of state waters or fish and wildlife resources.

F. This VWP general permit does not authorize activities that cause more than minimal changes to the peak hydraulic flow characteristics, that significantly increase flooding, or that cause more than minimal degradation of the water quality of ~~any~~ a stream.

G. This VWP general permit may not be used for:

1. ~~Any~~ Construction of a stormwater management facility ~~that is located~~ in perennial streams or in oxygen- or temperature-impaired waters; (*does not include wetlands*).

2. The construction of an irrigation impoundment on a perennial stream;

3. Any water withdrawal activities;

4. The location of animal feeding operations or waste storage facilities in state waters;

5. The pouring of wet concrete or the use of tremie concrete or grout bags in state waters, unless the area is contained

within a cofferdam or the work is performed in the dry, or unless approved by DEQ;

6. Return flow discharges from dredge disposal sites;

7. Overboard disposal of dredge materials;

8. Dredging in marinas;

9. Dredging of shellfish areas, submerged aquatic vegetation beds and other highly productive areas;

10. Federal navigation projects;

11. The taking of threatened or endangered species in accordance with the following:

a. As pursuant to § 29.1-564 of the Code of Virginia:—, the taking, transportation, processing, sale or offer for sale within the Commonwealth of any fish or wildlife appearing on any list of threatened or endangered species published by the United States Secretary of the Interior pursuant to the provisions of the federal Endangered Species Act of 1973 (P.L. 93-205), or any modifications or amendments thereto, is prohibited except as provided in § 29.1-568."

b. As pursuant to § 29.1-566 of the Code of Virginia and 4 VAC 15-20-130 B and C, the taking, transportation, processing, sale, or offer for sale within the Commonwealth of any state-listed endangered or threatened species is prohibited except as provided in § 29.1-568 of the Code of Virginia.

12. *Proposed activities in wetlands, open water, streams, or compensatory mitigation sites that are under a deed restriction, conservation easement, restrictive covenant, or other land use protective instrument (hereafter protected areas), where such restriction, easement, covenant, or instrument is the result of a federal or state permit action and is specific to activities in wetlands and compensatory mitigation sites, and where the proposed activities incur up to 1/10 acre of wetland or open water impacts or up to 300 linear feet of stream bed impacts. Where the proposed activities in protected areas impact greater than 1/10 acre wetlands or open water, or greater than 300 linear feet of stream bed, the applicant may submit a full and complete permit application for further consideration by the board.*

9 VAC 25-680-50. Notification.

A. Notification to the board will be required prior to commencing construction, as follows:

1. An application for authorization ~~for~~ of proposed, permanent nontidal wetland or open water impacts greater than one-tenth of an acre, or ~~for~~ of proposed permanent nontidal stream channel bed impacts greater than 300 linear feet, shall be submitted via an application that includes all information pursuant to 9 VAC 25-680-60 B. *Once permanent impacts exceed these limits, compensatory mitigation may be required for all permanent impacts in accordance with Parts I, II, and III of this VWP general permit regulation. All temporary impacts shall be restored to preexisting conditions, as per Parts I, II, and III of this VWP general permit regulation.*

2. An application for the authorization of proposed, permanent ~~surface~~ nontidal wetland or open water impacts up to

one-tenth of an acre, ~~which may include~~ or of proposed, permanent nontidal stream bed impacts up to 300 linear feet of stream channel, shall be ~~reported~~ submitted via an application that includes only the following information: subdivisions 1 through ~~8~~, 9, 13, 15, 20, and ~~20~~ 21 of 9 VAC 25-680-60 B, and documentation that verifies the quantity and type of impacts. If permanent impacts remain below these limits, compensatory mitigation is not required for permanent impacts. All temporary impacts shall be restored to preexisting conditions, as per Parts I and III of this VWP general permit regulation.

B. A Joint Permit Application (JPA) or Virginia Department of Transportation Interagency Coordination Meeting Joint Permit Application (VDOT IACM JPA) shall serve as an application under this regulation.

C. The board will determine whether the proposed activity requires coordination with the United States Fish and Wildlife Service, the Virginia Department of Conservation and Recreation, the Virginia Department of Agriculture and Consumer Services and the Virginia Department of Game and Inland Fisheries regarding the presence of any federal or state proposed or listed threatened and endangered species or proposed or designated critical habitat. Based upon consultation with these agencies, the board may deny coverage under this general permit. *The applicant may also consult with these agencies prior to submitting an application. Species or habitat information that the applicant provides will assist DEQ in reviewing and processing the application.*

9 VAC 25-680-60. Application.

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

1. The applicant shall file a complete application, ~~as described~~ in accordance with 9 VAC 25-680-50, for a VWP General Permit Number WP3 for impacts to surface waters from linear transportation projects, which will serve as a notice of intent for coverage under this VWP general permit.

2. The VDOT may use its monthly IACM process for submitting applications.

B. The required application shall contain the following information, if applicable to the project:

1. The applicant's name, mailing address, and telephone number and, if applicable, fax number;

2. The authorized agent's (if applicable) name, mailing address, telephone number and, if applicable, fax number and electronic mail address;

3. The existing VWP permit number (if applicable);

4. The name of the project, narrative description of project purpose, and a description of the proposed activity in surface waters;

5. The name of the water body or water bodies or receiving stream, as applicable;

6. The hydrologic unit code (HUC) for the project area;

7. The name of the city or county where the project is located;

8. Latitude and longitude (to the nearest second) from a central location within the project limits;

9. A detailed location map (e.g., a United States Geologic Survey topographic quadrangle map) of the project area, including the project boundary. The map shall be of sufficient detail such that the site may be easily located for site inspection;

10. (Reserved.);

11. Project plan view. ~~All~~ Plan view sketches shall include, at a minimum, north arrow, scale, existing structures, existing and proposed contours (if available), limit of surface water areas, direction of flow, ordinary high water mark, impact limits, location and dimension of all proposed structures in impact areas. ~~In addition cross-sectional or profile sketches, as appropriate, with the above information, shall may be required as appropriate to demonstrate minimization of impacts; detail impact areas.~~

12. Dredge material management plan (for dredging projects only) including plan and cross-section view drawings of the disposal or dewatering area, the dimensions and design of the proposed berm and spillway, and the capacity of the proposed disposal or dewatering site;

13. Surface water impact information (wetlands, streams, or open water) for both permanent and temporary impacts, including a description of the impact, the areal extent of the impact (area of wetland in square feet and acres; area of stream, length of stream, and average width); the location (latitude and longitude at the center of the impact, or at the center of each impact for linear projects) and the type of surface water impact (*open water; wetlands* according to the Cowardin classification or similar terminology); *or perennial and nonperennial for streams*). *The board encourages applicants to coordinate the determination of perennial or nonperennial streams with the appropriate local government agency in Tidewater Virginia.*

14. Functional values assessment for impacts to wetlands greater than one acre, which shall consist of a summary of field observations of the existing wetland functions and values and an assessment of the impact that the project will have on these functions and values. The following parameters ~~and~~ functions shall be directly addressed: surrounding land uses and cover types; nutrient, sediment, and pollutant trapping; flood control and flood storage capacity; erosion control and shoreline stabilization; groundwater recharge and discharge; aquatic and wildlife habitat; and unique or critical habitats;

15. A description of the specific on-site measures considered ~~or~~ and taken during project design and development both to avoid and minimize impacts to surface waters to the maximum extent practicable;

16. A conceptual plan for the intended compensation for unavoidable impacts, including:

a. For wetlands, the conceptual compensation plan shall include: the goals and objectives in terms of replacement of wetland acreage and function; a detailed location map (e.g., a United States Geologic Survey topographic quadrangle map), including latitude and longitude (to the nearest second) at the

Proposed Regulations

center of the site; a description of the surrounding land use; a hydrologic analysis, including a draft water budget based on expected monthly inputs and outputs which will project water level elevations for a typical year, a dry year, and a wet year; groundwater elevation data, if available, or the proposed location of groundwater monitoring wells to collect these data; a map for existing surface water areas on the proposed site or sites, including a wetland delineation confirmation for any existing wetlands; a conceptual grading plan; a conceptual planting scheme, including suggested plant species and zonation of each vegetation type proposed; and a description of existing soils, including general information on topsoil and subsoil conditions, permeability, and the need for soil amendments.

b. For streams, the conceptual compensation plan shall include: the goals and objectives in terms of water quality benefits and replacement of stream functions; a detailed location map (e.g., a United States Geologic Survey topographic quadrangle map), including the latitude and longitude ~~and the hydrologic unit code (HUC) at the center of the site to the nearest second;~~ the proposed stream segment restoration locations, including plan view and cross-section sketches; the stream deficiencies that need to be addressed; the proposed restoration measures to be employed, including channel measurements, proposed design flows and types of instream structures; and reference stream data, if available.

c. Applicants proposing to compensate off-site, including purchase or use of mitigation bank credits, or contribution to an in-lieu fee fund shall submit an evaluation of the feasibility of on-site compensation. If on-site compensation is practicable, applicants shall provide documentation as to why the proposed off-site compensation is ecologically preferable. The evaluation shall include, but not be limited to, the following assessment criteria: water quality benefits, hydrologic source, hydrologic regime, watershed, surface water functions and values, vegetation type, soils, impact acreage, distance from impacts, timing of compensation versus impacts, acquisition, constructability, and cost.

d. ~~Any applicant~~ *Applicants* proposing compensation involving contributions to an in-lieu fee fund shall state such as the conceptual compensation plan. Written documentation of the willingness of the entity to accept the donation and documentation of how the amount of the contribution was calculated shall be submitted prior to issuance of this general permit authorization.

e. ~~Any applicant~~ *Applicants* proposing compensation involving the purchase or use of mitigation banking credits shall include as their conceptual compensation plan:

- (1) The name of the proposed mitigation bank and the HUC in which it is located;
- (2) The number of credits proposed to be purchased or used; and
- (3) Certification from the bank owner of the availability of credits;

17. A delineation map must be provided of the geographic area of a delineated wetland for all wetlands on the site, in accordance with 9 VAC 25-210-45, including the wetlands

data sheets. *The delineation map shall also include the location of streams, open water, and the approximate limits of Chesapeake Bay Resource Protection Areas (RPAs), as other state or local requirements may apply if the project is located within an RPA.* Wetland types shall be noted according to their Cowardin classification or similar terminology. A copy of the USACE delineation confirmation, or other correspondence from the USACE indicating their approval of the wetland boundary, shall ~~also~~ be provided at the time of application, or if not available at that time, as soon as it becomes available during the VWP permit review. ~~The delineation map shall also include the location of streams, open water and other surface waters on the site. The approximate limits of any Chesapeake Bay Resource Protection Areas (RPAs) shall be shown on the map, as other state or local requirements may apply if the project is located within an RPA;~~

18. A copy of the FEMA flood insurance rate map or FEMA-approved local floodplain map for the project site;

19. The appropriate application processing fee for a VWP permit ~~(in accordance with 9 VAC 25-20-10 et seq.); and. The permit application fee for VWP permit authorizations is based on acres only. Therefore, impacts that include linear feet of stream bed must be converted to an acreage in order to calculate the permit application fee.~~

20. *A written disclosure identifying all wetlands, open water, streams, and associated upland buffers within the proposed project or compensation areas that are under a deed restriction, conservation easement, restrictive covenant, or other land use protective instrument (protected areas). Such disclosure shall include the nature of the prohibited activities within the protected areas.*

~~20-~~ 21. The following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment for knowing violations."

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

D. Upon receipt of an application by the appropriate DEQ office, the board has 15 days to review the application and either determine the information requested in subsection B of this section is complete or inform the applicant that additional information is required to make the application complete. Coverage under this VWP general permit shall be approved, approved with conditions, or denied within 45 days of receipt of a complete application. If the board fails to act within 45 days on a complete application, coverage under this VWP general permit shall be deemed approved.

1. In evaluating the application, the board shall make an assessment of the impacts associated with the project in combination with other existing or proposed impacts. Coverage under this VWP general permit shall be denied if the cumulative impacts will cause or contribute to a significant impairment of state waters or fish and wildlife resources.

2. The board may place additional conditions on a project in order to approve authorization under this VWP general permit. However, these conditions must be consistent with the VWP permit regulation.

E. Incomplete application. Where an application is incomplete, the board shall require the submission of additional information and ~~shall~~ may suspend processing the application until such time as the applicant has supplied the ~~missing or deficient~~ requested information and the application is complete. ~~Further,~~ Where the applicant becomes aware that he omitted one or more relevant facts from an application, or submitted incorrect information in an application or in ~~any report~~ reports to the board, he shall immediately submit such facts or the correct information. ~~Such~~ A revised application with new information shall be deemed a new application, but shall not require an additional permit application fee. ~~An incomplete permit application may be administratively withdrawn from processing by the board after 180 days from the date that the original permit application was received by the board. Resubmittal of a permit application for the same or similar project, after such time that the original permit application was administratively withdrawn, shall require submittal of an additional permit application fee.~~

9 VAC 25-680-70. Compensation.

A. In accordance with 9 VAC 25-680-50 A 1, compensatory mitigation may be required for all permanent, nontidal surface water impacts once the notification limits are exceeded. All temporary, nontidal surface water impacts shall be restored to preexisting conditions.

B. Generally, the sequence of preferred compensation options shall be restoration, then creation, then mitigation banking, and then in-lieu fee fund. Also, on-site, in-kind compensatory mitigation, when available, shall be deemed the most ecologically preferable form of compensation for project impacts, in most cases. However, off-site or out-of-kind compensation opportunities that prove to be more ecologically preferable or practicable may be considered. When the applicant can demonstrate satisfactorily that an off-site or out-of-kind compensatory mitigation proposal is practicable and ecologically preferable, then such proposal may be deemed appropriate for compensation of project impacts.

A. C. For the purposes of this VWP general permit, ~~the board may accept any one or combination of the following as compensation~~ compensatory mitigation for unavoidable wetland impacts may be met through the following: ~~wetland creation, wetland or stream restoration, the purchase or use of mitigation bank credits, or a contribution to an approved in-lieu fee fund. Preservation of wetlands, or preservation or restoration of upland buffers adjacent to state waters, may only be applied toward wetland compensation when utilized in conjunction with one or more of the above-mentioned compensation options. Preservation or enhancement of~~

~~stream channels, or preservation, restoration, or enhancement of adjacent riparian buffers, may be applied toward stream compensation as appropriate.~~

1. Wetland creation.

2. Wetland restoration.

3. The purchase or use of credits from a mitigation bank, pursuant to § 62.1-44.15:5 E of the Code of Virginia.

4. A contribution to an approved in-lieu fee fund.

5. Preservation of upland buffers adjacent to state waters, when utilized in conjunction with subdivision 1, 2, or 3 of this subsection and when consistent with 9 VAC 25-210-115 C.

6. Restoration of upland buffers adjacent to state waters, when utilized in conjunction with subdivision 1, 2, or 3 of this subsection and when consistent with 9 VAC 25-210-115 C.

7. Preservation of wetlands, when utilized in conjunction with subdivision 1, 2, or 3 of this subsection.

D. For the purposes of this VWP general permit, compensatory mitigation for unavoidable stream impacts may be met through the following:

1. Stream channel restoration or enhancement.

2. Riparian buffer restoration or enhancement.

3. Riparian buffer preservation, when consistent with 9 VAC 25-210-115 C.

4. A contribution to an approved in-lieu fee fund.

5. The purchase or use of credits from a mitigation bank, pursuant to § 62.1-44.15:5 E of the Code of Virginia.

E. In order for contribution to an in-lieu fee fund to be an acceptable form of compensation, the fund must be approved for use by the board according to the provisions of 9 VAC 25-210-115 E. The applicant shall provide proof of contribution to DEQ prior to commencing activities in impact areas.

F. In order for purchase or use of bank credits to be an acceptable form of compensation, the bank shall be operating in accordance with the provisions of § 62.1-44.15:5 E of the Code of Virginia and 9 VAC 25-210-115 F. The applicant shall provide proof of purchase, use, or debit to DEQ prior to commencing activities in impact areas.

~~B.~~ G. Compensation for unavoidable, permanent wetland impacts shall be provided at the following minimum compensation to impact ratios:

1. Impacts to forested wetlands shall be mitigated at 2:1, as calculated on an area basis.

2. Impacts to scrub shrub wetlands shall be mitigated at 1.5:1, as calculated on an area basis.

3. Impacts to emergent wetlands shall be mitigated at 1:1, as calculated on an area basis.

~~C.~~ Compensation for unavoidable impacts to streams shall be provided and shall include, as practicable and appropriate, stream restoration, riparian buffer restoration or enhancement, or preservation or enhancement of stream corridors. The

Proposed Regulations

~~purchase or use of stream mitigation bank credits or contribution to an in-lieu fee fund that includes watershed enhancements is also acceptable. H. Compensation for stream bed impacts shall be appropriate to replace lost functions and water quality benefits. One factor in determining the required compensation shall be an analysis of stream impacts utilizing a stream impact assessment methodology approved by the board acceptable to DEQ.~~

~~D. I. Compensation for permanent open water impacts other than to streams may be required at a 1:1 replacement to impact ratio, as appropriate calculated on an area basis, to protect offset impacts to state waters and fish and wildlife resources from significant impairment.~~

E. J. Compensation for conversion impacts to wetlands shall be required at a 1:1 replacement to impact ratio, as calculated on an area basis, when such conversion results in a permanent alteration of the functions and values of the wetlands. For example, the permanent conversion of a forested wetland to an emergent wetland is considered to be a permanent impact for the purposes of this regulation. Compensation for conversion of other types of surface waters may be required, as appropriate, to offset impacts to state waters and fish and wildlife resources from significant impairment.

~~F. In order for contribution to an in-lieu fee fund to be an acceptable form of compensation, the fund must be approved for use by the board according to the provisions of 9 VAC 25-210-115 E.~~

~~G. In order for the purchase or use of bank credits to be an acceptable form of compensation, the bank shall be operating in accordance with the provisions of § 62.1-44.15:5 E of the Code of Virginia and 9 VAC 25-210-115 F. The applicant shall provide proof of purchase, use, or debit to DEQ prior to commencing activities in impact areas.~~

9 VAC 25-680-80. Notice of planned changes.

A. ~~The permittee shall notify the board in advance of the planned change, and the planned change request will be reviewed according to all provisions of this regulation.~~

A. B. Authorization under this VWP general permit may be modified subsequent to issuance if the permittee determines that additional permanent wetland, open water, or stream impacts are necessary, provided that the additional impacts are associated with the previously authorized activities in authorized locations within the same phase of development, the cumulative increase in acreage of wetland or open water impacts is not greater than 1/4 acre and , the cumulative increase in stream bed impacts is not greater than 50 100 linear feet, and provided that the additional impacts are fully mitigated. ~~In no case can this authorization be modified to exceed the general permit threshold for use. Prior to a planned change approval, DEQ may require submission of a compensatory mitigation plan for the additional impacts. In cases where the original impacts totaled less than 1/10 acre of wetlands or open water, or less than 300 linear feet of stream bed, and the additional impacts result in these limits being exceeded, the notice of planned change will not be approved. However, the applicant may submit a new permit application~~

~~and permit application fee for the total impacts to be considered under this VWP general permit, another VWP general permit, or a VWP individual permit.~~

~~B. C. Authorization under this VWP general permit may be modified after issuance if the project results in less wetland or stream impacts. Compensation requirements may be modified in relation to the adjusted impacts at the request of the permittee, provided that the adjusted compensation meets the initial authorization compensation goals. DEQ shall not be responsible for ensuring refunds for mitigation bank credit purchases, mitigation bank usage, or in-lieu fee fund contributions.~~

~~C. D. Authorization under this VWP general permit may be modified after issuance for a change in project plans that does not result in a change in project impacts.~~

~~D. E. Authorization under the VWP general permit may be modified for a change to the mitigation bank at which credits are purchased or used, provided that the same amount of credits are purchased or used and all criteria for use in 9 VAC 25-210-115 are met.~~

~~E. F. Authorization under the VWP general permit may be modified after issuance for typographical errors.~~

~~F. G. A Notice of Planned Change is not required after authorization issuance for additional temporary impacts to surface waters, provided that DEQ is notified in writing regarding additional temporary impacts, and the area is restored to preexisting conditions in accordance with Part I C 11 of this general permit. In no case can the additional temporary impacts exceed the general permit threshold for use.~~

~~G. The permittee shall notify the board in advance of the planned change, and the planned change request will be reviewed according to all provisions of this regulation. H. In no case can this authorization be modified to exceed the general permit threshold for use.~~

~~I. A notice of planned change shall be denied if fish and wildlife resources are significantly impacted or if the criteria in subsection B of this section are not met. However, the original VWP general permit authorization shall remain in effect. The applicant may submit a new permit application and permit application fee for consideration under a VWP individual permit.~~

9 VAC 25-680-90. Termination of authorization by consent.

When all permitted activities requiring notification under 9 VAC 25-680-50 A 1 and all compensatory mitigation requirements have been completed, or if the authorized impacts will not occur, the permittee shall submit a request for termination by consent within 30 days of project completion or project cancellation. When submitted for project completion, the termination by consent shall constitute a notice of completion in accordance with 9 VAC 25-210-130. The director may accept this termination of authorization on behalf of the board. The permittee shall submit the following information:

1. Name, mailing address and telephone number of the permittee;

Proposed Regulations

2. Any changes to the authorized permanent impacts to surface waters associated with this project shall require either a notice of planned change in accordance with 9 VAC 25-680-80 or another VWP permit application.

3. Any changes to the authorized temporary impacts to surface waters associated with this project shall require written notification to DEQ and restoration to preexisting conditions in accordance with the conditions of this permit authorization.

4. Modification to compensation requirements may be approved at the request of the permittee when a decrease in the amount of authorized surface waters impacts occurs, provided that the adjusted compensation meets the initial authorization compensation goals.

5. The activities authorized for coverage under this VWP general permit must commence and be completed within ~~five~~ seven years of the date of this authorization.

B. Continuation of Coverage. Reapplication for continuation of coverage under this VWP general permit or a new VWP permit may be necessary if any portion of the authorized activities or any VWP permit requirement (including compensation) has not been completed within ~~five~~ seven years of the date of authorization. Notwithstanding any other provision, a request for continuation of coverage under a VWP general permit in order to complete monitoring requirements shall not be considered a new application and no application fee will be charged. The request for continuation of coverage must be made no less than 60 days prior to the expiration date of this VWP general permit authorization, at which time the board will determine if continuation of the VWP general permit authorization is necessary.

C. Overall project conditions.

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

2. No activity may substantially disrupt the movement of aquatic life indigenous to the water body, including those species which normally migrate through the area, unless the primary purpose of the activity is to impound water. Culverts placed in streams must be installed to maintain low flow conditions. The requirement to countersink does not apply to extensions or maintenance of existing culverts that are not countersunk, floodplain culverts being placed above ordinary high water, culverts being placed on bedrock, or culverts required to be placed on slopes 5.0% or greater. No activity may cause more than minimal adverse effect on navigation. Furthermore the activity must not impede the passage of normal or expected high flows and the structure or discharge must withstand expected high flows.

3. Wet or uncured concrete shall be prohibited from entry into flowing surface waters, unless otherwise approved by DEQ. Excess or waste concrete shall not be disposed of in flowing surface waters or washed into flowing surface waters.

4. All fill material shall be clean and free of contaminants in toxic concentrations or amounts in accordance with all applicable laws and regulations.

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

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

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

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

9. Heavy equipment in temporarily impacted wetland areas shall be placed on mats, geotextile fabric, or other suitable material, to minimize soil disturbance to the maximum extent practicable. Equipment and materials shall be removed immediately upon completion of work.

10. All nonimpacted surface waters *and compensatory mitigation areas* within 50 feet of ~~any~~ permitted activities and within the project or right-of-way limits shall be clearly flagged or marked for the life of the construction activity at that location to preclude ~~any~~ unauthorized disturbances to these surface waters *and compensatory mitigation areas* during construction. The permittee shall notify ~~all~~ contractors that *no activities are to occur in these marked areas* ~~are~~ surface waters ~~where no activities are to occur~~.

11. Temporary disturbances to surface waters during construction shall be avoided and minimized to the maximum extent practicable. All temporarily disturbed wetland areas shall be restored to ~~preconstruction~~ *preexisting* conditions within 30 days of completing work *at each respective temporary impact area*, which shall include reestablishing preconstruction contours, and planting or seeding with appropriate wetland vegetation according to cover type (emergent, scrub/shrub, or forested). The permittee shall take all appropriate measures to promote and maintain revegetation of temporarily disturbed wetland areas with wetland vegetation through the second year post-disturbance. All temporarily impacted streams and streambanks shall be restored to their original contours within 30 days following the construction at that stream segment, and the banks seeded or planted with the same vegetation cover type originally present along the streambanks, including supplemental erosion control grasses if necessary, except for invasive species identified on DCR's Invasive Alien Plant Species of Virginia list.

12. All Materials (including fill, construction debris, and excavated and woody materials) temporarily stockpiled in wetlands shall be placed on mats or geotextile fabric, immediately stabilized to prevent entry into state waters, managed such that leachate does not enter state waters, and completely removed within 30 days following completion of that construction activity. Disturbed areas shall be returned to original contours, restored within 30 days following removal of the stockpile, and restored with the same vegetation cover type originally present, including supplemental erosion control grasses if necessary, except for invasive species identified on DCR's Invasive Alien Plant Species of Virginia list.

13. Continuous flow of perennial springs shall be maintained by the installation of spring boxes, french drains, or other similar structures.

14. The permittee shall employ measures to prevent spills of fuels or lubricants into state waters.

15. The permittee shall conduct his activities in accordance with ~~any~~ the time-of-year restrictions recommended by the Virginia Department of Game and Inland Fisheries ~~or~~ , the Virginia Marine Resources Commission, *or other interested and affected agencies* and shall ensure that all contractors are aware of ~~any~~ the time-of-year restrictions imposed.

16. Water quality standards shall not be violated as a result of the construction activities, unless allowed by this permit authorization.

17. Untreated stormwater runoff shall be prohibited from directly discharging into ~~any~~ surface waters, unless allowed by this permit authorization. Appropriate best management practices shall be deemed suitable treatment prior to discharge into state waters.

18. If stream channelization or relocation is required, all work in surface waters shall be done in the dry, unless authorized by this VWP general permit, and all flows shall be diverted around the channelization or relocation area until the new channel is stabilized. This work shall be accomplished by leaving a plug at the inlet and outlet ends of the new channel during excavation. Once the new channel has been stabilized, flow shall be routed into the new channel by first removing the downstream plug and then the upstream plug. The rerouted stream flow must be fully established before construction activities in the old stream channel can begin.

D. Road crossings.

1. Access roads and associated bridges or culverts shall be constructed to minimize the adverse effects on surface waters to the maximum extent practicable. Access roads constructed above preconstruction contours and elevations in surface waters must be bridged or culverted to maintain surface flows.

2. Installation of road crossings shall occur in the dry via the implementation of cofferdams, sheetpiling, stream diversions, or similar structures.

E. Utility lines.

1. All utility line work in surface waters shall be performed in a manner that minimizes disturbance, and the area must be returned to its original contours and restored within 30 days of

completing work in the area, unless otherwise authorized by this VWP general permit. Restoration shall be the seeding or planting of the same vegetation cover type originally present, including supplemental erosion control grasses if necessary, except for invasive species identified on DCR's Invasive Alien Plant Species of Virginia list.

2. Material resulting from trench excavation may be temporarily sidecast into wetlands not to exceed a total of 90 days, provided the material is not placed in a manner such that it is dispersed by currents or other forces.

3. The trench for a utility line cannot be constructed in a manner that drains wetlands (e.g., backfilling with extensive gravel layers creating a french drain effect). For example, utility lines may be backfilled with clay blocks to ensure that the trench does not drain surface waters through which the utility line is installed.

F. Stream modification and stream bank protection.

1. Riprap bank stabilization shall be of an appropriate size and design in accordance with the Virginia Erosion and Sediment Control Handbook, Third Edition, 1992.

2. Riprap aprons for all outfalls shall be designed in accordance with the Virginia Erosion and Sediment Control Handbook, Third Edition, 1992.

3. For bank protection activities, the structure and backfill shall be placed as close to the stream bank as practicable. No material shall be placed in excess of the minimum necessary for erosion protection.

4. All stream bank protection structures shall be located to eliminate or minimize impacts to vegetated wetlands to the maximum extent practicable.

5. Asphalt and materials containing asphalt or other toxic substances shall not be used in the construction of submerged sills or breakwaters.

6. Redistribution of existing stream substrate for the purpose of erosion control is prohibited.

7. No material removed from the stream bottom shall be disposed of in surface waters unless authorized by this permit.

G. Dredging.

1. Dredging depths shall be determined and authorized according to the proposed use and controlling depths outside the area to be dredged.

2. Dredging shall be accomplished in a manner that minimizes disturbance of the bottom and minimizes turbidity levels in the water column.

3. If evidence of impaired water quality, such as a fish kill, is observed during the dredging, dredging operations shall cease and the Department of Environmental Quality (DEQ) shall be notified immediately.

4. Barges used for the transportation of dredge material shall be filled in such a manner to prevent ~~any~~ the overflow of dredged materials.

Proposed Regulations

5. Double handling of dredged material in state waters shall not be permitted.

6. For navigation channels the following shall apply:

a. A buffer of four times the depth of the dredge cut shall be maintained between the bottom edge of the design channel and the channelward limit of wetlands ~~or mean low water~~, or a buffer of 15 feet shall be maintained from the dredged cut and the channelward edge of wetlands ~~or mean low water~~, whichever is greater. This landward limit of buffer shall be flagged and inspected prior to construction.

b. Side slope cuts of the dredging area shall not exceed a two-horizontal-to-one-vertical slope to prevent slumping of material into the dredged area.

7. A dredged material management plan for the designated upland disposal site shall be submitted and approved 30 days prior to initial dredging activity.

8. Pipeline outfalls and spillways shall be located at opposite ends of the dewatering area to allow for maximum retention and settling time. Filter fabric shall be used to line the dewatering area and to cover the outfall pipe to further reduce sedimentation to state waters.

9. The dredge material dewatering area shall be of adequate size to contain the dredge material and to allow for adequate dewatering and settling out of sediment prior to discharge back into state waters.

10. The dredge material dewatering area shall utilize an earthen berm or straw bales covered with filter fabric along the edge of the area to contain the dredged material, and shall be properly stabilized prior to placing the dredged material within the containment area.

11. Overtopping of the dredge material containment berms with dredge materials shall be strictly prohibited.

H. Stormwater management facilities.

1. Stormwater management facilities shall be installed in accordance with best management practices and watershed protection techniques (~~i.e.~~ e.g., vegetated buffers, siting considerations to minimize adverse effects to aquatic resources, bioengineering methods incorporated into the facility design to benefit water quality and minimize adverse effects to aquatic resources) that provide for long-term aquatic resources protection and enhancement, to the maximum extent practicable.

2. Compensation for unavoidable impacts shall not be allowed within maintenance areas of stormwater management facilities.

3. Maintenance activities within stormwater management facilities shall not require additional permit authorization or compensation, provided that the maintenance activities do not exceed the original contours of the facility, as approved and constructed, and is accomplished in designated maintenance areas as indicated in the facility maintenance or design plan.

Part II. Construction and Compensation Requirements, Monitoring and Reporting.

A. ~~Compensation~~ Minimum compensation requirements:

1. The permittee shall provide appropriate and practicable compensation for all impacts meeting the conditions outlined in this VWP general permit.

2. ~~The types of Compensation options that may be considered under this VWP general permit include wetland or stream creation or restoration, the purchase or use of mitigation bank credits, or a contribution to an approved in-lieu fee fund shall meet the criteria in 9 VAC 25-680-70.~~

3. ~~For wetlands compensation may incorporate preservation of wetlands or preservation or restoration of upland buffers adjacent to state waters when utilized in conjunction with creation, restoration, or mitigation bank credits. For other surface waters, compensation may incorporate preservation, restoration, or enhancement of stream channels, or preservation, restoration, or enhancement of adjacent riparian buffers.~~

4. 3. The site or sites depicted in the conceptual compensation plan submitted with the application shall constitute the compensation site for the approved project. A site change will require a modification to the authorization.

5. 4. For compensation involving the purchase or use of mitigation bank credits *or a contribution to an in-lieu fee fund*, the permittee shall not initiate work in permitted impact areas until documentation of the mitigation bank credit purchase or usage *or of the fund contribution* has been submitted to and received by DEQ.

6. ~~For projects proposing a contribution to an in-lieu fee fund, the permittee shall not initiate work in permitted impact areas until documentation of the in-lieu fee fund contribution has been submitted to and received by DEQ.~~

7. 5. All aspects of the compensation plan shall be finalized, submitted and approved by the board prior to ~~any~~ a construction activity in permitted impact areas. The board shall review and provide written comments on the plan within 30 days of receipt or it shall be deemed approved. The final compensation plan as approved by the board shall be an enforceable requirement of this VWP general permit authorization. ~~Any~~ Deviations from the approved plan must be submitted and approved in advance by the board.

8. 6. The final wetlands compensation plan shall include:

a. The goals and objectives of the plan in terms of replacement of wetland acreage and functions, by wetland type;

b. Location map, including latitude and longitude (to the nearest second) at the center of the site;

c. Summary of the type and acreage of existing wetland impacts anticipated during the construction of the compensation site and proposed compensation for these impacts;

d. Grading plan with existing and proposed elevations at one-foot or less contours;

- e. Schedule for compensation site construction, including sequence of events with estimated dates;
 - f. Hydrologic analysis, including a water budget based on expected monthly inputs and outputs that will project water level elevations for a typical year, a dry year, and a wet year;
 - g. Groundwater elevation data for the site, or the ~~proposed~~ location of groundwater monitoring wells to collect these data, and groundwater data for reference wetlands, if applicable;
 - h. Design of water control structures;
 - i. Planting scheme and schedule, indicating plant species zonation, and acreage of each vegetation type proposed;
 - j. An abatement and control plan covering all undesirable plant species, as listed on DCR's Invasive Alien Plant Species of Virginia list, that includes the proposed procedures for notifying DEQ of their presence, methods of removal, and the control of ~~any~~ such species;
 - k. Erosion and sedimentation control plan;
 - l. A soil preparation and amendment plan addressing both topsoil and subsoil conditions;
 - m. A discussion of ~~any~~ structures and features considered necessary for the success of the plan;
 - n. A monitoring plan, including success criteria, monitoring goals and methodologies, monitoring and reporting schedule, and the locations of photographic stations and monitoring wells, ~~any~~ sampling points and, if applicable, reference wetlands;
 - o. Site access plan;
 - p. The location and composition of any buffers; and
 - q. The mechanism for protection of the compensation areas.
- ~~9.~~ 7. The final stream compensation plan shall include:
- a. The goals and objectives of the compensation plan in terms of replacement of stream functions and ~~values~~ *water quality benefits*;
 - b. A location map, including latitude and longitude (to the nearest second) at the center of the site;
 - c. An evaluation, discussion, and plan sketches of existing conditions on the proposed compensation stream, including the identification of functional and physical deficiencies for which the measures are proposed, and summary of geomorphologic measurements (e.g., stream width, entrenchment ratio, width-depth ratio, sinuosity, slope, substrate, etc.);
 - d. The identification of existing geomorphological stream type being impacted and proposed geomorphological stream type for compensation purposes;
 - e. Detailed design information for the proposed restorative measures, including geomorphological measurements and reference reach information as appropriate;
 - f. Riparian buffer plantings, including planting scheme, species, buffer width;
- g. Livestock access limiting measures, to the greatest extent possible;
 - h. A site access plan;
 - i. An erosion and sedimentation control plan, if appropriate;
 - j. Abatement and control plan covering all undesirable plant species, as listed on DCR's Invasive Alien Plant Species of Virginia list that includes the proposed procedures for notifying DEQ of their presence, methods for removal, and the control of ~~any~~ such species;
 - k. A schedule for compensation site construction including projected start date, sequence of events with projected dates, and projected completion date;
 - l. A monitoring plan, including a monitoring and reporting schedule; monitoring design and methodologies to evaluate the success of the proposed compensation measures, allowing comparison from year to year; proposed success criteria for appropriate compensation measures; location of all monitoring stations including photo stations, vegetation sampling points, survey points, bank pins, scour chains, and reference streams;
 - m. The mechanism for protection of the compensation area; and
 - n. Plan view sketch depicting the pattern and all compensation measures being employed, a profile sketch, and cross-section sketches of the proposed compensation stream.
- ~~10.~~ 8. For final wetland or stream compensation plans, ~~any~~ *the* vegetation used shall be native species common to the area, shall be suitable for growth in local wetland *or stream* conditions, and shall be from areas within the same or adjacent USDA Plant Hardiness Zone or NRCS Land Resource Region as that of the project site.
- ~~11.~~ 9. The final wetland or stream compensation plan or plans shall include a mechanism for protection in perpetuity of the compensation sites to include all state waters within the compensation site boundary or boundaries. Such protections shall be in place within 120 days of final plan approval. The restrictions, protections, or preservations, or similar instrument, shall state that no activity will be performed on the property in any area designated as a compensation area with the exception of maintenance or corrective action measures authorized by the board. Unless specifically authorized by the board through the issuance of a VWP individual or general permit, or waiver thereof, this restriction applies to ditching, land clearing or the discharge of dredge or fill material. Such instrument shall contain the specific phrase "ditching, land clearing or discharge of dredge or fill material" in the limitations placed on the use of these areas. The protective instrument shall be recorded in the chain of title to the property, or an equivalent instrument for government-owned lands. Proof of recordation shall be submitted within 120 days of plat approval.
- ~~12.~~ 10. All work in permitted impact areas shall cease if compensation site construction has not commenced within 180 days of commencement of project construction, unless otherwise authorized by the board.

Proposed Regulations

43- 11. DEQ shall be notified in writing at least 10 days prior to the initiation of construction activities at the compensation sites.

44- 12. Planting of woody plants shall occur when vegetation is normally dormant unless otherwise approved in the final wetlands or stream compensation plan(s).

45- 13. Point sources of stormwater runoff shall be prohibited from entering ~~any~~ a wetland compensation site prior to treatment by appropriate best management practices. Appropriate best management practices may include sediment traps, grassed waterways, vegetated filter strips, debris screens, oil and grease separators, or forebays.

46- 14. The success of the compensation shall be based on meeting the success criteria established in the approved final compensation plan.

47- 15. Wetland hydrology shall be considered established if depths to the seasonal high water table are equal to or less than 12 inches below ground surface for at least 12.5% of the region's killing frost-free growing season, as defined in the soil survey for the locality of the compensation site or the NRCS WETS table, measured in consecutive days under typical precipitation conditions, and as defined in the water budget of the final compensation plan. For the purpose of this regulation, the growing season is defined as the period in which temperatures are expected to be above 28 degrees Fahrenheit in five out of 10 years, or the period during which the soil temperature in a wetland compensation site is greater than biological zero (five degrees Celsius) at a depth of 50 centimeters (19.6 inches), if such data is available.

48- 16. The wetland plant community shall be considered established according to the performance criteria specified in the final compensation plan and approved by the board. The proposed vegetation success criteria in the final compensation plan shall include the following:

a. Species composition shall reflect the desired plant community types stated in the final wetland compensation plan by the end of the first growing season and shall be maintained through the last monitoring year.

b. Species composition shall consist of greater than 50% facultative (FAC) or wetter (FACW or OBL) vegetation, as expressed by plant stem density or areal cover, by the end of the first growing season and shall be maintained through the last monitoring year.

49- 17. Undesirable plant species shall be identified and controlled as described in the undesirable plant species control plan, such that they are not dominant species or do not change the desired community structure. The control plan shall include procedures to notify DEQ when undesirable plant species comprise greater than 5.0% of the vegetation by areal coverage on wetland or stream compensation sites. The notification shall include the methods of removal and control, and whether the methods are successful.

20- 18. If the wetland or stream compensation ~~area(s) fail area~~ fails to meet the specified success criteria in a particular monitoring year ~~(with the exception of, other than the final monitoring year)~~, the reasons for this failure shall be

determined and a corrective action plan ~~(including proposed actions, a schedule, and a monitoring plan)~~ shall be submitted to DEQ for approval with or before that year's monitoring report. The ~~approved~~ corrective action plan *shall contain at minimum the proposed actions, a schedule for those actions, and a monitoring plan*, and shall be implemented by the permittee in accordance with the approved schedule. Should significant changes be necessary to ensure success, the required monitoring cycle shall begin again, with monitoring year one being the year that the changes are complete as confirmed by DEQ. ~~24- If all success criteria have not been met in the wetland or stream compensation area fails to meet the specified success criteria by the final monitoring year, or if the wetland or stream compensation site area has not met the stated restoration goals, reasons for this failure shall be determined and a corrective action plan, including proposed actions, a schedule, and a monitoring plan, shall be submitted with the final year monitoring report for DEQ approval. Corrective action shall be implemented by the permittee in accordance with the approved schedule. Annual monitoring shall be required for each consecutive year to continue until two sequential, annual reports indicate that all criteria have been successfully satisfied and the site has met the overall restoration goals (i.e. e.g., that corrective actions were successful). The reasons for this failure shall be determined and a corrective action plan (including proposed actions, a schedule, and a monitoring plan) shall be submitted with the monitoring report to DEQ for approval and implemented by the permittee in accordance with the approved schedule.~~

22- 19. The surveyed wetland boundary for the compensation site shall be based on the results of the hydrology, soils, and vegetation monitoring data and shall be shown on the site plan. Calculation of total wetland acreage shall be based on that boundary at the end of the monitoring cycle. Data shall be submitted by December 31 of the final monitoring year.

23- 20. Herbicides or algicides shall not be used in or immediately adjacent to the compensation site or sites without prior authorization by the board. All vegetation removal shall be done by manual means only, unless authorized by DEQ in advance.

B. Impact site construction monitoring.

1. *Construction activities authorized by this permit that are within impact areas shall be monitored and documented. The monitoring shall document the preexisting conditions, activities during construction, and post-construction conditions. Monitoring shall consist of one of the following options:*

a. *Photographs shall be taken during construction at the end of the first, second and third months of commencing construction, and then every six months thereafter for the remainder of the construction project. Photos are not required during periods of no activity within impact areas.*

b. *An ortho-rectified photograph shall be taken by a firm specializing in ortho-rectified photography prior to construction, and annually thereafter, until all impacts are taken. Photos shall clearly show the delineated surface waters and authorized impact areas.*

c. In lieu of photographs, and with prior approval from DEQ, the permittee may submit a written narrative that summarizes site construction activities in impact areas. The narrative shall be submitted at the end of the first, second, and third months after commencing construction, and then every six months thereafter, for the remainder of the construction activities. Narratives are not required during periods of no activity with the impact areas.

2. As part of construction monitoring, photographs taken at the photo stations or the narrative shall document site activities and conditions, which may include installation and maintenance of erosion and sediment controls; surface water discharges from the site; condition of adjacent nonimpact surface waters; flagged nonimpact surface waters; construction access and staging areas; filling, excavation, and dredging activities; culvert installation; dredge disposal; and site stabilization, grading, and associated restoration activities. With the exception of the preconstruction photographs, photographs at an individual impact site shall not be required until construction activities are initiated at that site. With the exception of the post-construction photographs, photographs at an individual impact site shall not be required once the site is stabilized following completion of construction at that site.

3. Each photograph shall be labeled to include the following information: permit number, impact area and photo station number, date and time of the photograph, name of the person taking the photograph, photograph orientation, and photograph subject description.

4. Monitoring of water quality parameters shall be conducted during permanent relocation of perennial streams through new channels in the manner noted below. The permittee shall report violations of water quality standards to DEQ in accordance with the procedures in Part II E. Corrective measures and additional monitoring may be required if water quality standards are not met. Reporting shall not be required if water quality standards are not violated.

a. A sampling station shall be located upstream and immediately downstream of the relocated channel.

b. Temperature, pH and dissolved oxygen (D.O.) measurements shall be taken every 30 minutes for at least two hours at each station prior to opening the new channels and immediately before opening new channels.

c. Temperature, pH and D.O. readings shall be taken after opening the channels and every 30 minutes for at least three hours at each station.

B. C. Wetland compensation site monitoring.

1. An as-built ground survey, or an aerial survey provided by a firm specializing in aerial surveys, shall be conducted for the entire compensation site or sites, including invert elevations for all water elevation control structures and spot elevations throughout the site or sites. Aerial surveys shall include the variation from actual ground conditions, such as +/- 0.2 feet. Either type of survey shall be certified by a licensed surveyor or by a registered professional engineer to conform to the design plans. The survey shall be submitted within 60 days of completing compensation site construction. Any Changes or

deviations in the as-built survey or aerial survey shall be shown on the survey and explained in writing.

2. Photographs shall be taken at the compensation site or sites from the permanent markers identified in the final compensation plan, and established to ensure that the same locations and view directions at the site or sites are monitored in each monitoring period. These photographs shall be taken after the initial planting and at a time specified in the final compensation plan during every monitoring year.

3. Compensation site monitoring shall begin on the first day of the first complete growing season (monitoring year 1) after wetland compensation site construction activities, including planting, have been completed. Monitoring shall be required for monitoring years 1, 2, 3, and 5, unless otherwise approved by DEQ. In all cases, if all success criteria have not been met in the final monitoring year, then monitoring shall be required for each consecutive year until two annual sequential reports indicate that all criteria have been successfully satisfied.

4. The establishment of wetland hydrology shall be measured weekly during the growing season, with the location and number of monitoring wells, and frequency of monitoring for each site, set forth in the final monitoring plan. All Hydrology monitoring well data shall be accompanied by precipitation data, including rainfall amounts, either from on site or from the closest weather station. Once the wetland hydrology success criteria have been satisfied for a particular monitoring year, monitoring may be discontinued for the remainder of that monitoring year following DEQ approval. After a period of three monitoring years, the permittee may request that hydrology monitoring be discontinued, providing that adequate hydrology has been established and maintained. Hydrology monitoring shall not be discontinued without written approval from DEQ.

5. The presence of hydric soils or soils under hydric conditions shall be evaluated in accordance with the final compensation plan.

6. The establishment of wetland vegetation shall be in accordance with the final compensation plan. Monitoring shall take place in August, September, or October during the growing season of each monitoring year, unless otherwise authorized in the monitoring plan.

7. The presence of undesirable plant species shall be documented.

8. All wetland compensation monitoring reports shall be submitted by December 31 of the monitoring year. The reports shall include, as applicable, the following: in accordance with 9 VAC 25-680-100 Part II E 6.

~~a. General description of the site including a site location map identifying photo stations, vegetative and soil monitoring stations, monitoring wells, and wetland zones.~~

~~b. Summary of activities completed during the monitoring year.~~

~~c. Description of monitoring methods.~~

~~d. Analysis of all hydrology information, including monitoring well data, precipitation data, and gauging data from streams~~

Proposed Regulations

~~or other open water areas, as set forth in the final compensation plan.~~

~~e. Evaluation of hydric soils or soils under hydric conditions, as appropriate.~~

~~f. Analysis of all vegetative community information, including woody and herbaceous species, both planted and volunteers, as set forth in the final compensation plan.~~

~~g. Photographs labeled with the permit number, the name of the compensation site, the photo station number, the photograph orientation, the date and time of the photograph, the name of the person taking the photograph, and a brief description of the photograph subject. This information shall be provided as a separate attachment to each photograph, if necessary. Photographs taken after the initial planting shall be included in the first monitoring report after planting is complete.~~

~~h. Discussion of wildlife or signs of wildlife observed at the compensation site.~~

~~i. Comparison of site conditions from the previous monitoring year and reference site, if applicable.~~

~~j. Discussion of corrective measures or maintenance activities to control undesirable species, to repair any damaged water control device, or to replace any damaged planted vegetation.~~

~~k. Corrective action plan, which includes proposed actions, a schedule, and monitoring plan.~~

~~C. D. Stream compensation, restoration, and monitoring.~~

~~1. Any Riparian buffer restoration activities shall be detailed in the final compensation plan and shall include, as appropriate, the planting of a variety of native species currently growing in the site area, including appropriate seed mixtures and woody species that are bare root, balled, or burlapped. A minimum buffer width of 50 feet, measured from the top of the stream bank at bankfull elevation landward on both sides of the stream, shall be required where practical.~~

~~2. The installation of root wads, vanes, and other instream structures, shaping of the stream banks and channel relocation shall be completed in the dry whenever practicable.~~

~~3. Livestock access to the stream and designated riparian buffer shall be limited to the greatest extent practicable.~~

~~4. Stream channel restoration activities shall be conducted in the dry or during low flow conditions. When site conditions prohibit access from the streambank, heavy equipment shall be authorized for use within the stream channel.~~

~~5. Photographs shall be taken at the compensation site from the vicinity of the permanent photo stations identified in the final compensation plan. The photograph orientation shall remain constant during all monitoring events. At a minimum, photographs shall be taken from the center of the stream, facing downstream, with a sufficient number of photographs to view the entire length of the restoration site. Photographs shall document the completed restoration conditions. Photographs shall be taken prior to site activities, during instream and riparian compensation construction activities, within one week~~

~~of completion of activities, and during at least one day of each monitoring year to depict restored conditions.~~

~~6. An as-built ground survey, or an aerial survey provided by a firm specializing in aerial surveys, shall be conducted for the entire compensation site or sites. Aerial surveys shall include the variation from actual ground conditions, such as +/- 0.2 feet. The survey shall be certified by the licensed surveyor or by a registered, professional engineer to conform to the design plans. The survey shall be submitted within 60 days of completing compensation site construction. Any Changes or deviations from the final compensation plans in the as-built survey or aerial survey shall be shown on the survey and explained in writing.~~

~~7. Compensation site monitoring shall begin on day one of the first complete growing season (monitoring year 1) after stream compensation site constructions activities, including planting, have been completed. Monitoring shall be required for monitoring years 1 and 2, unless otherwise determined by DEQ. In all cases, if all success criteria have not been met in the final monitoring year, then monitoring shall be required for each consecutive year until two annual sequential reports indicate that all criteria have been successfully satisfied.~~

~~8. All stream compensation monitoring reports shall be submitted by December 31 of the monitoring year. The reports shall include, as applicable, the following: *in accordance with 9 VAC 25-680-100 Part II E 6.*~~

~~a. General description of the site including a site location map identifying photo stations and monitoring stations.~~

~~b. Summary of activities completed during the monitoring year.~~

~~c. Description of monitoring methods.~~

~~d. An evaluation and discussion of the monitoring results in relation to the success criteria and overall goals of compensation.~~

~~e. Photographs labeled with the permit number, the name of the compensation site, the photo station number, the photograph orientation, the date and time of the photograph, the name of the person taking the photograph, and a brief description of the photograph subject. Photographs taken prior to compensation site construction activities, during instream and riparian restoration activities, and within one week of completion of activities shall be included in the first monitoring report.~~

~~f. A discussion of alterations, maintenance, or major storm events resulting in significant change in stream profile or cross section, and corrective actions conducted at the stream compensation site.~~

~~g. Documentation of undesirable plant species and summary of abatement and control measures.~~

~~h. A summary of wildlife or signs of wildlife observed at the compensation site.~~

~~i. Comparison of site conditions from the previous monitoring year and reference site, if applicable.~~

~~j. A corrective action plan, which includes proposed actions, a schedule and monitoring plan.~~

~~k. Any additional submittals that were approved by DEQ in the final compensation plan.~~

~~D. Impact site construction monitoring.~~

~~1. Construction activities authorized by this permit that are within impact areas shall be monitored and documented. The monitoring shall document the preconstruction conditions, activities during construction, and post construction conditions. Monitoring shall consist of one of the following options:~~

~~a. Photographs shall be taken during construction at the end of the first, second and third months of construction, and then semi-annually for the remainder of the construction project, except during periods of no activity within impact areas; or~~

~~b. An ortho-rectified photograph shall be taken by a firm specializing in ortho-rectified photography prior to construction, and annually thereafter until all impacts are taken, and shall clearly show the delineated surface waters and authorized impact areas.~~

~~c. In lieu of photographs, and with prior approval from DEQ, the permittee may submit a written narrative that summarizes site construction activities in impact areas. The narrative shall be submitted at the end of the first, second, and third months of construction in impact areas, and then semi-annually for the remainder of the construction activities in impact areas, except during periods of no activity with the impact areas.~~

~~2. As part of construction monitoring, photographs taken at the photo stations or the narrative shall document site activities and conditions, which may include installation and maintenance of erosion and sediment controls; condition of adjacent nonimpact surface waters; flagged nonimpact surface waters; construction access and staging areas; filling, excavation, and dredging activities; culvert installation; dredge disposal; and site stabilization, grading, and associated restoration activities. With the exception of the preconstruction photographs, photographs at an individual impact site shall not be required until construction activities are initiated at that site. With the exception of the post construction photographs, photographs at an individual impact site shall not be required once the site is stabilized following completion of construction at that site.~~

~~3. Each photograph shall be labeled to include the following information: permit number, impact area and photo station number, date and time of the photograph, name of the person taking the photograph, photograph orientation, and photograph subject description.~~

~~4. Monitoring of water quality parameters shall be conducted during permanent relocation of perennial streams through new channels in the following manner:~~

~~a. A sampling station shall be located upstream and immediately downstream of the relocated channel.~~

~~b. Temperature, pH and dissolved oxygen (D.O) measurements shall be taken every 30 minutes for at least~~

~~two hours at each station prior to opening the new channels and immediately before opening new channels.~~

~~e. Temperature, pH and D.O. readings shall be taken after opening the channels and every 30 minutes for at least three hours at each station.~~

~~The permittee shall report violations of water quality standards to DEQ in accordance with the procedures in Part II E. Corrective measures and additional monitoring may be required if water quality standards are not met. Reporting shall not be required if water quality standards are not violated.~~

~~E. Reporting.~~

~~1. Written communications required by this VWP general permit shall be submitted to the appropriate DEQ office. The VWP general permit authorization number shall be included on all correspondence.~~

~~2. DEQ shall be notified in writing at least 10 days prior to the start of construction activities at the first permitted site authorized by this VWP general permit authorization so that inspections of the project can be planned, if deemed necessary by DEQ. The notification shall include a projected schedule for initiation and completion of work at each permitted impact area.~~

~~3. Construction monitoring reports shall be submitted to DEQ not later than the 10th day of the month following the month in which the monitoring event specified in Part II D takes place, unless otherwise specified below. The reports shall include the following, as appropriate:~~

~~a. For each permitted impact area, a written narrative stating whether work was performed during the monitoring period, and if work was performed, a description of the work performed, when the work was initiated, and the expected date of completion.~~

~~b. Properly Photographs labeled photographs (to include with the permit number, the photo station number, the photo orientation, the date and time of the photo, the name of the person taking the photograph, and a brief description, and VWP permit number) showing representative of the construction activities (including, but not limited to, flagging nonimpact wetland areas, site grading and excavation, installation and maintenance of erosion and sediment controls, culvert installation, bridge and ramp construction, dredging, dredge disposal, etc.). The post construction photographs shall be submitted within 30 days of documenting post construction conditions. The first construction monitoring report shall include the photographs taken at each impact site prior to initiation of construction in any a permitted impact area. Written notification and photographs demonstrating that all temporarily disturbed wetland and stream areas have been restored in compliance with the permit conditions shall be submitted within 30 days of restoration. *The post-construction photographs shall be submitted within 30 days of documenting post-construction conditions.*~~

~~c. Summary of activities conducted to comply with the permit conditions.~~

~~d. Summary of permit noncompliance events or problems encountered, subsequent notifications, and corrective actions.~~

Proposed Regulations

e. Summary of anticipated work to be completed during the next monitoring period and an estimated date of construction completion at all impact areas.

f. Labeled site map depicting all impact areas and photo stations.

4. DEQ shall be notified in writing within 30 days following the completion of all activities in all permitted impact areas authorized under this permit.

5. DEQ shall be notified in writing at least 10 days prior to the initiation of activities at the compensation site. The notification shall include a projected schedule of activities and construction completion.

6. All compensation monitoring reports shall be submitted annually by December 31, with the exception of the last year of authorization, in which case the report shall be submitted at least 60 days prior to expiration of authorization under the general permit. ~~Any alterations and maintenance conducted on the compensation sites shall be reported. Undesirable plant species occurrences and control of these occurrences shall also be reported to DEQ.~~

a. All wetland compensation monitoring reports shall include, as applicable, the following:

(1) General description of the site including a site location map identifying photo stations, vegetative and soil monitoring stations, monitoring wells, and wetland zones.

(2) Summary of activities completed during the monitoring year, including alterations or maintenance conducted at the site.

(3) Description of monitoring methods.

(4) Analysis of all hydrology information, including monitoring well data, precipitation data, and gauging data from streams or other open water areas, as set forth in the final compensation plan.

(5) Evaluation of hydric soils or soils under hydric conditions, as appropriate.

(6) Analysis of all vegetative community information, including woody and herbaceous species, both planted and volunteers, as set forth in the final compensation plan.

(7) Photographs labeled with the permit number, the name of the compensation site, the photo station number, the photograph orientation, the date and time of the photograph, the name of the person taking the photograph, and a brief description of the photograph subject. This information shall be provided as a separate attachment to each photograph, if necessary. Photographs taken after the initial planting shall be included in the first monitoring report after planting is complete.

(8) Discussion of wildlife or signs of wildlife observed at the compensation site.

(9) Comparison of site conditions from the previous monitoring year and reference site.

(10) Discussion of corrective measures or maintenance activities to control undesirable species, to repair damaged

water control devices, or to replace damaged planted vegetation.

(11) Corrective action plan, which includes proposed actions, a schedule, and monitoring plan.

b. All stream compensation monitoring reports shall include, as applicable, the following:

(1) General description of the site including a site location map identifying photo stations and monitoring stations.

(2) Summary of activities completed during the monitoring year, including alterations or maintenance conducted at the site.

(3) Description of monitoring methods.

(4) An evaluation and discussion of the monitoring results in relation to the success criteria and overall goals of compensation.

(5) Photographs shall be labeled with the permit number, the name of the compensation site, the photo station number, the photograph orientation, the date and time of the photograph, the name of the person taking the photograph, and a brief description of the photograph subject. Photographs taken prior to compensation site construction activities, during instream and riparian restoration activities, and within one week of completion of activities shall be included in the first monitoring report.

(6) A discussion of alterations, maintenance, or major storm events resulting in significant change in stream profile or cross section, and corrective actions conducted at the stream compensation site.

(7) Documentation of undesirable plant species and summary of abatement and control measures.

(8) A summary of wildlife or signs of wildlife observed at the compensation site.

(9) Comparison of site conditions from the previous monitoring year and reference site, and as-built survey, if applicable.

(10) A corrective action plan, which includes proposed actions, a schedule and monitoring plan.

(11) Additional submittals that were approved by DEQ in the final compensation plan.

7. The permittee shall notify DEQ in writing when unusual or potentially complex conditions are encountered which require debris removal or involve potentially toxic substance. Measures to remove the obstruction, material, or toxic substance or to change the location of any a structure are prohibited until approved by DEQ.

8. The permittee shall report any fish kills or spills of oil or fuel immediately upon discovery. If spills or fish kills occur between the hours of 8:15 a.m. to 5 p.m., Monday through Friday, the appropriate DEQ regional office shall be notified; otherwise, the Department of Emergency Management shall be notified at 1-800-468-8892.

9. Violations of state water quality standards shall be reported within 24 hours to the appropriate DEQ office.

10. All Submittals required by this VWP general permit shall contain the following signed certification statement:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violation."

Part III. Conditions Applicable to All VWP General Permits.

A. Duty to comply. The permittee shall comply with all conditions of the VWP general permit. Nothing in this VWP general permit shall be construed to relieve the permittee of the duty to comply with all applicable federal and state statutes, regulations and toxic standards and prohibitions. Any VWP general permit noncompliance is a violation of the Clean Water Act and State Water Control Law, and is grounds for enforcement action, VWP general permit authorization, termination for cause, VWP general permit authorization, revocation, or denial of a continuation of coverage request.

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

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

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

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

F. Severability. The provisions of this VWP general permit authorization are severable.

G. Right of entry. The permittee shall allow the board or its agents, upon the presentation of credentials, at reasonable times and under reasonable circumstances, to enter the

permittee's property, public or private, and have access to, inspect and copy any records that must be kept as part of the VWP general permit conditions; 2. to inspect any facilities, operations or practices (including monitoring and control equipment) regulated or required under the VWP general permit; 3. and to sample or monitor any substance, parameter or activity for the purpose of assuring compliance with the conditions of the VWP general permit or as otherwise authorized by law. For the purpose of this section, the time for inspection shall be deemed reasonable during regular business hours. Nothing contained herein shall make an inspection time unreasonable during an emergency.

H. Transferability of VWP general permit authorization. This VWP general permit authorization may be transferred to another person by a permittee if: *when all of the criteria listed below are met. On the date of the VWP general permit authorization transfer, the transferred VWP general permit authorization shall be as fully effective as if it had been issued directly to the new permittee.*

1. The current permittee notifies the board of the transfer of the title to the facility or property;

2. The notice to the board includes a written agreement between the ~~existing current~~ and new ~~permittee~~ permittees containing a specific date of transfer of VWP general permit authorization responsibility, coverage and liability to the new permittee, or that the ~~existing current~~ permittee will retain such responsibility, coverage, or liability, including liability for compliance with the requirements of any enforcement activities related to the permitted activity; and

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

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

I. Notice of planned change. Authorization under this VWP general permit may be modified subsequent to issuance if: (i) ~~the~~ in one or more of the cases listed below. A notice of planned change is not required if the project results in additional temporary impacts to surface waters, provided that DEQ is notified in writing, the additional temporary impacts are restored to preexisting conditions in accordance with Part I C 11 of this general permit, and the additional temporary impacts do not exceed the general permit threshold for use. The permittee shall notify the board in advance of the planned change, and the planned change request will be reviewed according to all provisions of this regulation.

1. The permittee determines that additional permanent wetland, open water, or stream impacts are necessary, provided that the additional impacts are associated with the previously authorized activities in authorized locations within the same phase of development, the cumulative increase in acreage of wetland or open water impacts is not greater than 1/4 acre and , the cumulative increase in stream bed impacts is not greater than 50 100 linear feet, and provided that the additional impacts are fully compensated; (ii) the

Proposed Regulations

2. *The project results in less wetland or stream impacts, in which case compensation requirements may be modified in relation to the adjusted impacts at the request of the permittee, provided that the adjusted compensation meets the initial authorization compensation goals;* ~~(iii) there.~~

3. *There is a change in the project plans that does not result in a change in project impacts;* ~~(iv) there.~~

4. *There is a change in the mitigation bank at which credits are purchased or used, provided that the same amount of credits are purchased or used and all criteria for use are met, as detailed in 9 VAC 25-210-115;* ~~or (v) typographical F.~~

5. ~~Typographical errors need to be corrected. A notice of planned change is not required if the project results in additional temporary impacts to surface waters, provided that DEQ is notified in writing, the additional temporary impacts are restored to preexisting conditions in accordance with Part I C 11 of this general permit, and the additional temporary impacts do not exceed the general permit threshold for use. The permittee shall notify the board in advance of the planned change, and the planned change request will be reviewed according to all provisions of this regulation.~~

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

1. Noncompliance by the permittee with any condition of the VWP general permit authorization;

2. The permittee's failure in the application or during the VWP general permit authorization issuance process to disclose fully all relevant facts or the permittee's misrepresentation of any relevant facts at any time;

3. The permittee's violation of a special or judicial order; and

4. A determination by the board that the permitted activity endangers human health or the environment and can be regulated to acceptable levels by a VWP general permit authorization planned change or termination for cause.

K. VWP general permit authorization termination by consent. This VWP general permit authorization may be terminated by consent when all permitted activities requiring notification under ~~9 VAC 25-690-50~~ 9 VAC 25-680-50 A 1 and all *compensatory mitigation* have been completed, or when the authorized impacts will not occur, ~~or when a planned change occurs that involves substituting a specified, approved mitigation bank or banks with another specified, approved mitigation bank.~~ The permittee shall submit a request for termination by consent within 30 days of project completion or project cancellation. *When submitted for project completion, the termination by consent shall constitute a notice of completion in accordance with 9 VAC 25-210-130.* The director may accept this termination of authorization on behalf of the board. The request for termination by consent shall contain the following information:

1. Name, mailing address and telephone number of the permittee;

2. Name and location of the activity;

3. The VWP permit authorization number; and

4. One of the following certifications:

a. For project completion:

"I certify under penalty of law that all activities *and any required compensatory mitigation* authorized by a VWP general permit have been completed. I understand that by submitting this notice of termination I am no longer authorized to perform activities in surface waters in accordance with the VWP general permit, and that performing activities in surface waters is unlawful where the activity is not authorized by a VWP permit. I also understand that the submittal of this notice does not release me from liability for any violations of this VWP general permit authorization."

b. For project cancellation:

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

c. For events beyond permittee control, the permittee shall provide a detailed explanation of the events, to be approved by DEQ, and the following certification statement:

"I certify under penalty of law that ~~all~~ *the activities or the required compensatory mitigation* authorized by a VWP general permit have been completed (see attached). I understand that by submitting this notice of termination I am no longer authorized to perform activities in surface waters in accordance with the VWP general permit, and that performing activities in surface waters is unlawful where the activity is not authorized by a VWP permit. I also understand that the submittal of this notice does not release me from liability for any violations of this VWP general permit authorization, nor does it allow me to resume the permitted activities without reapplication and reauthorization."

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

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

N. Duty to cease or confine activity. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the activity for which a VWP

permit has been granted in order to maintain compliance with the conditions of the VWP permit.

O. Duty to provide information.

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

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

P. Monitoring and records requirements.

1. Monitoring of parameters, other than pollutants, shall be conducted according to approved analytical methods as specified in the VWP permit. Analysis of pollutants will be conducted according to 40 CFR Part 136 (2000), Guidelines Establishing Test Procedures for the Analysis of Pollutants.

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

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

4. Records of monitoring information shall include, as appropriate:

- a. The date, exact place and time of sampling or measurements;
- b. The name of the individuals who performed the sampling or measurements;
- c. The date and time the analyses were performed;
- d. The name of the individuals who performed the analyses;
- e. The analytical techniques or methods supporting the information such as observations, readings, calculations and bench data used;
- f. The results of such analyses; and
- g. Chain of custody documentation.

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

- 1. Discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances;
- 2. Excavate in a wetland;

3. Otherwise alter the physical, chemical, or biological properties of state waters and make them detrimental to the public health, to animal or aquatic life, to the uses of such waters for domestic or industrial consumption, for recreation, or for other uses; or

4. On and after August 1, 2001, for linear transportation projects of the Virginia Department of Transportation, or on and after October 1, 2001 for all other projects, conduct the following activities in a wetland:

- a. New activities to cause draining that significantly alters or degrades existing wetland acreage or functions;
- b. Filling or dumping;
- c. Permanent flooding or impounding; or
- d. New activities that cause significant alteration or degradation of existing wetland acreage or functions.

NOTICE: The forms used in administering 9 VAC 25-680, Virginia Water Protection General Permit for Linear Transportation Projects, are not being published; however, the name of each form is listed below. The forms are available for public inspection at the Department of Environmental Quality, 629 East Main Street, Richmond, Virginia, or at the office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia.

FORMS

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

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

Joint Permit Application for Projects in Tidewater, Virginia (eff. 10/04).

Virginia Department of Transportation Inter-Agency Coordination Meeting Joint Permit Application (eff. 10/02).

Quarterly Reporting of Impacts Less than One-Tenth Acre (insert reporting period) Statewide (eff. 4/03).

VA.R. Doc. No. R05-288; Filed December 16, 2005, 9:47 a.m.

* * * * *

Title of Regulation: 9 VAC 25-690. Virginia Water Protection General Permit for Impacts from Development and Certain Mining Activities (amending 9 VAC 25-690-10 through 9 VAC 25-690-100; adding 9 VAC 25-690-95).

Statutory Authority: §§ 62.1-44.15 and 62.1-44.15:5 of the Code of Virginia; § 401 of the Clean Water Act (33 USC § 1251 et seq.).

Public Hearing Date: February 6, 2006 - 3:30 p.m.
Public comments may be submitted until 5 p.m. on March 10, 2006.
(See Calendar of Events section for additional information)

Proposed Regulations

Agency Contact: Catherine M. Harold, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4047, FAX (804) 698-4347, or e-mail cmharold@deq.virginia.gov.

Summary:

Virginia Water Protection (VWP) General Permit WP4 will expire on October 1, 2006. The proposed revisions include minor changes to improve the processing and coordination of authorizations, both for the public, DEQ, and other agencies. The VWP general permit regulations generally reduce the permitting burden to the public and minimize the amount of agency duplication in processing permit authorizations and it is in the interest of all to continue to provide this level of service through the renewal of this general permit.

The substance of the revisions include the addition and deletion of definitions; minor grammatical changes; formatting, consolidating and reordering of text to improve readability; clarification of existing requirements; prohibiting the use of this general permit for wetlands, open waters and streams that are protected by deed restrictions or similar protective covenants imposed by previous state or federal permit actions; extending the life of the general permit regulations to 10 years instead of the current five years; extending the permit authorization period to up to seven years; reiteration of provisions in the main VWP regulation for purposes of emphasis; and amending the thresholds of coverage for wetlands and open waters and stream impacts, which were previously combined together as "surface waters."

9 VAC 25-690-10. Definitions.

The words and terms used in this regulation shall have the meanings defined in the State Water Control Law (§ 62.1-44.2 et seq. of the Code of Virginia) and the Virginia Water Protection (VWP) Permit Regulation (9 VAC 25-210) unless the context clearly indicates otherwise or unless otherwise indicated below.

"Bank protection" means measures employed to stabilize channel banks and combat existing erosion problems. Such measures may include the construction of riprap revetments, sills, rock vanes, beach nourishment, breakwaters, bulkheads, groins, spurs, levees, ~~marsh~~ marsh toe stabilization, anti-scouring devices, and submerged sills.

"Bioengineering method" means a biological measure incorporated into a facility design to benefit water quality and minimize adverse effects to aquatic resources, to the maximum extent practicable, for long-term aquatic resource protection and improvement.

"Channelization" means the alteration of a stream channel by widening, deepening, straightening, cleaning or paving certain areas.

~~"Conversion" means changing one type of surface water to another type of surface water, either permanently or temporarily. The permanent conversion of a forested wetland to an emergent wetland is considered to be a permanent impact for the purposes of this regulation.~~

"Cross-sectional drawing" means a graph or plot of ground elevation across a waterbody or a portion of it, usually along a line perpendicular to the waterbody or direction of flow.

"Emergent wetland" means a class of wetlands characterized by erect, rooted, herbaceous plants growing in water or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content, excluding mosses and lichens. This vegetation is present for most of the growing season in most years and is usually dominated by perennial plants.

"FEMA" means Federal Emergency Management Agency.

"Forebay" means a deeper area at the upstream end of a stormwater management facility that would be maintained through excavation.

"Forested wetland" means a class of wetlands characterized by woody vegetation that is six meters (20 feet) tall or taller. These areas typically possess an overstory of trees, an understory of trees or shrubs, and an herbaceous layer.

"Greater than one acre" means more than 1.00 acre (43,560 square feet).

"Histosols" means organic soils that are often called mucks, peats, or mucky peats. The list of histosols in the Commonwealth includes, but is not limited to, the following soil series: Back Bay, Belhaven, Dorovan, Lanexa, Mattamuskeet, Mattan, Palms, Pamlico, Pungo, Pocaty, and Rappahannock. Histosols are identified in the Hydric soils list generated by United States Department of Agriculture Natural Resources Conservation Service.

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

"Independent utility" means a test to determine what constitutes a single and complete project. A project is considered to have independent utility if it would be constructed absent the construction of other projects in the project area. Portions of a ~~multi-phase~~ *phased development* project that depend upon other phases of the project do not have independent utility. ~~Phases~~ *Portions of a phased development* project that would be constructed even if the other phases are not built can be considered as separate single complete projects with independent utility.

"In-stream mining" means operations that remove accumulated sand, gravel, and mineral deposits directly from stream channels using equipment such as, but not limited to, hydraulic dredges, clamshell dredges, or draglines for the sole purpose of processing and selling the material. In-stream mining does not include dredging activities, whose main purpose is to maintain channels and harbors for navigation, nor does it include the recovery of spilled material, such as sand, gravel, and aggregate, that was inadvertently spilled into a waterway during loading activities.

"Isolated Wetland of Minimal Ecological Value (IWOMEV)" means a wetland that (i) does not have a surface water connection to other state waters; (ii) is less than one-tenth of an acre in size; (iii) is not located in a Federal Emergency Management Agency designated 100-year floodplain; (iv) is

not identified by the Virginia Natural Heritage Program as a rare or state significant natural community; (v) is not forested; and (vi) does not contain listed federal or state threatened or endangered species.

"Less than one-half of an acre" means ~~0.00 to~~ 0.49 acre (~~0 to~~ 21,779 square feet) or less.

"Open water" means an area that, during a year with normal patterns of precipitation, has standing water for sufficient duration to establish an ordinary high water mark. The term "open water" includes lakes and ponds but does not include ephemeral waters, stream beds, or wetlands.

"Ordinary high water" or "ordinary high water mark" means the line on the shore established by the fluctuations of water and indicated by physical characteristics such as clear, natural line impressed on the bank; shelving; changes in the character of soil; destruction of terrestrial vegetation; the presence of litter and debris; or other appropriate means that consider the characteristics of the surrounding areas.

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

"Permanent impacts" ~~are~~ means those impacts to surface waters, including wetlands, that cause a permanent alteration of the physical, chemical, or biological properties of the surface waters, or of the functions and values of a wetland.

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

"Phased development" means more than one project proposed for a single piece of property or an assemblage of contiguous properties under consideration for development by the same person, or by related persons, that will begin and be completed at different times. Depending on the relationship between the projects, a phased development may be considered a single and complete project or each project may be considered a single and complete project, if each project has independent utility, as defined in this subsection.

"Recreational facility" means a facility that is integrated into the natural landscape and does not substantially change preconstruction grades or deviate from natural landscape contours.

"Riprap" means a layer of *nonerodible* material such as stone or chunks of concrete ~~on an embankment slope for the purpose of preventing erosion.~~

"Scrub-shrub wetland" means a class of wetlands dominated by woody vegetation less than six meters (20 feet) tall. The species include true shrubs, young trees, and trees or shrubs that are small or stunted because of environmental conditions.

"Single and complete project" means the total project proposed or accomplished by a person ~~and~~, which also has independent utility, as defined in this section. For linear

projects, the "single and complete project" (~~i.e.~~ e.g., a single and complete crossing) ~~may but does not always~~ will apply to each crossing of a separate surface water (~~i.e.~~ e.g., a single waterbody) and to multiple crossings of the same waterbody at separate and distinct locations. Phases of a project that have independent public and economic utility may each be considered single and complete.

"State ~~programmatic~~ program general permit (SPGP)" means a general permit issued by the Department of the Army in accordance with 33 USC 1344(e), 33 CFR Part ~~325~~ 325.2(e)(2), and 33 CFR 325.3(b) and that is founded on a state program ~~and~~. The SPGP is designed to avoid duplication between the federal and state programs.

"Stream bed" means the substrate of a stream, as measured between the ordinary high water marks along a length of stream. The substrate may consist of organic matter, bedrock or inorganic particles that range in size from clay to boulders, or a combination of both. Areas contiguous to the stream bed, but outside of the ordinary high water marks, are not considered part of the stream bed. Ditches, swales, and open water are not considered to be stream bed for the purposes of this regulation.

"Surface waters" means all state waters that are not ground water as defined in § 62.1-255 of the Code of Virginia.

"Temporary impacts" are those impacts to surface waters, including wetlands, that do not cause a permanent alteration of the physical, chemical, or biological properties of the surface waters, or of the functions and values of a wetland. Temporary impacts include activities in which the ground is restored to its preconstruction *conditions*, contours ~~and~~, or elevations, such that previous functions and values are restored.

"Up to 300 linear feet of ~~stream channel~~" means >0.00 to 300.00 linear feet of ~~any stream, rounded to the second decimal place,~~ as measured along the center of the main channel of the stream segment.

"Up to 500 linear feet of ~~stream perennial channel~~" means 0.00 to 500.00 linear feet of ~~perennial stream, rounded to the second decimal place,~~ as measured along the center of the main channel of the stream segment.

"Up to 1500 linear feet of ~~nonperennial stream channel~~" means >0.00 to 1500.00 linear feet of ~~nonperennial stream, rounded to the second decimal place,~~ as measured along the center of the main channel of the stream segment.

"Up to one acre" means 0.00 to 1.00 acre (~~0 to~~ 43,560 square feet).

"Up to one-tenth of an acre" means ~~0.00 to~~ 0.10 acre (~~0 to~~ 4,356 square feet) or less.

"Up to two acres" means ~~0.00 to~~ 2.00 acres (~~0 to~~ 87,120 square feet) or less.

"Utility line" means ~~any~~ a pipe or pipeline for the transportation of ~~any~~ a gaseous, liquid, ~~liquifiable~~ liquefiable or slurry substance, for any purpose, and ~~any~~ a cable, line, or wire for the transmission for any purpose of electrical energy, telephone, and telegraph messages and radio and television

Proposed Regulations

communication. The term utility line does not include activities which drain a surface water to convert it to an upland, such as drainage tiles or french drains; however, it does apply to pipes conveying drainage from another area.

9 VAC 25-690-20. Purpose; delegation of authority; effective date of VWP general permit.

A. The purpose of this regulation is to establish VWP General Permit Number WP4 under the VWP permit program regulation to govern *permanent and temporary* impacts related to the construction and maintenance of development activities, and activities directly associated with aggregate mining (~~i.e.~~ e.g., sand, gravel, and crushed or broken stone); hard rock/mineral mining (~~i.e.~~ e.g., metalliferous ores); and surface coal, natural gas, and coalbed methane gas mining, as authorized by the Virginia Department of Mines, Minerals and Energy. Applications for coverage under this VWP general permit shall be processed for approval, approval with conditions, or denial by the board. *Authorization, authorization with conditions, or denial by the board shall follow all provisions in the State Water Control Law (§ 62.1-44.2 et seq. of the Code of Virginia), except for the public comment and participation provisions, from which each VWP general permit authorization, authorization with conditions, or denial is exempt.*

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

C. This VWP general permit regulation will become effective on ~~October 1, 2004~~ (*insert effective date*), and will expire on ~~October 1, 2006~~ (*insert date that is 10 years after effective date*).

D. Authorization to impact surface waters under this VWP general permit is effective upon compliance with all the provisions of 9 VAC 25-690-30. Notwithstanding the expiration date of this general permit regulation, authorization to impact surface waters under this VWP general permit will continue for ~~a maximum of five~~ seven years.

9 VAC 25-690-30. Authorization to impact surface waters.

A. Any person governed by this VWP general permit is authorized to *permanently or temporarily* impact up to two acres of nontidal ~~surface waters, including wetlands or open water~~ and up to 500 ~~1,500~~ linear feet of ~~perennial nontidal stream channel and up to 1,500 linear feet of nonperennial stream channel bed~~ for general development and *certain mining* activities, provided that ~~the applicant submits notification as required in 9 VAC 25-690-50 and 9 VAC 25-690-60, remits the required application processing fee (9 VAC 25-20), complies with the limitations and other requirements of 9 VAC 25-690-100, receives approval from the board, and provided that:~~

1. *The applicant submits notification as required in 9 VAC 25-690-50 and 9 VAC 25-690-60.*

2. *The applicant remits the required application processing fee in accordance with 9 VAC 25-20.*

3. *The applicant complies with the limitations and other requirements of 9 VAC 25-690-100.*

4. *The applicant receives approval from the Virginia Department of Environmental Quality.*

~~4.~~ 5. The applicant ~~shall~~ *has not have* been required to obtain a VWP individual permit under the VWP permit program regulation (9 VAC 25-210) for the proposed project impacts. The applicant, at his discretion, may seek a VWP individual permit, or coverage under another applicable VWP general permit, in lieu of coverage under this VWP general permit.

~~2-~~ 6. Impacts, both temporary and permanent, result from a single and complete project including all attendant features.

a. Where a road segment (~~i.e.~~ e.g., the shortest segment of a road with independent utility that is part of a larger project) has multiple crossings of surface waters (several single and complete projects), the board may, at its discretion, require a VWP individual permit.

b. For the purposes of this chapter, when an interchange has multiple crossings of surface waters, the entire interchange shall be considered the single and complete project.

~~3-~~ 7. The stream impact criterion applies to all components of the project, including any structures and stream channel manipulations.

4- 8. Dredging does not exceed 5,000 cubic yards.

~~5-~~ 9. Compensation for unavoidable impacts is provided in ~~the form of any one or combination of the following: creation, restoration, the purchase or use of mitigation bank credits, or a contribution to an approved in-lieu fee fund. For wetlands, compensation may incorporate preservation of wetlands or preservation or restoration of upland buffers adjacent to state waters when utilized in conjunction with creation, restoration or mitigation bank credits. For other surface waters, compensation may incorporate preservation and enhancement of stream channels, or preservation, restoration, or enhancement of adjacent riparian buffers~~ *accordance with 9 VAC 25-690-70.*

B. Activities that may be authorized under this VWP general permit include the following:

1. Residential, commercial, institutional. The construction or expansion of building foundations, building pads and attendant features for residential, commercial and institutional development activities.

a. Residential developments include both single and multiple units.

b. Commercial developments include, but are not limited to, retail stores, industrial facilities, restaurants, business parks, office buildings and shopping centers.

c. Institutional developments include, but are not limited to, schools, fire stations, government office buildings, judicial buildings, public works buildings, libraries, hospitals, and places of worship.

d. Attendant features include, but are not limited to, roads, parking lots, garages, yards, utility lines, stormwater management facilities, and recreation facilities (such as playgrounds, playing fields and golf courses). Attendant

features must be necessary for the use and maintenance of the structures.

2. Recreational facilities. The construction or expansion of recreational facilities and small support facilities.

a. Recreational facilities include, but are not limited to, hiking trails, bike paths, horse paths, nature centers, and campgrounds (but not trailer parks). Boat ramps (concrete or open-pile timber), boathouses, covered boat lifts, mooring piles and dolphins, fender piles, camels (wooden floats serving as fenders alongside piers), and open-pile piers (including floating piers, travel-lift piers, etc.) associated with recreational facilities are also included.

b. Recreational facilities do not include as a primary function the use of motor vehicles, buildings or impervious surfaces.

c. Golf courses and ski area expansions may qualify as recreational facilities provided the construction of the proposed facility does not result in a substantial deviation from the natural contours and the facility is designed to minimize adverse effects on state waters and riparian areas. Measures that may be used to minimize adverse effects on waters and riparian areas include the implementation of integrated pest management plans, adequate stormwater management, vegetated buffers, and fertilizer management plans.

d. Small support facilities are authorized provided they are directly related to the recreational activity. Small support facilities include, but are not limited to, maintenance storage buildings and stables.

e. The following do not qualify as recreational facilities: hotels, restaurants, playing fields (e.g., baseball, soccer or football fields), basketball and tennis courts, racetracks, stadiums, arenas or new ski areas.

f. The recreational facility must have an adequate water quality management plan, such as a stormwater management plan, to ensure that the recreational facility results in no substantial adverse effects to water quality.

3. Stormwater management facilities. The construction, maintenance, and excavation of stormwater management facilities; the installation and maintenance of water control structures, outfall structures, and emergency spillways; and the maintenance dredging of existing stormwater management facilities.

a. Stormwater management facilities include stormwater ponds and facilities, detention basins, retention basins, and other facilities designed to reduce pollutants in stormwater runoff.

b. The stormwater management facility must:

(1) To the maximum extent practicable, be designed to maintain preconstruction downstream flow conditions (e.g., location, capacity and flow rates);

(2) Not permanently restrict or impede the passage of normal or expected high flows, unless the primary purpose of the facility is to impound waters;

(3) Withstand expected high flows;

(4) To the maximum extent practicable, provide for retaining excess flows from the site, provide for maintaining surface flow rates from the site similar to preconstruction conditions, and not increase water flows from the project site, relocate water, or redirect flow beyond preconstruction conditions;

(5) To the maximum extent practicable, reduce adverse effects such as flooding or erosion downstream and upstream of the project site, unless the facility is part of a larger system designed to manage water flows; ~~and~~.

(6) Be designed using best management practices (BMPs) and watershed protection techniques. Examples of such BMPs are described in the *Virginia Stormwater Management Handbook* and include, but are not limited to, forebays, vegetated buffers, bioengineering methods, and siting considerations to minimize adverse effects to aquatic resources.

c. Maintenance excavation shall be in accordance with the facility maintenance plan and shall not exceed the original contours of the facility as approved and constructed.

4. Mining facilities. The construction or expansion of mining facilities and attendant features for a single and complete project. This general permit may not be used to authorize impacts from in-stream activities as defined in 9 VAC 25-690-10.

a. Mining facilities include activities directly associated with aggregate mining (~~i.e.~~ e.g., sand, gravel, and crushed or broken stone); hard rock/mineral mining (~~i.e.~~ e.g., metalliferous ores); and surface coal, natural gas, and coalbed methane gas mining, as authorized by the Virginia Department of Mines, Minerals, and Energy.

b. Attendant features are authorized provided they are directly related to the mining facility, and include, but are not limited to, access road construction, parking lots, offices, maintenance shops, garages, and stormwater management facilities.

c. Both direct impacts (~~i.e.~~ e.g., footprints of all fill areas, road crossings, sediment ponds, and stormwater management facilities; mining through state waters; stockpile of overburden, and excavation) and indirect impacts (~~i.e.~~ e.g., diversion of surface water and reach of state waters affected by sediment pond pool and sediment transport) shall be considered when issuing an authorization under this general permit.

C. The board waives the requirement for coverage under a VWP general permit for activities that occur in an isolated wetland of minimal ecological value, as defined in ~~9 VAC 25-240-40~~ 9 VAC 25-690-10. Any person claiming this waiver bears the burden to demonstrate that he qualifies for the waiver.

D. Receipt of this VWP general permit does not relieve ~~any~~ the permittee of the responsibility to comply with any other applicable federal, state or local statute, ordinance or regulation.

E. In issuing this VWP general permit, the board has not taken into consideration the structural stability of the proposed structure of structures.

Proposed Regulations

F. Coverage under a nationwide or regional permit promulgated by the U.S. Army Corps of Engineers (USACE), and for which the board has issued § 401 certification existing as of ~~October 1, 2004~~ *the effective date of this regulation*, shall constitute coverage under this VWP general permit unless a state ~~programmatic~~ *program* general permit is approved for the covered activity or impact. Notwithstanding any other provision, activities authorized under a nationwide or regional permit promulgated by the USACE and certified by the board in accordance with 9 VAC 25-210-130 do not need to obtain coverage under this VWP general permit unless a state programmatic general permit is approved for the covered activity or impact.

G. Coverage under a permit issued by the Department of Mines, Minerals and Energy under the Virginia Coal Surface Mining Control and Reclamation Act, Chapter 19 (§ 45.1-226 et seq.) of Title 45.1 of the Code of Virginia, where such permit authorizes activities that may be permitted by this regulation and contains a mitigation plan for the impacts from the mining activities, shall also constitute coverage under this VWP general permit.

H. When the board determines on a case-by-case basis that concerns for water quality and the aquatic environment so indicate, the board may require individual applications and VWP individual permits rather than approving coverage under this VWP general permit.

9 VAC 25-690-40. Exceptions to coverage.

A. Authorization for coverage under this VWP general permit will not apply in the following areas:

1. Wetlands composed of 10% or more of the following species (singly or in combination) in ~~any a vegetative~~ *stratum*: Atlantic white cedar (*Chamaecyparis thyoides*), bald cypress (*Taxodium distichum*), water tupelo (*Nyssa aquatica*), or overcup oak (*Quercus lyrata*). Percentages shall be based upon either basal area or percent areal cover in the area of impact.

2. Wetlands underlain by histosols.

3. Surface waters where the proposed activity will impact federal or state listed or proposed threatened or endangered species or proposed or designated critical habitat.

B. Authorization for coverage under this VWP general permit cannot be used in combination with authorization for coverage under other VWP general permits in order to impact greater than two acres of nontidal ~~surface waters, more wetlands or open water or greater than 500~~ *1,500 linear feet of perennial nontidal stream channel, or more than 1,500 linear feet of nonperennial stream channel bed*. More than one authorization for coverage under this VWP general permit for a single and complete project is prohibited, except when the cumulative impact to surface waters does not exceed the limits specified here.

C. This VWP general permit cannot be used for ~~any an~~ *activity* in a phased development which would cause the aggregate total loss of nontidal ~~surface waters wetlands or open water~~ *in the subdivision to exceed two acres, or more than 500 to exceed 1,500 linear feet of perennial nontidal stream channel,*

~~or more than 1,500 linear feet of nonperennial stream channel bed.~~

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

E. The board shall deny coverage under this VWP general permit to any applicant for activities that cause, may reasonably be expected to cause, or may be contributing to a violation of water quality standards, including discharges or discharge-related activities that are likely to ~~adversely~~ *significantly* affect aquatic life, or for activities that together with other existing or proposed impacts to wetlands will cause or contribute to a significant impairment of state waters or fish and wildlife resources.

F. This VWP general permit does not authorize activities that cause more than minimal changes to the peak hydraulic flow characteristics, that significantly increase flooding, or that cause more than minimal degradation of the water quality of ~~any a~~ *stream*.

G. This VWP general permit may not be used for:

1. ~~Any Construction of a stormwater management facility that is located~~ *in perennial streams or in waters designated as oxygen- or temperature-impaired; (does not include wetlands).*

2. The construction of an irrigation impoundment on a perennial stream;

3. Any water withdrawal activities;

4. The location of animal feeding operations or waste storage facilities in state waters;

5. The pouring of wet concrete or the use of tremie concrete or grout bags in state waters, unless the area is contained within a cofferdam and the work is performed in the dry;

6. Return flow discharges from dredge disposal sites;

7. Overboard disposal of dredge materials;

8. Dredging in marinas;

9. Dredging of shellfish areas, submerged aquatic vegetation beds or other highly productive areas;

10. Federal navigation projects;

11. The construction of new ski areas; ~~and~~

12. The taking of threatened or endangered species in accordance with the following:

a. As pursuant to § 29.1-564 of the Code of Virginia the taking, transportation, processing, sale or offer for sale within the Commonwealth of any fish or wildlife appearing on any list of threatened or endangered species published by the United States Secretary of the Interior pursuant to the provisions of the federal Endangered Species Act of 1973 (P.L. 93-205), or any modifications or amendments thereto, is prohibited except as provided in § 29.1-568 of the Code of Virginia.

b. As pursuant to § 29.1-566 of the Code of Virginia and 4VAC15-20-130 B and C, the taking, transportation, processing, sale or offer for sale within the Commonwealth of

any state-listed endangered or threatened species is prohibited except as provided in § 29.1-568 of the Code of Virginia.

13. *Proposed activities in wetlands, open water, streams, or compensatory mitigation sites that are under a deed restriction, conservation easement, restrictive covenant, or other land use protective instrument (hereafter protected areas), where such restriction, easement, covenant, or instrument is the result of a federal or state permit action and is specific to activities in wetlands and compensatory mitigation sites, and where the proposed activities incur up to 1/10 acre of wetland or open water impacts or up to 300 linear feet of stream bed impacts. Where the proposed activities in protected areas impact greater than 1/10 acre wetlands or open water, or greater than 300 linear feet of stream bed, the applicant may submit a full and complete individual permit application for further consideration by the board.*

9 VAC 25-690-50. Notification.

A. Notification to the board will be required prior to commencing construction as follows:

1. An application for authorization ~~for~~ of proposed, permanent *nontidal* wetland impacts greater than one-tenth of an acre, or ~~for~~ of proposed permanent *nontidal* stream ~~channel~~ bed impacts greater than 300 linear feet, shall be submitted via an application that includes all information pursuant to 9 VAC 25-690-60 B. *Once permanent impacts exceed these limits, compensatory mitigation may be required for all permanent impacts in accordance with Parts I, II, and III of this VWP general permit regulation. All temporary impacts shall be restored to preexisting conditions, as per Parts I, II, and III of this VWP general permit regulation.*

2. *An application for the authorization of proposed, permanent ~~surface~~ nontidal wetland or open water impacts up to one-tenth of an acre, ~~which may include~~ or of proposed, permanent nontidal stream bed impacts up to 300 linear feet ~~of stream channel~~, shall be ~~reported~~ submitted via an application that includes only the following information: subdivisions 1 through 8, 9, 13, 15, 20 and 21 of 9 VAC 25-690-60 B, and documentation that verifies the quantity and type of impacts. If permanent impacts remain below these limits, compensatory mitigation is not required for permanent impacts. All temporary impacts shall be restored to preexisting conditions, as per Parts I and III of this VWP general permit regulation.*

B. A Joint Permit Application (JPA) or Virginia Department of Transportation Interagency Coordination Meeting Joint Permit Application (VDOT IACM JPA) shall serve as an application under this regulation.

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

coverage under this general permit. *The applicant may also consult with these agencies prior to submitting an application. Species or habitat information that the applicant provides will assist DEQ in reviewing and processing the application.*

9 VAC 25-690-60. Application.

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

1. The applicant shall file a complete application, ~~as described in accordance with 9 VAC 25-690-50~~ for a VWP general permit number WP4 for impacts to surface waters from development and certain mining activities, which will serve as a notice of intent for coverage under this VWP general permit.

2. The VDOT may use its monthly IACM process for submitting applications.

B. The required application shall contain the following information, if applicable to the project:

1. The applicant's name, mailing address, telephone number and, if applicable, fax number;

2. The authorized agent's (if applicable) name, mailing address, telephone number and, if applicable, fax number and electronic mail address;

3. The existing VWP permit number (if applicable);

4. The name of the project, narrative description of project purpose, and a description of the proposed activity in surface waters;

5. The name of the water body or water bodies or receiving stream, as applicable;

6. The hydrologic unit code (HUC) for the project area;

7. The name of the city or county where the project is located;

8. Latitude and longitude (to the nearest second) from a central location within the project limits;

9. A detailed location map (e.g., a United States Geologic Survey topographic quadrangle map) of the project area, including the project boundary. The map shall be of sufficient detail such that the site may be easily located for site inspection;

10. (Reserved.);

11. Project plan view. ~~All~~ plan view sketches shall include, at a minimum, north arrow, scale, existing structures, existing contours, proposed contours (if available), limit of surface water areas, direction of flow, ordinary high water, impact limits, and location and dimension of all proposed structures in impact areas. *In addition, cross-sectional or profile sketches, as appropriate, with the above information, shall may be required as appropriate to demonstrate minimization of impacts; detail impact areas.*

12. Dredge material management plan (for dredging projects only) including plan and cross-section view drawings of the disposal or dewatering area, the dimensions and design of the proposed berm and spillway, and the capacity of the proposed disposal or dewatering site;

Proposed Regulations

13. Surface water impact information (wetlands, streams, or open water) for both permanent and temporary impacts, including a description of the impact, the areal extent of the impact (area of wetland in square feet and acres; area of stream, length of stream, and average width); the location (latitude and longitude at the center of the impact, or at the center of each impact for linear projects); and the type of *surface water* impact (*open water*; *wetlands* according to the Cowardin classification or similar terminology; or *perennial and nonperennial for streams*); *The board encourages applicants to coordinate the determination of perennial or nonperennial streams with the appropriate local government agency in Tidewater Virginia.*

14. Functional values assessment for impacts to wetlands greater than one acre, which shall consist of a summary of field observations of the existing wetland functions and values and an assessment of the impact that the project will have on these functions and values. The following parameters ~~and~~ functions shall be directly addressed: surrounding land uses and cover types; nutrient, sediment, and pollutant trapping; flood control and flood storage capacity; erosion control and shoreline stabilization; groundwater recharge and discharge; aquatic and wildlife habitat; and unique or critical habitats.

15. A description of the specific on-site measures considered ~~or~~ *and* taken during project design and development both to avoid and minimize impacts to surface waters to the maximum extent practicable.

16. A conceptual plan for the intended compensation for unavoidable impacts, including:

a. For wetlands, the conceptual compensation plan shall include: the goals and objectives in terms of replacement of wetland acreage and function; a detailed location map (e.g., a United States Geologic Survey topographic quadrangle map), including latitude and longitude (to the nearest second) at the center of the site; a description of the surrounding land use; a hydrologic analysis, including a draft water budget based on expected monthly inputs and outputs which will project water level elevations for a typical year, a dry year, and a wet year; groundwater elevation data, if available, or the proposed location of groundwater monitoring wells to collect these data; a map for existing surface water areas on the proposed site or sites, including a wetland delineation confirmation for any existing wetlands; a conceptual grading plan; a conceptual planting scheme, including suggested plant species and zonation of each vegetation type proposed; and a description of existing soils including general information on topsoil and subsoil conditions, permeability, and the need for soil amendments.

b. For streams, the conceptual compensation plan shall include: the goals and objectives in terms of water quality benefits and replacement of stream functions; a detailed location map (e.g., a United States Geologic Survey topographic quadrangle map), including the latitude and longitude ~~and the hydrologic unit code (HUC) at the center of the site to the nearest second~~; the proposed stream segment restoration locations, including plan view and cross-section sketches; the stream deficiencies that need to be addressed; the proposed restoration measures to be employed, including

channel measurements, proposed design flows and types of instream structures; and reference stream data, if available.

c. Applicants proposing to compensate off-site, including purchase or use of mitigation bank credits, or contribution to an in-lieu fee fund shall submit an evaluation of the feasibility of on-site compensation. If on-site compensation is practicable, applicants shall provide documentation as to why the proposed off-site compensation is ecologically preferable. The evaluation shall include, but not be limited to, the following assessment criteria: water quality benefits, hydrologic source, hydrologic regime, watershed, surface water functions and values, vegetation type, soils, impact acreage, distance from impacts, timing of compensation versus impacts, acquisition, constructability, and cost.

d. ~~Any applicant~~ *Applicants* proposing compensation involving contributions to in-lieu fee programs shall state such as the conceptual compensation plan. Written documentation of the willingness of the entity to accept the donation and documentation of how the amount of the contribution was calculated shall be submitted prior to issuance of this general permit authorization.

e. ~~Any applicant~~ *Applicants* proposing compensation involving the purchase or use of mitigation banking credits shall include as their conceptual compensation plan:

(1) The name of the proposed mitigation bank and the HUC in which it is located;

(2) The number of credits proposed to be purchased or used; and

(3) Certification from the bank owner of the availability of credits.

17. A delineation map must be provided of the geographic area of a delineated wetland for all wetlands on the site, in accordance with 9 VAC 25-210-45, including the wetlands data sheets. *The delineation map shall also include the location of streams, open water, and the approximate limits of Chesapeake Bay Resource Protection Areas (RPAs), as other state or local requirements may apply if the project is located within an RPA.* Wetland types shall be noted according to their Cowardin classification or similar terminology. A copy of the USACE delineation confirmation, or other correspondence from the USACE indicating their approval of the wetland boundary, shall ~~also~~ be provided at the time of application, or if not available at that time, as soon as it becomes available during the VWP permit review. ~~The delineation map shall also include the location of streams, open water and other surface waters on the site. The approximate limits of any Chesapeake Bay Resource Protection Areas (RPAs) shall be shown on the map, as other state or local requirements may apply if the project is located within an RPA;~~

18. A copy of the FEMA flood insurance rate map or FEMA-approved local floodplain map for the project site.

19. The appropriate application processing fee for a VWP general permit ~~(in accordance with 9 VAC 25-20); and. The permit application fee for VWP permit authorizations is based on acres only. Therefore, impacts calculated using linear feet~~

of stream bed must be converted to an acreage in order to calculate the total permit application fee.

20. A written disclosure identifying all wetlands, open water, streams, and associated upland buffers within the proposed project or compensation areas that are under a deed restriction, conservation easement, restrictive covenant, or other land use protective instrument (protected areas). Such disclosure shall include the nature of the prohibited activities within the protected areas.

~~20-~~ 21. The following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment for knowing violations."

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

D. Upon receipt of an application by the appropriate DEQ office, the board has 15 days to review the application and either determine the information requested in subsection B of this section is complete or inform the applicant that additional information is required to make the application complete. Coverage under this VWP general permit shall be approved, approved with conditions, or denied within 45 days of receipt of a complete application. If the board fails to act within 45 days on a complete application, coverage under this VWP permit general permit shall be deemed approved.

1. In evaluating the application, the board shall make an assessment of the impacts associated with the project in combination with other existing or proposed impacts. Coverage under this VWP general permit shall be denied if the cumulative impacts will cause or contribute to a significant impairment of state waters or fish and wildlife resources.

2. The board may place additional conditions on a project in order to approve authorization under this VWP general permit. However, these conditions must be consistent with the VWP permit regulation.

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

application fee. An incomplete permit application may be administratively withdrawn from processing by the board after 180 days from the date that the original permit application was received by the board. Resubmittal of a permit application for the same or similar project, after such time that the original permit application was administratively withdrawn, shall require submittal of an additional permit application fee.

9 VAC 25-690-70. Compensation.

A. In accordance with 9 VAC 25-690-50 A 1, compensatory mitigation may be required for all permanent, nontidal surface water impacts once the notification limits are exceeded. All temporary, nontidal surface water impacts shall be restored to preexisting conditions.

B. Generally, the sequence of preferred compensation options shall be restoration, then creation, then mitigation banking, and then in-lieu fee fund. Also, on-site, in-kind compensatory mitigation, when available, shall be deemed the most ecologically preferable form of compensation for project impacts, in most cases. However, off-site or out-of-kind compensation opportunities that prove to be more ecologically preferable or practicable may be considered. When the applicant can demonstrate satisfactorily that an off-site or out-of-kind compensatory mitigation proposal is practicable and ecologically preferable, then such proposal may be deemed appropriate for compensation of project impacts.

A. C. For the purposes of this VWP general permit, ~~the board may accept any one or combination of the following as compensation~~ compensatory mitigation for unavoidable wetland impacts may be met through the following: ~~wetland creation, wetland or stream restoration, the purchase or use of mitigation bank credits, or a contribution to an approved in-lieu fee fund.~~ Preservation of wetlands, or preservation or restoration of upland buffers adjacent to state waters, may only be applied toward wetland compensation when utilized in conjunction with one or more of the above-mentioned compensation options. ~~Preservation or enhancement of stream channels, or preservation, restoration, or enhancement of adjacent riparian buffers, may be applied toward stream compensation as appropriate.~~

1. Wetland creation.

2. Wetland restoration.

3. The purchase or use of credits from a mitigation bank, pursuant to § 62.1-44.15:5 E of the Code of Virginia.

4. A contribution to an approved in-lieu fee fund.

5. Preservation of upland buffers adjacent to state waters, when utilized in conjunction with subdivision 1, 2, or 3 of this subsection and when consistent with 9 VAC 25-210-115 C.

6. Restoration of upland buffers adjacent to state waters, when utilized in conjunction with subdivision 1, 2, or 3 of this subsection and when consistent with 9 VAC 25-210-115 C.

7. Preservation of wetlands, when utilized in conjunction with subdivision 1, 2, or 3 of this subsection.

Proposed Regulations

D. For the purposes of this VWP general permit, compensatory mitigation for unavoidable stream impacts may be met through the following:

1. Stream channel restoration or enhancement.
2. Riparian buffer restoration or enhancement.
3. Riparian buffer preservation, when consistent with 9 VAC 25-210-115 C.
4. A contribution to an approved in-lieu fee fund.
5. The purchase or use of credits from a mitigation bank, pursuant to § 62.1-44.15:5 E of the Code of Virginia.

~~E. In order for contribution to an in-lieu fee fund to be an acceptable form of compensation, the fund must be approved for use by the board according to the provisions of 9 VAC 25-210-115 E. The applicant shall provide proof of contribution to DEQ prior to commencing activities in impact areas.~~

~~F. In order for purchase or use of bank credits to be an acceptable form of compensation, the bank shall be operating in accordance with the provisions of § 62.1-44.15:5 E of the Code of Virginia and 9 VAC 25-210-115 F. The applicant shall provide proof of purchase, use, or debit to DEQ prior to commencing activities in impact areas.~~

~~B. G. Compensation for unavoidable, permanent wetland impacts shall be provided at the following minimum compensation to impact ratios:~~

1. Impacts to forested wetlands shall be mitigated at 2:1, as calculated on an area basis.
2. Impacts to scrub shrub wetlands shall be mitigated at 1.5:1, as calculated on an area basis.
3. Impacts to emergent wetlands shall be mitigated at 1:1, as calculated on an area basis.

~~C. Compensation for unavoidable impacts to streams shall be provided and shall include, as practicable and appropriate, stream restoration, riparian buffer restoration or enhancement, or preservation or enhancement of stream corridors. The purchase or use of stream mitigation bank credits or contribution to an in-lieu fee fund that includes watershed enhancements is also acceptable. H. Compensation for stream bed impacts shall be appropriate to replace lost functions and water quality benefits. One factor in determining the required compensation shall be an analysis of stream impacts utilizing a stream impact assessment methodology approved by the board acceptable to DEQ.~~

~~D. I. Compensation for permanent open water impacts other than to streams may be required at a 1:1 replacement to impact ratio, as appropriate calculated on an area basis, to protect offset impacts to state waters and fish and wildlife resources from significant impairment.~~

~~E. J. Compensation for conversion impacts to wetlands shall be required at a 1:1 replacement to impact ratio, as calculated on an area basis, when such conversion results in a permanent alteration of the functions and values of the wetland. For example, the permanent conversion of a forested wetland to an emergent wetland is considered to be a~~

~~permanent impact for the purposes of this regulation. Compensation for conversion of other types of surface waters may be required, as appropriate, to offset impacts to state waters and fish and wildlife resources from significant impairment.~~

~~F. In order for contribution to an in-lieu fee fund to be an acceptable form of compensation, the fund must be approved for use by the board according to the provisions of 9 VAC 25-210-115 E.~~

~~G. In order for purchase or use of bank credits to be an acceptable form of compensation, the bank shall be operating in accordance with the provisions of § 62.1-44.15:5 E of the Code of Virginia and 9 VAC 25-210-115 F. The applicant shall provide proof of purchase, use, or debit to DEQ prior to commencing activities in impact areas.~~

9 VAC 25-690-80. Notice of planned changes.

A. The permittee shall notify the board in advance of the planned change, and the planned changes request will be reviewed according to all provisions of this regulation.

~~A. B. Authorization under this VWP general permit may be modified subsequent to issuance if the permittee determines that additional permanent wetland, open water, or stream impacts are necessary, provided that the additional impacts are associated with the previously authorized activities in authorized locations within the same phase of development, the cumulative increase in acreage of wetland or open water impacts is not greater than 1/4 acre and, the cumulative increase in stream bed impacts is not greater than 50 100 linear feet, and provided that the additional impacts are fully mitigated. In no case can this authorization be modified to exceed the general permit threshold for use. Prior to a planned change approval, DEQ may require submission of a compensatory mitigation plan for the additional impacts. In cases where the original impacts totaled less than 1/10 acre of wetlands or open water, or less than 300 linear feet of stream bed, and the additional impacts result in these limits being exceeded, the notice of planned change will not be approved. However, the applicant may submit a new permit application and permit application fee for the total impacts to be considered under this VWP general permit, another VWP general permit, or a VWP individual permit.~~

~~B. C. Authorization under this VWP general permit may be modified after issuance if the project results in less wetland or stream impacts. Compensation requirements may be modified in relation to the adjusted impacts at the request of the permittee, provided that the adjusted compensation meets the initial authorization compensation goals. DEQ shall not be responsible for ensuring refunds for mitigation bank credit purchases, mitigation bank usage, or in-lieu fee fund contributions.~~

~~C. D. Authorization under this VWP general permit may be modified after issuance for a change in project plans that does not result in a change in project impacts.~~

~~D. E. Authorization under the VWP general permit may be modified for a change to the mitigation bank at which credits are purchased or used, provided that the same amount of~~

credits are purchased or used and all criteria for use in 9 VAC 25-210-115 F are met.

~~E. F. Authorization under the VWP general permit may be modified after issuance for typographical errors.~~

~~F. G. A Notice of Planned Change is not required after authorization issuance for additional temporary impacts to surface waters, provided that DEQ is notified in writing regarding additional temporary impacts, and the area is restored to preexisting conditions in accordance with Part I C 11 of this general permit. In no case can the additional temporary impacts exceed the general permit threshold for use.~~

~~G. The permittee shall notify the board in advance of the planned change, and the planned change request will be reviewed according to all provisions of this regulation.~~

~~H. In no case can this authorization be modified to exceed the general permit threshold for use.~~

~~I. A notice of planned change shall be denied if fish and wildlife resources are significantly impacted or if the criteria in subsection B are not met. However, the original VWP general permit authorization shall remain in effect. The applicant may submit a new permit application and permit application fee for consideration under a VWP individual permit.~~

9 VAC 25-690-90. Termination of authorization by consent.

When all permitted activities requiring notification under 9 VAC 25-690-50 A 1 and all compensatory mitigation requirements have been completed, or if the authorized impacts will not occur, the permittee shall submit a request for termination by consent within 30 days of project completion or project cancellation. When submitted for project completion, the termination by consent shall constitute a notice of completion in accordance with 9 VAC 25-210-130. The director may accept this termination of authorization on behalf of the board. The permittee shall submit the following information:

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

a. For project completion:

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

b. For project cancellation:

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

c. For events beyond permittee control, the permittee shall provide a detailed explanation of the events, to be approved by DEQ, and the following certification statement:

"I certify under penalty of law that all the activities or the required compensatory mitigation authorized by a VWP general permit have changed as the result of events beyond my control (see attached). I understand that by submitting this notice of termination I am no longer authorized to perform activities in surface waters in accordance with the VWP general permit, and that performing activities in surface waters is unlawful where the activity is not authorized by a VWP permit. I also understand that the submittal of this notice does not release me from liability for any violations of this VWP general permit authorization, nor does it allow me to resume the permitted activities without reapplication and reauthorization."

9 VAC 25-690-95. Transition.

A. All applications received on or after (insert effective date) will be processed in accordance with these new procedures.

B. VWP general permit authorizations issued prior to (insert effective date) will remain in full force and effect until such authorizations expire, are revoked, or are terminated.

C. Notices of Planned Change and all other types of notification that are received by the board prior to (insert effective date) will be processed in accordance with the VWP general permit regulation in effect at that time. Notices of Planned Change and all other types of notification to the board that are received on or after (insert effective date) will be processed in accordance with these new procedures.

9 VAC 25-690-100. VWP general permit.

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

VWP General Permit No. WP4

Authorization effective date:

Authorization expiration date:

Authorization Notes(s):

VWP GENERAL PERMIT FOR IMPACTS FROM DEVELOPMENT AND CERTAIN MINING ACTIVITIES UNDER THE VIRGINIA WATER PROTECTION PERMIT AND THE VIRGINIA STATE WATER CONTROL LAW

Proposed Regulations

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

Subject to the provisions of the Clean Water Act, as amended, and pursuant to the State Water Control Law and regulations adopted pursuant to it, the permittee is authorized to ~~permanently or temporarily~~ impact up to two acres of nontidal ~~surface waters, including wetlands or open water and~~ up to ~~500~~ 1,500 linear feet of ~~perennial nontidal stream channel and~~ up to 1,500 linear feet of nonperennial stream channel bed.

Permittee:

Address:

Activity Location:

Activity Description:

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

Director, Department of Environmental Quality _____ Date

Part I. Special Conditions.

A. Authorized activities.

1. This permit authorizes ~~permanent or temporary~~ impacts of up to two acres of nontidal ~~surface waters including wetlands or open water and~~ up to ~~500~~ 1,500 linear feet of ~~perennial nontidal stream channel and~~ up to 1,500 linear feet of nonperennial stream channel bed according to the information provided in the approved ~~and complete~~ application.

2. Any changes to the authorized permanent impacts to surface waters associated with this project shall require either a notice of planned change in accordance with 9 VAC 25-690-80, or another VWP permit application.

3. Any changes to the authorized temporary impacts to surface waters associated with this project shall require written notification to DEQ and restoration to preexisting conditions in accordance with the conditions of this permit authorization.

4. Modification to compensation requirements may be approved at the request of the permittee when a decrease in the amount of authorized surface waters impacts occurs, provided that the adjusted compensation meets the initial authorization compensation goals.

5. The activities authorized for coverage under this VWP general permit must commence and be completed within ~~five~~ seven years of the date of this authorization.

B. Continuation of coverage. Reapplication for continuation of coverage under this VWP general permit or a new VWP permit may be necessary if any portion of the authorized activities or any VWP general permit requirement (including compensation) has not been completed within ~~five~~ seven years of the date of authorization. Notwithstanding any other provision, a request for continuation of coverage under a VWP general permit in order to complete monitoring requirements shall not be considered a new application, and no application fee will be charged. The request for continuation of coverage must be made no less than 60 days prior to the expiration date of this VWP general permit authorization, at which time the board will determine if continuation of the VWP general permit authorization is necessary.

C. Overall project conditions.

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

2. No activity may substantially disrupt the movement of aquatic life indigenous to the water body, including those species which normally migrate through the area, unless the primary purpose of the activity is to impound water. Culverts placed in streams must be installed to maintain low flow conditions. The requirement to countersink does not apply to extensions or maintenance of existing culverts that are not countersunk, floodplain culverts being placed above ordinary high water, culverts being placed on bedrock, or culverts required to be placed on slopes 5.0% or greater. No activity may cause more than minimal adverse effect on navigation. Furthermore the activity must not impede the passage of normal or expected high flows and the structure or discharge must withstand expected high flows.

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

4. All fill material shall be clean and free of contaminants in toxic concentrations or amounts in accordance with all applicable laws and regulations.

5. Erosion and sedimentation controls shall be designed in accordance with the Virginia Erosion and Sediment Control Handbook, Third Edition, 1992, or for mining activities covered by this general permit, the standards issued by the Virginia Department of Mines, Minerals and Energy that are effective as those in the Virginia Erosion and Sediment Control Handbook, Third Edition, 1992. These controls shall be placed prior to clearing and grading and maintained in good working order to minimize impacts to state waters. These controls shall remain in place until the area is stabilized and shall then be removed.

6. ~~Any~~ Exposed slopes and streambanks shall be stabilized immediately upon completion of work in each permitted impact area. All denuded areas shall be properly stabilized in

accordance with the Virginia Erosion and Sediment Control Handbook, Third Edition, 1992.

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

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

9. Heavy equipment in temporarily-impacted wetland areas shall be placed on mats, geotextile fabric, or other suitable material to minimize soil disturbance to the maximum extent practicable. Equipment and materials shall be removed immediately upon completion of work.

10. All nonimpacted surface waters *and compensatory mitigation areas* within 50 feet of ~~any~~ permitted activities and within the project or right-of-way limits shall be clearly flagged or marked for the life of the construction activity at that location to preclude ~~any~~ unauthorized disturbances to these surface waters *and compensatory mitigation areas* during construction. The permittee shall notify ~~all~~ contractors that *no activities are to occur in these marked areas*—~~are~~ surface waters ~~where no activities are to occur~~.

11. Temporary disturbances to surface waters during construction shall be avoided and minimized to the maximum extent practicable. All temporarily disturbed wetland areas shall be restored to ~~preconstruction~~ *preexisting* conditions within 30 days of completing work *at each respective temporary impact area*, which shall include reestablishing preconstruction contours, and planting or seeding with appropriate wetland vegetation according to cover type (emergent, scrub/shrub, or forested). The permittee shall take all appropriate measures to promote and maintain revegetation of temporarily disturbed wetland areas with wetland vegetation through the second year post-disturbance. All temporarily impacted streams and streambanks shall be restored to their original contours within 30 days following the construction at that stream segment, and the banks seeded or planted with the same vegetation cover type originally present along the streambanks, including supplemental erosion control grasses if necessary, except for invasive species identified on DCR's Invasive Alien Plant Species of Virginia list.

12. ~~All~~ Materials (including fill, construction debris, and excavated and woody materials) temporarily stockpiled in wetlands shall be placed on mats or geotextile fabric, immediately stabilized to prevent entry into state waters, managed such that leachate does not enter state waters, and completely removed within 30 days following completion of that construction activity. Disturbed areas shall be returned to original contours, restored within 30 days following removal of the stockpile, and restored with the same vegetation cover type originally present, including supplemental erosion control grasses if necessary, except for invasive species identified on DCR's Invasive Alien Plant Species of Virginia list.

13. Continuous flow of perennial springs shall be maintained by the installation of spring boxes, french drains, or other similar structures.

14. The permittee shall employ measures to prevent spills of fuels or lubricants into state waters.

15. The permittee shall conduct activities in accordance with ~~any~~ *the* time-of-year restrictions recommended by the Virginia Department of Game and Inland Fisheries ~~or~~ , the Virginia Marine Resources Commission, *or other interested and affected agencies* and shall ensure that all contractors are aware of ~~any~~ *the* time-of-year restrictions imposed.

16. Water quality standards shall not be violated as a result of the construction activities, unless allowed by this permit authorization.

17. Untreated stormwater runoff shall be prohibited from directly discharging into any surface waters, unless allowed by this permit authorization. Appropriate best management practices shall be deemed suitable treatment prior to discharge into state waters.

18. If stream channelization or relocation is required, all work in surface waters shall be done in the dry, unless authorized by this VWP general permit, and all flows shall be diverted around the channelization or relocation area until the new channel is stabilized. This work shall be accomplished by leaving a plug at the inlet and outlet ends of the new channel during excavation. Once the new channel has been stabilized, flow shall be routed into the new channel by first removing the downstream plug and then the upstream plug. The rerouted stream flow must be fully established before construction activities in the old stream channel can begin.

D. Road crossings.

1. Access roads and associated bridges or culverts shall be constructed to minimize the adverse effects on surface waters to the maximum extent practicable. Access roads constructed above preconstruction contours and elevations in surface waters must be bridged or culverted to maintain surface flows.

2. Installation of road crossings shall occur in the dry via the implementation of cofferdams, sheetpiling, stream diversions, or similar structures.

E. Utility lines.

1. All utility line work in surface waters shall be performed in a manner that minimizes disturbance, and the area must be returned to its original contours and restored within 30 days of completing work in the area, unless otherwise authorized by this VWP general permit. Restoration shall be the seeding of planting of the same vegetation cover type originally present, including supplemental erosion control grasses if necessary, except for invasive species identified on DCR's Invasive Alien Plant Species of Virginia list.

2. Material resulting from trench excavation may be temporarily sidecast into wetlands not to exceed a total of 90 days, provided the material is not placed in a manner such that it is dispersed by currents or other forces.

Proposed Regulations

3. The trench for a utility line cannot be constructed in a manner that drains wetlands (e.g., backfilling with extensive gravel layers creating a french drain effect.). For example, utility lines may be backfilled with clay blocks to ensure that the trench does not drain surface waters through which the utility line is installed.

F. Stream modification and stream bank protection.

1. Riprap bank stabilization shall be of an appropriate size and design in accordance with the Virginia Erosion and Sediment Control Handbook, Third Edition, 1992.

2. Riprap apron for all outfalls shall be designed in accordance with the Virginia Erosion and Sediment Control Handbook, Third Edition, 1992.

3. For stream bank protection activities, the structure and backfill shall be placed as close to the stream bank as practicable. No material shall be placed in excess of the minimum necessary for erosion protection.

4. All stream bank protection structures shall be located to eliminate or minimize impacts to vegetated wetlands to the maximum extent practicable.

5. Asphalt and materials containing asphalt or other toxic substances shall not be used in the construction of submerged sills or breakwaters.

6. Redistribution of existing stream substrate for the purpose of erosion control is prohibited.

7. No material removed from the stream bottom shall be disposed of in surface waters, unless authorized by this permit.

G. Dredging.

1. Dredging depths shall be determined and authorized according to the proposed use and controlling depths outside the area to be dredged.

2. Dredging shall be accomplished in a manner that minimizes disturbance of the bottom and minimizes turbidity levels in the water column.

3. If evidence of impaired water quality, such as a fish kill, is observed during the dredging, dredging operations shall cease and the DEQ shall be notified immediately.

4. Barges used for the transportation of dredge material shall be filled in such a manner to prevent ~~any~~ the overflow of dredged materials.

5. Double handling of dredged material in state waters shall not be permitted.

6. For navigation channels the following shall apply:

a. A buffer of four times the depth of the dredge cut shall be maintained between the bottom edge of the design channel and the channelward limit of wetlands ~~or mean low water~~, or a buffer of 15 feet shall be maintained from the dredged cut and the channelward edge of wetlands ~~or mean low water~~, whichever is greater. This landward limit of buffer shall be flagged and inspected prior to construction.

b. Side slope cuts of the dredging area shall not exceed a two-horizontal-to-one-vertical slope to prevent slumping of material into the dredged area.

7. A dredged material management plan for the designated upland disposal site shall be submitted and approved 30 days prior to initial dredging activity.

8. Pipeline outfalls and spillways shall be located at opposite ends of the dewatering area to allow for maximum retention and settling time. Filter fabric shall be used to line the dewatering area and to cover the outfall pipe to further reduce sedimentation to state waters.

9. The dredge material dewatering area shall be of adequate size to contain the dredge material and to allow for adequate dewatering and settling out of sediment prior to discharge back into state waters.

10. The dredge material dewatering area shall utilize an earthen berm or straw bales covered with filter fabric along the edge of the area to contain the dredged material, and shall be properly stabilized prior to placing the dredged material within the containment area.

11. Overtopping of the dredge material containment berms with dredge materials shall be strictly prohibited.

H. Stormwater management facilities.

1. Stormwater management facilities shall be installed in accordance with best management practices and watershed protection techniques (~~to~~, e.g., vegetated buffers, siting considerations to minimize adverse effects to aquatic resources, bioengineering methods incorporated into the facility design to benefit water quality and minimize adverse effects to aquatic resources) that provide for long-term aquatic resources protection and enhancement, to the maximum extent practicable.

2. Compensation for unavoidable impacts shall not be allowed within maintenance areas of stormwater management facilities.

3. Maintenance activities within stormwater management facilities shall not require additional permit authorization or compensation provided that the maintenance activities do not exceed the original contours of the facility, as approved and constructed, and is accomplished in designated maintenance areas as indicated in the facility maintenance or design plan.

Part II. Construction and Compensation Requirements, Monitoring, and Reporting.

A. ~~Compensation~~ *Minimum compensation requirements.*

1. The permittee shall provide appropriate and practicable compensation for all impacts meeting the conditions outlined in this VWP general permit.

2. ~~The types of Compensation options that may be considered under this VWP general permit include wetland or stream creation or restoration, the purchase or use of mitigation bank credits, or a contribution to an approved in-lieu fee fund shall meet the criteria in 9 VAC 25-690-70.~~

~~3. For wetlands compensation may incorporate preservation of wetlands or preservation or restoration of upland buffers adjacent to state waters when utilized in conjunction with creation, restoration, or mitigation bank credits. For other surface waters, compensation may incorporate preservation, restoration, or enhancement of stream channels, or preservation, restoration, or enhancement of adjacent riparian buffers.~~

4. 3. The site or sites depicted in the conceptual compensation plan submitted with the application shall constitute the compensation site for the approved project. A site change will require a modification to the authorization.

~~5.~~ 4. For compensation involving the purchase or use of mitigation bank credits *or a contribution to an in-lieu fee fund*, the permittee shall not initiate work in permitted impact areas until documentation of the mitigation bank credit purchase or usage *or of the fund contribution* has been submitted to and received by DEQ.

~~6. For projects proposing a contribution to an in-lieu fee fund, the permittee shall not initiate work in permitted impact areas until documentation of the in-lieu fee fund contribution has been submitted to and received by DEQ.~~

~~7.~~ 5. All aspects of the compensation plan shall be finalized, submitted and approved by the board prior to ~~any~~ a construction activity in permitted impact areas. The board shall review and provide written comments on the plan within 30 days of receipt or it shall be deemed approved. The final compensation plan as approved by the board shall be an enforceable requirement of this VWP general permit authorization. ~~Any~~ Deviations from the approved plan must be submitted and approved in advance by the board.

~~8.~~ 6. The final wetlands compensation plan shall include:

- a. The goals and objectives of the plan in terms of replacement of wetland acreage and functions, by wetland type;
- b. Location map, including latitude and longitude (to the nearest second) at the center of the site;
- c. Summary of the type and acreage of existing wetland impacts anticipated during the construction of the compensation site and proposed compensation for these impacts;
- d. Grading plan with existing and proposed elevations at one-foot or less contours;
- e. Schedule for compensation site construction, including sequence of events with estimated dates;
- f. Hydrologic analysis, including a water budget based on expected monthly inputs and outputs that will project water level elevations for a typical year, a wet year, and a dry year;
- g. Groundwater elevation data for the site, or the ~~proposed~~ location of groundwater monitoring wells to collect these data, and groundwater data for reference wetlands, if applicable;
- h. Design of water control structures;

i. Planting scheme and schedule, indicating plant species, zonation, and acreage of each vegetation type proposed;

j. An abatement and control plan covering all undesirable plant species, as listed on DCR's Invasive Alien Plant Species of Virginia list, that includes the proposed procedures for notifying DEQ of their presence, methods of removal, and the control of ~~any~~ such species;

k. Erosion and sedimentation control plan;

l. A soil preparation and amendments plan addressing both topsoil and subsoil conditions;

m. A discussion of ~~any~~ structures and features considered necessary for the success of the site;

n. A monitoring plan, including success criteria, monitoring goals and methodologies, monitoring and reporting schedule, and the locations of photographic stations and monitoring wells, ~~any~~ sampling points, and, if applicable, reference wetlands;

o. Site access plan;

p. The location and composition of any buffers; and

q. The mechanism for protection of the compensation area(s).

~~9.~~ 7. The final stream compensation plan shall include:

a. The goals and objectives of the compensation plan in terms of replacement of stream functions and ~~values~~ *water quality benefits*;

b. A location map, including latitude and longitude (to the nearest second) at the center of the site;

c. An evaluation, discussion, and plan sketches of existing conditions on the proposed compensation stream, including the identification of functional and physical deficiencies for which the measures are proposed, and summary of geomorphologic measurements (e.g., stream width, entrenchment ratio, width-depth ratio, sinuosity, slope, substrate, etc.);

d. The identification of existing geomorphological stream type being impacted and proposed geomorphological stream type for compensation purposes;

e. Detailed design information for the proposed restorative measures, including geomorphological measurements and reference reach information as appropriate;

f. Riparian buffer plantings, including planting scheme, species, buffer width;

g. Livestock access limiting measures, to the greatest extent possible;

h. A site access plan;

i. An erosion and sedimentation control plan, if appropriate;

j. An abatement and control plan covering all undesirable plant species, listed on DCR's Invasive Alien Plant Species of Virginia list, that includes the proposed procedures for notifying DEQ of their presence, methods for removal, and the control of ~~any~~ such species;

Proposed Regulations

k. A schedule for compensation site construction including projected start date, sequence of events with projected dates, and projected completion date;

l. A monitoring plan, including a monitoring and reporting schedule; monitoring design and methodologies to evaluate the success of the proposed compensation measures, allowing comparison from year to year; proposed success criteria for appropriate compensation measures; location of all monitoring stations including photo stations, vegetation sampling points, survey points, bank pins, scour chains, and reference streams;

m. The mechanism for protection of the compensation area; and

n. Plan view sketch depicting the pattern and all compensation measures being employed, a profile sketch, and cross-section sketches of the proposed compensation stream.

~~40-~~ 8. For final wetland or stream compensation plans, ~~any~~ the vegetation used shall be native species common to the area, shall be suitable for growth in local wetland conditions, and shall be from areas within the same or adjacent USDA Plant Hardiness Zone or NRCS Land Resource Region as that of the project site.

~~44-~~ 9. The final wetland or stream compensation plan(s) shall include a mechanism for protection in perpetuity of the compensation sites(s) to include all state waters within the compensation site boundary or boundaries. Such protections shall be in place within 120 days of final plan approval. The restrictions, protections, or preservations, or similar instrument, shall state that no activity will be performed on the property in any area designated as a compensation area with the exception of maintenance or corrective action measures authorized by the board. Unless specifically authorized by the board through the issuance of a VWP individual or general permit, or waiver thereof, this restriction applies to ditching, land clearing or the discharge of dredge or fill material. Such instrument shall contain the specific phrase "ditching, land clearing or discharge of dredge or fill material" in the limitations placed on the use of these areas. The protective instrument shall be recorded in the chain of title to the property, or an equivalent instrument for government-owned lands. Proof of recordation shall be submitted within 120 days of plat approval.

~~42-~~ 10. All work in impact areas shall cease if compensation site construction has not commenced within 180 days of commencement of project construction, unless otherwise authorized by the board.

~~43-~~ 11. DEQ shall be notified in writing at least 10 days prior to the initiation of construction activities at the compensation site(s).

~~44-~~ 12. Planting of woody plants shall occur when vegetation is normally dormant unless otherwise approved in the final wetlands or stream compensation plan(s).

~~45-~~ 13. Point sources of stormwater runoff shall be prohibited from entering any wetland compensation site prior to treatment by appropriate best management practices. Appropriate best management practices may include

sediment traps, grassed waterways, vegetated filter strips, debris screens, oil and grease separators, or forebays.

~~46-~~ 14. The success of the compensation shall be based on meeting the success criteria established in the approved final compensation plan.

~~47-~~ 15. Wetland hydrology shall be considered established if depths to the seasonal high water table are equal to or less than 12 inches below ground surface for at least 12.5% of the region's killing frost-free growing season, as defined in the soil survey for the locality of the compensation site or the NRCS WETS table, measured in consecutive days under typical precipitation conditions, and as defined in the water budget of the final compensation plan. For the purpose of this regulation, the growing season is defined as the period in which temperatures are expected to be above 28 degrees Fahrenheit in five out of 10 years, or the period during which the soil temperature in a wetland compensation site is greater than biological zero (five degrees Celsius) at a depth of 50 centimeters (19.6 inches), if such data is available.

~~48-~~ 16. The wetland plant community shall be considered established according to the performance criteria specified in the final compensation plan and approved by the board. The proposed vegetation success criteria in the final compensation plan shall include the following:

a. Species composition shall reflect the desired plant community types stated in the final wetland compensation plan by the end of the first growing season and shall be maintained through the last monitoring year.

b. Species composition shall consist of greater than 50% facultative (FAC) or wetter (FACW or OBL) vegetation, as expressed by plant stem density or areal cover, by the end of the first growing season and shall be maintained through the last monitoring year.

~~49-~~ 17. Undesirable plant species shall be identified and controlled as described in the undesirable plant species control plan, such that they are not dominant species or do not change the desired community structure. The control plan shall include procedures to notify DEQ when undesirable plant species comprise greater than 5.0% of the vegetation by areal coverage on wetland or stream compensation sites. The notification shall include the methods of removal and control, and whether the methods are successful.

~~20-~~ 18 If the wetland or stream compensation area(s) fail fails to meet the specified success criteria in a particular monitoring year (with the exception of, other than the final monitoring year), the reasons for this failure shall be determined, and a corrective action plan (including proposed actions, a schedule, and a monitoring plan) shall be submitted to DEQ for approval with or before that year's monitoring report. The approved corrective action plan shall contain at minimum the proposed actions, a schedule for those actions, and a monitoring plan, and shall be implemented by the permittee in accordance with the approved schedule. Should significant changes be necessary to ensure success, the required monitoring cycle shall begin again, with monitoring year one being the year that the changes are complete, as confirmed by DEQ. ~~24-~~ If all success criteria have not been met in the wetland or stream

~~compensation area fails to meet the specified success criteria by the final monitoring year, or if the wetland or stream compensation site area has not met the stated restoration goals, reasons for this failure shall be determined and a corrective action plan, including proposed actions, a schedule, and a monitoring plan, shall be submitted with the final year monitoring report for DEQ approval. Corrective action shall be implemented by the permittee in accordance with the approved schedule. Annual monitoring shall be required for each consecutive year to continue until two sequential, annual reports indicate that all criteria have been successfully satisfied and the site has met the overall restoration goals (i.e., e.g., that corrective actions were successful). The reasons for this failure shall be determined and a corrective action plan (including proposed actions, a schedule, and a monitoring plan) shall be submitted with the monitoring report to DEQ for approval and implemented by the permittee in accordance with the approved schedule.~~

~~22.~~ 19. The surveyed wetland boundary for the wetlands compensation site shall be based on the results of the hydrology, soils, and vegetation monitoring data and shall be shown on the site plan. Calculation of total wetland acreage shall be based on that boundary at the end of the monitoring cycle. Data shall be submitted by December 31 of the final monitoring year.

~~23.~~ 20. Herbicides or algicides shall not be used in or immediately adjacent to the wetlands or stream compensation site or sites without prior authorization by the board. All vegetation removal shall be done by manual means, unless authorized by DEQ in advance.

B. Impact site construction monitoring.

1. Construction activities authorized by this permit that are within impact areas shall be monitored and documented. The monitoring shall document the preexisting conditions, activities during construction, and post-construction conditions. Monitoring shall consist of one of the following options:

a. Photographs shall be taken during construction at the end of the first, second, and third months after commencing construction, and then every six months thereafter for the remainder of the construction project. Photos are not required during periods of no activity within impact areas.

b. An ortho-rectified photograph shall be taken by a firm specializing in ortho-rectified photography prior to construction, and then annually thereafter, until all impacts are taken. Photos shall clearly show the delineated surface waters and authorized impact areas.

c. In lieu of photographs, and with prior approval from DEQ, the permittee may submit a written narrative that summarizes site construction activities in impact areas. The narrative shall be submitted at the end of the first, second, and third months after commencing construction, and then every six months thereafter, for the remainder of the construction activities. Narratives are not required during periods of no activity within the impact areas.

2. As part of construction monitoring, photographs taken at the photo stations or the narrative shall document site activities and conditions, which may include installation and

maintenance of erosion and sediment controls; surface water discharges from the site; condition of adjacent nonimpact surface waters; flagged nonimpact surface waters; construction access and staging areas; filling, excavation, and dredging activities; culvert installation; dredge disposal; and site stabilization, grading, and associated restoration activities. With the exception of the preconstruction photographs, photographs at an individual impact site shall not be required until construction activities are initiated at that site. With the exception of the post-construction photographs, photographs at an individual impact site shall not be required once the site is stabilized following completion of construction at that site.

3. Each photograph shall be labeled to include the following information: permit number, impact area and photo station number, date and time of the photograph, name of the person taking the photograph, photograph orientation, and photograph subject description.

4. Monitoring of water quality parameters shall be conducted during permanent relocation of perennial streams through new channels in the manner noted below. The permittee shall report violations of water quality standards to DEQ in accordance with the procedures in Part II E. Corrective measures and additional monitoring may be required if water quality standards are not met. Reporting shall not be required if water quality standards are not violated.

a. A sampling station shall be located upstream and immediately downstream of the relocated channel.

b. Temperature, pH and dissolved oxygen (D.O.) measurements shall be taken every 30 minutes for at least two hours at each station prior to opening the new channels and immediately before opening new channels.

c. Temperature, pH and D.O. readings shall be taken after opening the channels and every 30 minutes for at least three hours at each station.

~~B.~~ C. Wetland compensation site monitoring.

1. An as-built ground survey, or an aerial survey provided by a firm specializing in aerial surveys, shall be conducted for the entire compensation site or sites including invert elevations for all water elevation control structures and spot elevations throughout the site or sites. Aerial surveys shall include the variation from actual ground conditions, such as +/- 0.2 feet. Either type of survey shall be certified by a licensed surveyor or by a registered professional engineer to conform to the design plans. The survey shall be submitted within 60 days of completing compensation site construction. Any changes or deviations in the as-built survey or aerial survey shall be shown on the survey and explained in writing.

2. Photographs shall be taken at the compensation site or sites from the permanent markers identified in the final compensation plan, and established to ensure that the same locations and view directions at the site or sites are monitored in each monitoring period. These photographs shall be taken after the initial planting and at a time specified in the final compensation plan during every monitoring year.

3. Compensation site monitoring shall begin on day one of the first complete growing season (monitoring year 1) after

Proposed Regulations

wetland compensation site construction activities, including planting, have been completed. Monitoring shall be required for monitoring years 1, 2, 3, and 5, unless otherwise approved by DEQ. In all cases if all success criteria have not been met in the final monitoring year, then monitoring shall be required for each consecutive year until two annual sequential reports indicate that all criteria have been successfully satisfied.

4. The establishment of wetland hydrology shall be measured during the growing season, with the location and number of monitoring wells, and frequency of monitoring for each site, set forth in the final monitoring plan. All Hydrology monitoring well data shall be accompanied by precipitation data, including rainfall amounts either from on site or from the closest weather station. Once the wetland hydrology success criteria have been satisfied for a particular monitoring year, monitoring may be discontinued for the remainder of that monitoring year following DEQ approval. After a period of three monitoring years, the permittee may request that hydrology monitoring be discontinued, providing that adequate hydrology has been established and maintained. Hydrology monitoring shall not be discontinued without written approval from DEQ.

5. The presence of hydric soils or soils under hydric conditions shall be evaluated in accordance with the final compensation plan.

6. The establishment of wetland vegetation shall be in accordance with the final compensation plan. Monitoring shall take place in August, September, or October during the growing season of each monitoring year, unless otherwise authorized in the monitoring plan:

7. The presence of undesirable plant species shall be documented.

8. All wetland compensation monitoring reports shall be submitted by December 31 of the monitoring year. The reports shall include, as applicable, the following: *in accordance with 9 VAC 25-690-100 Part II E 6.*

~~a. General description of the site including a site location map identifying photo stations, vegetative and soil monitoring stations, monitoring wells, and wetland zones;~~

~~b. Summary of activities completed during the monitoring year;~~

~~c. Description of monitoring methods;~~

~~d. Analysis of all hydrology information, including monitoring well data, precipitation data, and gauging data from streams or other open water areas, as set forth in the final compensation plan;~~

~~e. Evaluation of hydric soils or soils under hydric conditions, as appropriate;~~

~~f. Analysis of all vegetative community information, including woody and herbaceous species, both planted and volunteers, as set forth in the final compensation plan;~~

~~g. Photographs labeled with the permit number, the name of the compensation site, the photo station number, the photograph orientation, the date and time of the photograph,~~

~~the name of the person taking the photograph, and a brief description of the photograph subject. This information shall be provided as a separate attachment to each photograph, if necessary. Photographs taken after the initial planting shall be included in the first monitoring report after planting is complete;~~

~~h. Discussion of wildlife or signs of wildlife observed at the compensation site;~~

~~i. Comparison of site conditions from the previous monitoring year and reference site, if applicable;~~

~~j. Discussion of corrective measures or maintenance activities to control undesirable species, to repair any damaged water control device, or to replace any damaged planted vegetation; and~~

~~k. Corrective action plan, which includes proposed actions, a schedule, and monitoring plan.~~

~~C. D. Stream compensation, restoration and monitoring.~~

1. Any Riparian buffer restoration activities shall be detailed in the final compensation plan and shall include, as appropriate, the planting of a variety of native species currently growing in the site area, including appropriate seed mixtures and woody species that are bare root, balled, or burlapped. A minimum buffer width of 50 feet, measured from the top of the stream bank at bankfull elevation landward on both sides of the stream, shall be required where practical.

2. The installation of root wads, vanes, and other instream structures, shaping of the stream banks, and channel relocation shall be completed in the dry whenever practicable.

3. Livestock access to the stream and designated riparian buffer shall be limited to the greatest extent practicable.

4. Stream channel restoration activities shall be conducted in the dry or during low flow conditions. When site conditions prohibit access from the streambank, heavy equipment shall be authorized for use within the stream channel.

5. Photographs shall be taken at the compensation site from the vicinity of the permanent photo stations identified in the final compensation plan. The photograph orientation shall remain constant during all monitoring events. At a minimum, photographs shall be taken from the center of the stream, facing downstream, with a sufficient number of photographs to view the entire length of the restoration site. Photographs shall document the completed restoration conditions. Photographs shall be taken prior to site activities, during instream and riparian compensation construction activities, within one week of completion of activities, and during at least one day of each monitoring year to depict restored conditions.

6. An as-built ground survey, or an aerial survey provided by a firm specializing in aerial surveys, shall be conducted for the entire compensation site or sites. Aerial surveys shall include the variation from actual ground conditions, such as +/- 0.2 feet. The survey shall be certified by the licensed surveyor or by a registered, professional engineer to conform to the design plans. The survey shall be submitted within 60 days of completing compensation site construction. Any Changes or deviations from the final compensation plans in the as-built

survey or aerial survey shall be shown on the survey and explained in writing.

7. Compensation site monitoring shall begin on day one of the first complete growing season (monitoring year 1) after stream compensation site construction activities, including planting, have been completed. Monitoring shall be required for monitoring years 1 and 2, unless otherwise determined by DEQ. In all cases, if all success criteria have not been met in the final monitoring year, then monitoring shall be required for each consecutive year until two annual sequential reports indicate that all criteria have been successfully satisfied.

8. All stream compensation monitoring reports shall be submitted by December 31 of the monitoring year. The reports shall include, as applicable, the following: *in accordance with 9 VAC 25-690-100 Part II E 6.*

~~a. General description of the site including a site location map identifying photo stations and monitoring stations.~~

~~b. Summary of activities completed during the monitoring year.~~

~~c. Description of monitoring methods.~~

~~d. An evaluation and discussion of the monitoring results in relation to the success criteria and overall goals of compensation.~~

~~e. Photographs shall be labeled with the permit number, the name of the compensation site, the photo station number, the photograph orientation, the date and time of the photograph, the name of the person taking the photograph, and a brief description of the photograph subject. Photographs taken prior to compensation site construction activities, during instream and riparian restoration activities, and within one week of completion of activities shall be included in the first monitoring report.~~

~~f. A discussion of alterations, maintenance, or major storm events resulting in significant change in stream profile or cross section, and corrective actions conducted at the stream compensation site.~~

~~g. Documentation of undesirable plant species and summary of abatement and control measures.~~

~~h. A summary of wildlife or signs of wildlife observed at the compensation site.~~

~~i. Comparison of site conditions from the previous monitoring year and reference site, and as-built survey, if applicable.~~

~~j. A corrective action plan, which includes proposed actions, a schedule and monitoring plan.~~

~~k. Any additional submittals that were approved by DEQ in the final compensation plan.~~

D. Impact site construction monitoring.

1. Construction activities authorized by this permit that are within impact areas shall be monitored and documented. The monitoring shall document the preconstruction conditions, activities during construction, and post-construction conditions. Monitoring shall consist of one of the following options:

~~a. Photographs shall be taken during construction at the end of the first, second, and third months of construction, and then semi-annually for the remainder of the construction project, except during periods of no activity within impact areas;~~

~~b. An ortho-rectified photograph shall be taken by a firm specializing in ortho-rectified photography prior to construction, and annually thereafter until all impacts are taken, and shall clearly show the delineated surface waters and authorized impact areas; or~~

~~c. In lieu of photographs, and with prior approval from DEQ, the permittee may submit a written narrative that summarizes site construction activities in impact areas. The narrative shall be submitted at the end of the first, second, and third months of construction in impact areas, and then semi-annually for the remainder of the construction activities in impact areas, except during periods of no activity within the impact areas.~~

2. As part of construction monitoring, photographs taken at the photo stations or the narrative shall document site activities and conditions, which may include installation and maintenance of erosion and sediment controls; condition of adjacent nonimpact surface waters; flagged nonimpact surface waters; construction access and staging areas; filling, excavation, and dredging activities; culvert installation; dredge disposal; and site stabilization, grading, and associated restoration activities. With the exception of the preconstruction photographs, photographs at an individual impact site shall not be required until construction activities are initiated at that site. With the exception of the post-construction photographs, photographs at an individual impact site shall not be required once the site is stabilized following completion of construction at that site.

3. Each photograph shall be labeled to include the following information: permit number, impact area and photo station number, date and time of the photograph, name of the person taking the photograph, photograph orientation, and photograph subject description.

4. Monitoring of water quality parameters shall be conducted during permanent relocation of perennial streams through new channels in the following manner:

a. A sampling station shall be located upstream and immediately downstream of the relocated channel;

b. Temperature, pH and dissolved oxygen (D.O.) measurements shall be taken every 30 minutes for at least two hours at each station prior to opening the new channels and immediately before opening new channels.

c. Temperature, pH and D.O. readings shall be taken after opening the channels and every 30 minutes for at least three hours at each station.

The permittee shall report violations of water quality standards to DEQ in accordance with the procedures in Part II E. Corrective measures and additional monitoring may be required if water quality standards are not met. Reporting shall not be required if water quality standards are not violated.

E. Reporting.

Proposed Regulations

1. Written communications required by this VWP general permit shall be submitted to the appropriate DEQ office. The VWP general permit authorization number shall be included on all correspondence.

2. DEQ shall be notified in writing at least 10 days prior to the start of construction activities at the first permitted site authorized by this VWP general permit authorization so that inspections of the project can be planned, if deemed necessary by DEQ. The notification shall include a projected schedule for initiation and completion of work at each permitted impact area.

3. Construction monitoring reports shall be submitted to DEQ not later than the 10th day of the month following the month in which the monitoring event specified in Part II D takes place, unless otherwise specified below. The reports shall include the following, as appropriate:

a. For each permitted impact area, a written narrative stating whether work was performed during the monitoring period, and if work was performed, a description of the work performed, when the work was initiated, and the expected date of completion.

b. ~~Properly Photographs~~ labeled photographs ~~(to include with the permit number, the photo station number, the photo orientation, the date and time of the photo, name of the person taking the photograph, and a brief description and VWP permit number) showing representative of the construction activities (including, but not limited to, flagging nonimpact wetland areas, site grading and excavation, installation and maintenance of erosion and sediment controls, culvert installation, bridge and ramp construction, dredging, dredge disposal, etc.). The post-construction photographs shall be submitted within 30 days of documenting post-construction conditions.~~ The first construction monitoring report shall include the photographs taken at each impact site prior to initiation of construction in any a permitted impact area. Written notification and photographs demonstrating that all temporarily disturbed wetland and stream areas have been restored in compliance with the permit conditions shall be submitted within 30 days of restoration. *The post-construction photographs shall be submitted within 30 days of documenting post-construction conditions.*

c. Summary of activities conducted to comply with the permit conditions.

d. Summary of permit noncompliance events or problems encountered, subsequent notifications, and corrective actions.

e. Summary of anticipated work to be completed during the next monitoring period, and an estimated date of construction completion at all impact areas.

f. Labeled site map depicting all impact areas and photo stations.

4. DEQ shall be notified in writing within 30 days following the completion of all activities in all permitted impact areas authorized under this permit.

5. DEQ shall be notified in writing at least 10 days prior to the initiation of activities at the compensation site. The notification

shall include a projected schedule of activities and construction completion.

6. All compensation monitoring reports shall be submitted annually by December 31, with the exception of the last year of authorization, in which case the report shall be submitted at least 60 days prior to expiration of authorization under the general permit. ~~Any alterations and maintenance conducted on the compensation sites shall be reported. Undesirable plant species occurrences and control of these occurrences shall also be reported to DEQ.~~

a. All wetland compensation monitoring reports shall include, as applicable, the following:

(1) General description of the site including a site location map identifying photo stations, vegetative and soil monitoring stations, monitoring wells, and wetland zones.

(2) Summary of activities completed during the monitoring year, including alterations or maintenance conducted at the site.

(3) Description of monitoring methods.

(4) Analysis of all hydrology information, including monitoring well data, precipitation data, and gauging data from streams or other open water areas, as set forth in the final compensation plan.

(5) Evaluation of hydric soils or soils under hydric conditions, as appropriate.

(6) Analysis of all vegetative community information, including woody and herbaceous species, both planted and volunteers, as set forth in the final compensation plan.

(7) Photographs labeled with the permit number, the name of the compensation site, the photo station number, the photograph orientation, the date and time of the photograph, the name of the person taking the photograph, and a brief description of the photograph subject. This information shall be provided as a separate attachment to each photograph, if necessary. Photographs taken after the initial planting shall be included in the first monitoring report after planting is complete.

(8) Discussion of wildlife or signs of wildlife observed at the compensation site.

(9) Comparison of site conditions from the previous monitoring year and reference site.

(10) Discussion of corrective measures or maintenance activities to control undesirable species, to repair damaged water control devices, or to replace damaged planted vegetation.

(11) Corrective action plan, which includes proposed actions, a schedule, and monitoring plan.

b. All stream compensation monitoring reports shall include, as applicable, the following:

(1) General description of the site including a site location map identifying photo stations and monitoring stations.

(2) *Summary of activities completed during the monitoring year, including alterations or maintenance conducted at the site.*

(3) *Description of monitoring methods.*

(4) *An evaluation and discussion of the monitoring results in relation to the success criteria and overall goals of compensation.*

(5) *Photographs shall be labeled with the permit number, the name of the compensation site, the photo station number, the photograph orientation, the date and time of the photograph, the name of the person taking the photograph, and a brief description of the photograph subject. Photographs taken prior to compensation site construction activities, during instream and riparian restoration activities, and within one week of completion of activities shall be included in the first monitoring report.*

(6) *A discussion of alterations, maintenance, or major storm events resulting in significant change in stream profile or cross section, and corrective actions conducted at the stream compensation site.*

(7) *Documentation of undesirable plant species and summary of abatement and control measures.*

(8) *A summary of wildlife or signs of wildlife observed at the compensation site.*

(9) *Comparison of site conditions from the previous monitoring year and reference site, and as-built survey, if applicable.*

(10) *A corrective action plan, which includes proposed actions, a schedule and monitoring plan.*

(11) *Additional submittals that were approved by DEQ in the final compensation plan.*

7. The permittee shall notify DEQ in writing when unusual or potentially complex conditions are encountered which require debris removal or involve potentially toxic substance. Measures to remove the obstruction, material, or toxic substance or to change the location of ~~any~~ a structure are prohibited until approved by DEQ.

8. The permittee shall report any fish kills or spills of oil or fuel immediately upon discovery. If spills or fish kills occur between the hours of 8:15 a.m. to 5 p.m., Monday through Friday, the appropriate DEQ regional office shall be notified; otherwise, the Department of Emergency Management shall be notified at 1-800-468-8892.

9. Violations of state water quality standards shall be reported within 24 hours to the appropriate DEQ office.

10. All submittals required by this VWP general permit shall contain the following signed certification statement:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the

best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violation."

Part III. Conditions Applicable to All VWP General Permits

A. Duty to comply. The permittee shall comply with all conditions of the VWP general permit. Nothing in this VWP general permit shall be construed to relieve the permittee of the duty to comply with all applicable federal and state statutes, regulations, and toxic standards and prohibitions. ~~Any~~ VWP general permit noncompliance is a violation of the Clean Water Act and State Water Control Law, and is grounds for enforcement action, VWP general permit authorization termination for cause, VWP general permit authorization revocation, or denial of a continuation of coverage request.

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

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

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

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

F. Severability. The provisions of this VWP general permit authorization are severable.

G. Right of entry. The permittee shall allow the board or its agents, upon the presentation of credentials, at reasonable times and under reasonable circumstances: ~~4.~~ to enter the permittee's property, public or private, and have access to, inspect and copy ~~any~~ records that must be kept as part of the VWP general permit conditions; ~~2.~~ to inspect ~~any~~ facilities, operations or practices (including monitoring and control equipment) regulated or required under the VWP general permit; ~~and~~ ~~3.~~ to sample or monitor any substance, parameter or activity for the purpose of assuring compliance with the conditions of the VWP general permit or as otherwise authorized by law.

Proposed Regulations

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

H. Transferability of VWP general permit authorization. This VWP general permit authorization may be transferred to another person by a permittee if: *when all of the criteria listed below are met. On the date of the VWP general permit authorization transfer, the transferred VWP general permit authorization shall be as fully effective as if it had been issued directly to the new permittee.*

1. The current permittee notifies the board of the transfer of the title to the facility or property;

2. The notice to the board includes a written agreement between the ~~existing current~~ and new ~~permittee permittees~~ containing a specific date of transfer of VWP general permit authorization responsibility, coverage and liability to the new permittee, or that the ~~existing current~~ permittee will retain such responsibility, coverage or liability, including liability for compliance with the requirements of ~~any~~ enforcement activities related to the permitted activity; ~~and.~~

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

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

1. Notice of planned change. Authorization under the VWP general permit may be modified subsequent to issuance if: (i) the in one or more of the cases listed below. A notice of planned change is not required if the project results in additional temporary impacts to surface waters, provided that DEQ is notified in writing, the additional temporary impacts are restored to preexisting conditions in accordance with Part I C 11 of this general permit, and the additional temporary impacts do not exceed the general permit threshold for use. The permittee shall notify the board in advance of the planned change, and the planned change request will be reviewed according to all provisions of this regulation.

1. The permittee determines that additional permanent wetland, open water, or stream impacts are necessary, provided that the additional impacts are associated with the previously authorized activities in authorized locations within the same phase of development, the cumulative increase in acreage of wetland or open water impacts is not greater than 1/4 acre ~~and~~, the cumulative increase in stream bed impacts is not greater than 50 100 linear feet, and ~~provided that~~ the additional impacts are fully compensated; ~~(ii).~~

2. The project results in less wetland or stream impacts, in which case, compensation requirements may be modified in relation to the adjusted impacts at the request of the permittee, provided that the adjusted compensation meets the initial authorization compensation goals; ~~(iii).~~

3. There is a change in the project plans that does not result in a change in project impacts; ~~(iv).~~

4. There is a change in the mitigation bank at which credits are purchased or used, provided that the same amount of credits are purchased or used and all criteria for use are met, as detailed in 9 VAC 25-210-115; ~~or (v) F.~~

5. Typographical errors need to be corrected. ~~A notice of planned change is not required if the project results in additional temporary impacts to surface waters, provided that DEQ is notified in writing, the additional temporary impacts are restored to preexisting conditions in accordance with Part I C 11 of this general permit, and the additional temporary impacts do not exceed the general permit threshold for use. The permittee shall notify the board in advance of the planned change, and the planned change request will be reviewed according to all provisions of this regulation.~~

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

1. Noncompliance by the permittee with any condition of the VWP general permit authorization;

2. The permittee's failure in the application or during the VWP general permit authorization issuance process to disclose fully all relevant facts or the permittee's misrepresentation of any relevant facts at any time;

3. The permittee's violation of a special or judicial order; and

4. A determination that the permitted activity endangers human health or the environment and can be regulated to acceptable levels by a VWP general permit authorization planned change or termination for cause.

K. VWP general permit authorization termination by consent. This VWP general permit authorization may be terminated by consent when all permitted activities requiring notification under 9 VAC 25-690-50 A 1 *and all compensatory mitigation* have been completed; ~~or when a planned change occurs that involves substituting a specified, approved mitigation bank with another specified, approved mitigation bank.~~ The permittee shall submit a request for termination by consent within 30 days of project completion or project cancellation. *When submitted for project completion, the termination by consent shall constitute a notice of completion in accordance with 9 VAC 25-210-130.* The director may accept this termination of authorization on behalf of the board. The request for termination by consent shall contain the following information:

1. Name, mailing address and telephone number of the permittee;

2. Name and location of the activity;

3. The VWP permit authorization number; and

4. One of the following certifications:

a. For project completion:

"I certify under penalty of law that all activities *and any required compensatory mitigation* authorized by a VWP general permit have been completed. I understand that by

submitting this notice of termination I am no longer authorized to perform activities in surface waters in accordance with the VWP general permit, and that performing activities in surface waters is unlawful where the activity is not authorized by a VWP permit. I also understand that the submittal of this notice does not release me from liability for any violations of this VWP general permit authorization."

b. For project cancellation:

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

c. For events beyond permittee control, the permittee shall provide a detailed explanation of the events, to be approved by DEQ, and the following certification statement:

"I certify under penalty of law that ~~all~~ *the activities or the required compensatory mitigation* authorized by a VWP general permit have changed as the result of events beyond my control (see attached). I understand that by submitting this notice of termination I am no longer authorized to perform activities in surface waters in accordance with the VWP general permit, and that performing activities in surface waters is unlawful where the activity is not authorized by a VWP permit. I also understand that the submittal of this notice does not release me from liability for any violations of this VWP general permit authorization, nor does it allow me to resume the permitted activities without reapplication and reauthorization."

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

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

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

O. Duty to provide information.

1. The permittee shall furnish to the board any information which the board may request to determine whether cause exists for modifying, revoking, *and* reissuing and terminating the VWP permit *authorization*, or to determine compliance

with the VWP permit *authorization*. The permittee shall also furnish to the board, upon request, copies of records required to be kept by the permittee.

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

P. Monitoring and records requirements.

1. Monitoring of parameters, other than pollutants, shall be conducted according to approved analytical methods as specified in the VWP permit. Analysis of pollutants will be conducted according to 40 CFR Part 136 (2000), Guidelines Establishing Test Procedures for the Analysis of Pollutants.

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

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

4. Records of monitoring information shall include, as appropriate:

a. The date, exact place and time of sampling or measurements;

b. The name of the individuals who performed the sampling or measurements;

c. The date and time the analyses were performed;

d. The name of the individuals who performed the analyses;

e. The analytical techniques or methods supporting the information such as observations, readings, calculations and bench data used;

f. The results of such analyses; and

g. Chain of custody documentation.

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

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

2. Excavate in a wetland;

3. Otherwise alter the physical, chemical, or biological properties of state waters and make them detrimental to the public health, to animal or aquatic life, to the uses of such waters for domestic or industrial consumption, for recreation, or for other uses; or

4. On and after October 1, 2001, conduct the following activities in a wetland:

Proposed Regulations

- a. New activities to cause draining that significantly alters or degrades existing wetland acreage or functions;
- b. Filling or dumping;
- c. Permanent flooding or impounding; or
- d. New activities that cause significant alteration or degradation of existing wetland acreage or functions.

DOCUMENTS INCORPORATED BY REFERENCE

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

Virginia Stormwater Management Handbook, First Edition, 1999, Department of Conservation and Recreation.

VA.R. Doc. No. R05-289; Filed Dec. 16, 2005, 9:43 a.m.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

VIRGINIA BOARD FOR ASBESTOS, LEAD, AND HOME INSPECTORS

Title of Regulation: 18 VAC 15-20. Virginia Asbestos Licensing Regulations (amending 18 VAC 15-20-20, 18 VAC 15-20-60, 18 VAC 15-20-70, 18 VAC 15-20-400 through 18 VAC 15-20-451, 18 VAC 15-20-453, 18 VAC 15-20-456, 18 VAC 15-20-470; adding 18 VAC 15-20-31, 18 VAC 15-20-32, 18 VAC 15-20-33, 18 VAC 15-20-34, 18 VAC 15-20-51, 18 VAC 15-20-52, 18 VAC 15-20-53, 18 VAC 15-20-461, 18 VAC 15-20-462, 18 VAC 15-20-463, 18 VAC 15-20-464; repealing 18 VAC 15-20-30, 18 VAC 15-20-40, 18 VAC 15-20-50, 18 VAC 15-20-80 through 18 VAC 15-20-150, 18 VAC 15-20-250 through 18 VAC 15-20-361, 18 VAC 15-20-459.6 through 18 VAC 15-20-460).

Statutory Authority: §§ 54.1-201 and 54.1-501 of the Code of Virginia.

Public Hearing Date: March 30, 2006 - 11 a.m.

Public comments may be submitted until April 14, 2006.
(See Calendar of Events section for additional information)

Agency Contact: David E. Dick, Executive Director, Virginia Board for Asbestos, Lead, and Home Inspectors, 3600 West Broad Street, Richmond, VA 23230-4917, telephone (804) 367-2648, FAX (804) 367-6128, or e-mail alhi@dpor.virginia.gov.

Basis: The Board for Asbestos, Lead, and Home Inspectors is empowered to promulgate regulations under the legal authority found in § 54.1-201 of the Code of Virginia, which empowers regulatory boards generally, and § 54.1-501 of the Code of Virginia, which empowers the Board for Asbestos, Lead, and Home Inspectors specifically.

Purpose: The intent of the proposed amendments is to assure that project monitors are used on asbestos abatement projects. Project monitors are required on certain asbestos

projects and must perform certain functions to assure that all asbestos fiber is removed before a project is completed. The amendments focus on assuring that property owners are aware of the requirement for the presence of a project monitor on asbestos projects and appropriate modifications to duties, responsibilities and functions of project monitors.

Also, the proposed amendments empower the board to deny license and approval as well as to take disciplinary action against those acting as or being an ostensible licensee for undisclosed persons who do or will control or direct, directly or indirectly, the operations of the licensed or approved entity. The board will be able to deny application to or take disciplinary action against individuals who have been disciplined and have found others to become licensed on their behalf.

Amending the requirements for recordkeeping by accredited training programs and requiring certain records to be submitted electronically will enable faster data processing and license issuance by the board. The language allows manual reporting for those entities that lack the necessary software and hardware.

The intent of reorganizing the regulations is to present the regulatory requirements in a format that is easier to understand and to make them more consistent with other DPOR board regulations. This will further the efficient and economical performance of important government functions.

Substance: Licensed asbestos project monitors are required on all asbestos projects in buildings that are occupied or intended to be occupied upon completion of an asbestos project exceeding 260 linear feet or 35 cubic feet of asbestos-containing material or whenever the building or property owner deems it necessary to monitor asbestos projects. Asbestos is a naturally occurring fiber with insulation and fire retardant characteristics that has been used for many years in building construction. Inhaling the fibers may cause a very serious form of cancer that can result in disability and death. For this reason, the project monitor's role in assuring that all aspects of an asbestos abatement project are properly executed and that all asbestos fiber has been removed and safely disposed of before a project is considered to be complete is vital to the health of those working on the asbestos abatement project, those in the nearby vicinity and those who may occupy the premises in the future. The amendments will assure that building owners are aware of the requirement for project monitors on asbestos abatement projects and will modify the functions to be performed by project monitors to assure public protection from the hazards of asbestos fibers.

The board has, from time to time, taken disciplinary action against certain firms and individuals or denied licensure or approval to those firms and individuals under its regulatory authority and its affirmative obligation to protect the public. The board is concerned that those so disciplined or denied may find others who have not been so disciplined or denied to apply for and become licensed or approved. Those disciplined or denied will then operate as the ostensible licensee, or approved entity or individual, thus rendering the board's regulatory authority ineffective. The board's proposed

amendments empower the board to deny the application of or take disciplinary action against anyone found to be an ostensible owner acting on the behalf of a disqualified individual.

The keeping and submission to the board of certain records by accredited training programs is the foundation of this program's protection to its regulants as well as to the public. Rapid and accurate reporting of information electronically will enable faster application processing. A provision is made for those entities that do not have the software and hardware to report electronically.

Issues: No disadvantages to the public or the Commonwealth have been identified.

Amendments that hold the asbestos contractor accountable for notifying the building owner that a licensed project monitor is required on asbestos project and amendments that require the project monitor to be present on the job site each day asbestos activities are being conducted will benefit the public by ensuring that project monitors are present on asbestos project that require monitoring and to assure that all asbestos fiber is removed before a project is completed.

The public is further protected by empowering the board to take disciplinary action against those acting as or being an ostensible licensee for undisclosed persons who do or will control or direct the operations of the licensed or approved entity.

The agency will benefit by requiring all training program notifications and rosters to be submitted in a uniform manner that will lead to streamlining the processing of applications and will ultimately get licenses to applicants sooner.

The agency's Compliance and Investigations Division will benefit from reorganizing the regulations by making the regulations more consistent with other DPOR board regulations. The public, government officials and the industry will benefit by reorganizing the regulations in a format that is easier to understand.

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 Board for Asbestos, Lead, and Home Inspectors (board) proposes to: 1) list "acting as or being an ostensible licensee for undisclosed persons who do or will control or direct, directly or indirectly, the operations of the licensee's business" as grounds for discipline, 2) list "failure to notify the board in writing within 30

days after any change in address or name" as grounds for discipline, 3) require the asbestos contractor to obtain written acknowledgement from the building owner indicating that the asbestos contractor has provided notification that an asbestos project monitor is required on the asbestos project, 4) clarify that the asbestos project monitor must be on the job site each day that asbestos abatement activities are taking place, 5) clarify that the asbestos training manager notify the board when an accredited asbestos training program will begin on a date other than the start date specified in the original notification, and 6) require that notifications and training program participants lists be submitted electronically on forms provided by the board.

Estimated economic impact. Over the years, asbestos has been used in many ways. Pipe insulation, automotive brakes, shingles, wallboard, and blown-in insulation are just a few of the products that once contained asbestos. Although the federal government suspended production of most asbestos products in the early 1970s, installation of these products continued through the late 1970s and even into the early 1980s. Currently, asbestos fibers are at times released during renovations of older buildings.¹

According to the U.S. Center for Disease Control and Prevention, Agency for Toxic Substances and Disease Registry, "Significant exposure to any type of asbestos will increase the risk of lung cancer, mesothelioma and nonmalignant lung and pleural disorders, including asbestosis, pleural plaques, pleural thickening, and pleural effusions."² These regulations address the licensure of individuals and entities who work with asbestos.

New grounds for disciplinary action. The board and the Department of Professional and Occupational Regulation (department) have seen situations where firms or individuals who having had their license revoked or license application denied, have found others who have not been so disciplined or denied to apply for and become licensed. The individual who had his license revoked or license application denied then directs the operations of the licensee's business. Since the license was presumably denied or revoked due to incompetence or dishonest or sloppy practice, then the situation where the disciplined individual can effectively operate as licensed despite the denial or revocation minimizes the board and department's ability to protect the public from the effects of incompetent or dishonest asbestos work.

Consequently, the board proposes to add the following to the list of grounds for disciplinary action: "acting as or being an ostensible licensee for undisclosed persons who do or will control or direct, directly or indirectly, the operations of the licensee's business." In practice, it may be difficult to prove that a licensee is actually permitting someone else to control their business. Nevertheless, as long as the board does not mistakenly discipline legitimate licensees, this proposed amendment has the potential to produce a net benefit for the Commonwealth by reducing the likelihood that dishonest or

¹ Source: U.S. Center for Disease Control and Prevention, Agency for Toxic Substances and Disease Registry

² U.S. Center for Disease Control and Prevention, Agency for Toxic Substances and Disease Registry, October 10, 2003

Proposed Regulations

incompetent individuals can continue to practice and expose the public to unnecessary health and financial risks.

The board also proposes to add "failure to notify the board in writing within 30 days after any change in address or name" as grounds for discipline. The board needs to keep track of licensees' identity and location in order to monitor their compliance with the regulations. The risk to public health of incompetent or dishonest asbestos abatement work is significant. The cost for licensees of keeping the board informed is small since they can prepare and email notifications in a matter of minutes. Thus, the proposal to allow the board to enforce a requirement that will help enable it to monitor licensees' compliance with the regulations will likely produce a net benefit.

Notification of required asbestos project monitor. These regulations require that an asbestos monitor be employed for projects performed in buildings that are occupied or intended to be occupied upon completion of the asbestos project exceeding 260 linear feet or 160 square feet or 35 cubic feet of asbestos-containing material. The board proposes to require asbestos contractors to obtain written acknowledgement from the building owner indicating that the asbestos contractor has provided notification that an asbestos project monitor is required on the asbestos project.

This proposed change will likely provide a net benefit. In practice, some property owners may not be aware of the requirement for asbestos monitors on projects exceeding the minimum size. The property owner could be subject to lawsuits, and the quality of some asbestos abatement work may be reduced if project monitors are not present. Improper or inadequate asbestos abatement could put the public at risk as described above. Thus, the proposed requirement for asbestos contractors to obtain written acknowledgement from the building owner indicating that the asbestos contractor has provided notification that an asbestos project monitor is required on the asbestos project has clear benefits. The cost of compliance for competent, honest contractors is small. One extra line with a signature at the time of contract signing would suffice for compliance with the proposed requirement.

Daily presence of asbestos project monitor. The board proposes to clarify that the asbestos project monitor "shall be on the job site each day that asbestos abatement activities are being conducted" The current regulations state that project monitors must "maintain a daily log of all work performed. The daily log shall include, but not be limited to, inspection reports, air sampling data, type of work performed by the contractor, problems encountered and corrective action taken." According to the department, the board's intent has always been for the project monitor to be present everyday that asbestos abatement activities are taking place in order to conduct all the duties required for the daily log. The board and department have heard that some individuals have interpreted the current regulations to not necessarily require the daily presence of the project monitor when asbestos abatement work was performed. The department is not aware of whether or not this misapprehension has been widespread. This industry does not have a trade group or association to

facilitate communication.³ The proposed clarification may have some impact for those that misunderstood the intent of the current regulations and intend to comply with the daily presence requirement now that the new language leaves no room for different interpretations. Phone interviews with asbestos project monitors and asbestos project monitor training programs indicated that each additional day of asbestos project monitor work costs from \$250 to \$500.

Training manager to notify board. Under the current regulations, asbestos training providers must notify the board no less than 48 hours prior to conducting an accredited asbestos training program. The board and department use this information to conduct occasional surprise inspections of training sessions to ensure that the training meets legal requirements. According to the department, these inspections have at times found inadequate training.

The board proposes to add what it considers clarifying language. The proposed regulations will specifically require that the training manager notify the board when an accredited asbestos training program will begin on a date other than the start date listed in the original notification within the following specified timeframes. 1) For accredited asbestos training programs beginning prior to the start date provided to the board, an updated notification must be received by the board at least 48 hours before the new start date. 2) For accredited asbestos training programs beginning after the start date provided to the board, an updated notification must be received by the board at least 48 hours before the start date provided to the board. Also the training manager will be required to update the board of any change in location or cancellation of accredited asbestos training programs at least 48 hours prior to the start date provided to the board. The proposed regulations do specify that the notification requirements shall not apply to circumstances beyond the control of the training provider. For example, the training provider could postpone training with less than 48 hours notice due to sudden instructor illness or unexpected severe weather.⁴

The board considers the proposed language to be clarifications of what is already required. As discussed below, the board also proposes to require that notifications and training program participant lists be submitted electronically on forms provided by the board. Filling out and emailing the board's forms should typically take no longer than 10 minutes according to the department. Thus for those that may have interpreted the current regulations to not require notifications in all the newly specified situations, the proposed requirements to inform the board of changes to the time or place of scheduled accredited asbestos training programs will produce some small costs. Ensuring the board and department's knowledge of where and when asbestos training is taking place is beneficial in that department staff can make surprise inspections to help ensure that asbestos training is adequate. Inadequate training can lead to incompetent asbestos abatement work, which can in turn increase risk to public health. Thus, the proposed notification requirements do

³ Source: Department of Professional and Occupational Regulation

⁴ Confirmed by the Department of Professional and Occupational Regulation

produce public benefit. There is insufficient data available to estimate by how much department inspections improve actual training quality and by how much improved training leads to less incompetent work. Therefore, the reduction in risk to public health cannot be accurately measured. Nevertheless, it seems likely that the benefits of keeping the board and department well-informed of the time and place of training exceed the small costs in training provider staff time to provide change notifications via email.

Format of communication. The board proposes to amend these regulations to state that "Notifications and training program participant lists shall be submitted electronically in the manner established by the board specifically to receive this documentation using a sample form designed by and available from the board. Any variation upon this procedure shall be approved by the board prior to submission." According to the department, those without access to the necessary equipment to submit electronically will be permitted to submit notifications and training program participant lists by alternative means. The proposed standard electronic method of submitting notifications and training program participant lists will enable the department to process the information more rapidly. The saved staff time can thus be used more productively on other work.

Businesses and entities affected. The proposed regulations affect the 150 licensed asbestos contractors, 36 accredited asbestos training providers and 279 licensed asbestos monitors in the Commonwealth, as well as owners of property with asbestos.⁵ Data are not available to determine what portion of these licensees are associated with small businesses.

Localities particularly affected. The proposed regulations affect localities throughout Virginia.

Projected impact on employment. Requiring that the asbestos contractor obtain written acknowledgement from the building owner indicating that the asbestos contractor has provided notification that an asbestos project monitor is required on the asbestos project, and clarifying that the asbestos project monitor must be on the job site each day that asbestos abatement activities are taking place may result in some additional employment of asbestos project monitors. The magnitude of the potential increase in employment of asbestos project monitors depends on the frequency that building owners are unaware of the requirements for project monitors prior to notification by contractors, and the relative proportion of those that are aware of the requirements that believe that the current regulations do not require the daily presence of project monitors. The greater the magnitude of owners of buildings containing asbestos that are unaware of the requirements and the greater the relative proportion that misunderstand the current requirement for daily presence, the greater the potential increase in asbestos project monitor employment.

Effects on the use and value of private property. As described above, the proposed amendments may result in some

additional employment of asbestos project monitors. The value of businesses offering asbestos project monitoring services will increase commensurately. Property owners who otherwise would have been ignorant of the law concerning the requirement of the daily presence of asbestos project monitors will spend more on asbestos project monitoring services if they wish to comply with the law. Doing so will likely reduce their risk of liability. So the value of the property owners' businesses may or may not decrease in total.

Small businesses: costs and other effects. The proposed amendments do not produce large additional costs for small businesses that have understood the current regulations. The proposed requirement that asbestos contractors obtain written acknowledgement from the building owner indicating that the contractor has provided notification that an asbestos project monitor is required on the asbestos project will produce a small cost for asbestos contractors. The contractors can meet the proposed notification requirement by adding a line to the contact stating that the contractor has notified the owner of the project monitor requirement. Or alternatively, the contractor could ask the owner to sign a separate piece of paper with the appropriate language. The total cost would essentially be the time and dollar cost of typing and printing one sentence and perhaps one piece of paper per contract.

Small businesses: alternative method that minimizes adverse impact. The proposed regulations essentially do minimize the adverse impact to small businesses given the goals of public safety.

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

Summary:

The proposed amendments (i) require a project monitor on the job site each day that asbestos abatement activities are being conducted; (ii) make the asbestos contractor responsible for notifying the building owner that a project monitor is required on the asbestos project and obtain written acknowledgment of such notification from the building owner; (iii) empower the board to deny license and approval as well as to take disciplinary action against those "acting as or being an ostensible licensee for undisclosed persons who do or will control or direct, directly or indirectly, the operations of the licensee's business"; (iv) modify the requirements for recordkeeping by accredited asbestos training providers and submission of records to the board to outline specific procedures for accredited asbestos training providers when submitting course notifications and class rosters, as well as listing specific information that these notifications and rosters must contain; and (v) reorganize the regulations to present the regulatory requirements in a format that is easier to understand and to provide consistency with other DPOR regulations.

18 VAC 15-20-20. Definitions.

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

"AAR" means Asbestos Analyst Registry.

⁵ Numbers of licensed individuals and entities provided by the Department of Professional and Occupational Regulation

Proposed Regulations

"AAT" means Asbestos Analyst Testing.

"Accredited asbestos training program" means a training program that has been approved by the board to provide training for individuals to engage in asbestos abatement, conduct asbestos inspections, prepare management plans, prepare project designs or act as a project monitor.

"Accredited asbestos training provider" means a firm or individual who has been approved by the board to offer an accredited asbestos training program.

"ACM" means asbestos-containing material.

"AHERA" means Asbestos Hazard Emergency Response Act, 40 CFR Part 763, Subpart E.

"AIHA" means American Industrial Hygiene Association.

"Approval letter" means a written notice confirming the firm or individual applicant's licensure or accreditation by the board.

"Asbestos" means the asbestiform varieties of actinolite, amosite, anthophyllite, chrysotile, crocidolite, and tremolite.

"Asbestos Analytical Laboratory License" means an authorization issued by the board to perform phase contrast, polarized light, or transmission electron microscopy on material known or suspected to contain asbestos.

"Asbestos-containing material" or "ACM" means any material or product which contains more than 1.0% asbestos or such percentage as established by EPA final rule.

"Asbestos contractor" means any person who has met the board's requirements and has been issued an asbestos contractor's license by the board to enter into contracts to perform asbestos projects.

"Asbestos Contractor's License" means an authorization issued by the board permitting a person to enter into contracts to perform an asbestos abatement project.

"Asbestos inspector" means any person who performs an inspection as defined in this chapter.

"Asbestos Inspector's License" means an authorization issued by the board permitting a person to perform on-site investigations to identify, classify, record, sample, test and prioritize by exposure potential asbestos-containing materials.

"Asbestos Management Plan" means a program designed to control or abate any potential risk to human health from asbestos.

"Asbestos management planner" means any person preparing or updating a management plan.

"Asbestos Management Planner's License" means an authorization issued by the board permitting a person to prepare or update an asbestos management plan.

"Asbestos project" or "asbestos abatement project" means an activity involving job set-up for containment, removal, encapsulation, enclosure, encasement, renovation, repair, construction or alteration of asbestos-containing materials. An asbestos project or asbestos abatement project shall not include nonfriable asbestos-containing roofing, flooring and

siding material which when installed, encapsulated or removed does not become friable.

"Asbestos project design" means any descriptive form written as instructions or drafted as a plan describing the construction of an asbestos abatement area or site, response action or work practices to be utilized on the asbestos abatement project.

"Asbestos project designer" means any person providing an asbestos project design or specifications for an asbestos abatement project.

"Asbestos Project Designer's License" means an authorization issued by the board permitting a person to design an asbestos abatement project.

"Asbestos project monitor" means any person hired by a building owner, lessee or his agent to monitor, inspect, provide visual clearance or clearance monitoring of an asbestos abatement project.

"Asbestos Project Monitor's License" means an authorization issued by the board permitting a person to monitor an asbestos project, subject to board regulations.

"Asbestos supervisor" means any person so designated by an asbestos contractor who provides on-site supervision and direction to the workers engaged in asbestos projects.

"Asbestos Supervisor's License" means an authorization issued by the board permitting an individual to supervise and work on an asbestos project.

"Asbestos worker" means any person who engages in an asbestos abatement project.

"Asbestos Worker's License" means an authorization issued by the board permitting an individual to work on an asbestos project.

"ASHARA" means Asbestos School Hazard Abatement Reauthorization Act, 40 CFR Part 763, Subpart E.

"Board" means the Virginia Board for Asbestos, Lead, and Home Inspectors.

"Department" means the Department of Professional and Occupational Regulation.

"Direct supervision" means a licensed or accredited inspector, management planner, project monitor or project designer, who undertakes to supervise the activities of an unlicensed inspector, management planner, project monitor or project designer, shall be physically present on the premises at all times while any unlicensed inspector, management planner, project monitor or project designer under his supervision is engaged in the activities of an inspector, management planner, project monitor or project designer.

"Director" means the Director of the Department of Professional and Occupational Regulation.

"Employee" means all persons in the service of another under any contract of hire, express or implied, oral or written.

"Encapsulation" means the treatment of asbestos-containing material (ACM) with a material that surrounds or embeds

asbestos fibers in an adhesive matrix to prevent the release of fibers, as the encapsulant creates a membrane over the surface (bridging encapsulant) or penetrates the material and binds its components together (penetrating encapsulant).

"Encasement" means any process by which an asbestos-containing material (ACM) is sprayed with an insulating sealer which is then mechanically fastened to the asbestos covered substrate. The insulating sealer is then covered with a sealer to give structural strength and durability.

"Enclosure" means the construction or installation over or around the asbestos-containing material (ACM) of any leak tight solid or flexible coverings, which will not deteriorate or decompose for an extended period of time, so as to conceal the ACM, contain ACM fibers, and render the ACM inaccessible.

"Environmental remediation activity" means any activity planned or carried out for the purpose of reducing or eliminating any environmental hazard, including activities necessary to train individuals in the proper or lawful conduct of such activities, which are regulated by federal or state law or regulation.

"EPA" means United States Environmental Protection Agency.

"Financial interest" means financial benefit accruing to an individual or to a member of his immediate family. Such interest shall exist by reason of (i) ownership in a business if the ownership exceeds 3.0% of the total equity of the business; (ii) annual gross income that exceeds, or may be reasonably anticipated to exceed \$1,000 from ownership in real or personal property or a business; (iii) salary, other compensation, fringe benefits, or benefits from the use of property, or any combination of it, paid or provided by a business that exceeds or may be reasonably expected to exceed \$1,000 annually; (iv) ownership of real or personal property if the interest exceeds \$1,000 in value and excluding ownership in business, income, salary, other compensation, fringe benefits or benefits from the use of property.

"Firm" means any company, partnership, corporation, sole proprietorship, association, or other business entity.

"Friable" means that the material when dry, may be crumbled, pulverized or reduced to powder by hand pressure and includes previously nonfriable material after such previously nonfriable material becomes damaged to the extent that when dry it may be crumbled, pulverized, or reduced to powder by hand pressure.

"Guest instructor" means an instructor who is invited to instruct a specific topic or topics in an accredited asbestos training program and whose instruction is limited to two hours per day.

"Hands-on experience" means the physical participation of students in an asbestos training program. The physical participation includes mock sampling and inspection techniques, report preparation, writing project specifications, glovebag demonstrations and containment construction.

"Immediate family" means (i) a spouse, (ii) a sibling or step sibling, (iii) a parent or step parent, (iv) children or step

children, or (v) any other person residing in the same household as the individual.

"Inspection" means an activity undertaken to determine the presence or location, or to access the condition of, friable or nonfriable asbestos-containing material (ACM) or suspected ACM, whether by visual or physical examination, or by collecting samples of such material. This term includes reinspections of friable and nonfriable known or assumed ACM that has been previously identified. The term does not include the following:

1. Periodic surveillance of the type described in 40 CFR 763.92(b) solely for the purpose of recording or reporting a change in the condition of known or assumed ACM;
2. Inspections performed by employees or agents of federal, state, or local governments solely for the purpose of determining compliance with applicable statutes or regulations; or
3. Visual inspections solely for the purpose of determining completion of response actions.

"Instructor" means a person who instructs one or more accredited asbestos training programs, to include the principal instructor, but excluding guest instructors.

"Licensee" means any person, as defined by § 54.1-500 of the Code of Virginia, who has been issued and holds a currently valid license as an asbestos worker, asbestos supervisor, asbestos inspector, asbestos management planner, asbestos project designer, asbestos project monitor or asbestos contractor under this chapter.

"NIOSH" means National Institute of Occupational Safety and Health.

"NIST" means National Institute of Standards and Technology.

"NVLAP" means National Voluntary Laboratory Accreditation Program.

"Occupied" means any area of any building designed or intended for human occupancy for any purpose.

"OSHA" means the U.S. Department of Labor Occupational Safety and Health Administration.

"OSHA Class III Work" means repair and maintenance operations where asbestos-containing material (ACM), including thermal system insulation and surfacing material, is likely to be disturbed.

"PAT" means Proficiency Analytical Testing.

"PCM" means phase contrast microscopy.

"Person" means a corporation, partnership, sole proprietorship, firm, enterprise, franchise, association or any other individual or entity.

"PLM" means polarized light microscopy.

"Preliminary review" means a review conducted by the department following the submission of training materials to ascertain if the proposed asbestos training program meets the standards established by this chapter.

Proposed Regulations

"Principal instructor" means an instructor whose main responsibility is to instruct accredited asbestos training programs, supervise other instructors and manage the overall asbestos training program curriculum.

"Removal" means the physical removal of asbestos-containing material (ACM) in accordance with all applicable regulations.

"Renovation" means altering in any way, one or more facility components.

"Repair" means returning damaged asbestos-containing material (ACM) to an undamaged condition or to an intact state so as to prevent fiber release.

"Residential buildings" means site-built homes, modular homes, condominium units, mobile homes, manufactured housing, and duplexes, or other multi-unit dwellings consisting of four units or fewer that are currently in use or intended for use only for residential purposes.

"Response action" means any method, including removal, encapsulation, enclosure, encasement, or operation and maintenance, that protects human health and the environment from friable asbestos-containing material.

"Substantial change" means a change in overall asbestos training program, materials, principal instructors, training managers, directors, ownership, facilities, equipment, examinations, and certificates of completion. The addition of updated regulations, exam questions or news articles shall not be considered a substantial change.

"TEM" means transmission electron microscopy.

"Training manager" means the individual responsible for administering a training program and monitoring the performance of the instructors.

"Visual inspection" means a process of looking for conditions, which if not corrected during the asbestos abatement project, will lead to residual asbestos-containing dust or debris. Visual inspection includes examination of an asbestos abatement project area prior to clearance air monitoring for evidence that the project has been successfully completed as indicated by the absence of residue, dust and debris.

PART III.

GENERAL ENTRY AND RENEWAL REQUIREMENTS.

18 VAC 15-20-30. License application. (Repealed.)

~~A. Application for asbestos licensure shall be made on forms provided by the department.~~

~~B. Each individual applicant shall be at least 18 years of age.~~

~~C. Each individual applying for initial licensure as a supervisor, inspector, management planner, project designer or project monitor shall provide evidence of successful completion of an EPA/AHERA or board approved initial accredited asbestos training program and all subsequent EPA/AHERA or board approved accredited asbestos refresher training programs, relevant to the applicant's discipline. The training certificate must indicate that the training was taken within 12 months preceding the date the department receives the application.~~

~~D. Each individual applying for initial licensure as a worker shall provide proof of successful completion of (i) an EPA/AHERA or board approved initial accredited asbestos worker training program and all subsequent EPA/AHERA or board approved accredited asbestos worker refresher training programs or (ii) an EPA/AHERA or board approved initial accredited supervisor asbestos training program and all subsequent EPA/AHERA or board approved accredited asbestos supervisor refresher training programs. The training certificate must indicate that the training was taken within 12 months preceding the date the department receives the application.~~

~~E. Each applicant for licensure as an asbestos contractor shall submit a completed asbestos contractor application to the department.~~

~~F. Each applicant for licensure as an asbestos analytical laboratory shall submit a completed asbestos analytical laboratory application and all documents required by this chapter to the department.~~

~~G. Each applicant for approval as an accredited asbestos training program shall submit to the board a completed accredited asbestos training program application and all documents required by this chapter.~~

~~H. Each application for a license shall be signed by the applicant and shall include a certification, by the applicant, that the applicant's license or other authorization to perform asbestos related work has not been suspended or revoked by any jurisdiction and that no enforcement action by any jurisdiction is pending against the applicant.~~

~~I. In the event disciplinary actions have been taken against the applicant, in any jurisdiction, the applicant shall submit the following information:~~

- ~~1. A complete list of all prior disciplinary actions, including any sanctions imposed on the applicant by any jurisdiction or any state or federal court.~~
- ~~2. A description of any asbestos abatement or inspection activities, or both, conducted by the applicant that were terminated prior to completion, including the circumstances of the termination.~~
- ~~3. A copy of all reports compiled by the enforcement agency or a copy of a final report.~~

~~J. Each application shall be completed according to the instructions provided by the department with the application. Incomplete applications will be returned to the applicant; fees received shall not be refunded.~~

18 VAC 15-20-31. Application procedures.

All applicants seeking licensure shall submit an application with the appropriate fee specified in 18 VAC 15-20-52. Application shall be made on forms provided by the department.

By signing the application or submitting it electronically to the department, the applicant certifies that he has read and understands the board's statutes and regulations.

The receipt of an application and the deposit of fees by the board does not indicate approval by the board.

The board may make further inquiries and investigations with respect to the applicant's qualifications to confirm or amplify information supplied.

Applicants will be notified if their application is incomplete. Applicants who fail to complete the process within 12 months after the date the department receives the application shall submit a new application and fee.

18 VAC 15-20-32. Qualifications for licensure – individuals.

A. General. Applicants shall meet all applicable entry requirements at the time application is made.

B. Name. The applicant shall disclose his full legal name.

C. Age. The applicant shall be at least 18 years old.

D. Address. The applicant shall disclose a physical address. A post office box is only acceptable when a physical address is also provided.

E. Specific entry requirements.

1. Worker. Each individual applying for an initial asbestos worker license shall provide proof of successful completion of (i) an EPA/AHERA or board-approved initial accredited asbestos worker training program and all subsequent EPA/AHERA or board-approved accredited asbestos worker refresher training programs or (ii) an EPA/AHERA or board-approved initial accredited supervisor training program and all subsequent EPA/AHERA or board-approved accredited asbestos supervisor refresher training programs. The training certificate must indicate that the training was taken within 12 months preceding the date the department receives the application.

2. Supervisor. Each individual applying for an initial asbestos supervisor license shall provide proof of successful completion of an EPA/AHERA or board-approved initial accredited supervisor training program and all subsequent EPA/AHERA or board-approved accredited asbestos supervisor refresher training programs. The training certificate must indicate that the training was taken within 12 months preceding the date the department receives the application.

3. Inspector.

a. Each individual applying for an initial asbestos inspector license shall provide:

(1) Proof of successful completion of an EPA/AHERA or board-approved initial accredited inspector training program and all subsequent EPA/AHERA or board-approved accredited asbestos inspector refresher training programs; and

(2) Evidence of experience in performing asbestos inspections in buildings or industrial facilities, including collecting bulk samples, categorizing ACM, assessing ACM and preparing inspection reports. The amount of

experience required is dependent on the applicant's formal education and is as follows:

(a) An applicant with a bachelor's degree in engineering, architecture, industrial hygiene, physical science or a related field shall have at least six months' experience or have completed a minimum of five inspections;

(b) An applicant with a two-year associate's degree in engineering, architecture, industrial hygiene, physical science or a related field shall have at least 12 months' experience or have completed a minimum of 10 inspections; or

(c) An applicant with a high school diploma shall have at least 24 months' experience or have completed a minimum of 15 inspections.

b. Experience may be obtained by:

(1) Conducting asbestos inspections in jurisdictions outside of Virginia in accordance with all federal, state and local statutes.

(2) Conducting asbestos inspections under the direct supervision, as defined in this chapter, of a licensed inspector or EPA-accredited inspector where no license is required. All reports prepared by the unlicensed individual shall be signed by the licensed or EPA-accredited inspector in charge. The licensed or EPA-accredited inspector assumes responsibility for all sampling and reports prepared by the unlicensed individual.

4. Management planner.

a. Each individual applying for an initial asbestos management planner license shall provide:

(1) Proof of successful completion of an EPA/AHERA or board-approved initial accredited management planner training program and all subsequent EPA/AHERA or board-approved accredited asbestos management planner refresher training programs; and

(2) Evidence of experience evaluating inspection reports, selecting response actions, analyzing the cost of response actions, ranking response actions, preparing operations and maintenance plans and preparing management plans. The amount of experience required is dependent on the applicant's formal education and is as follows:

(a) An applicant with a bachelor's degree in engineering, architecture, industrial hygiene, physical science or a related field shall have at least six months' experience or shall have completed a minimum of five management plans.

(b) An applicant with a two-year associate's degree in engineering, architecture, industrial hygiene, physical science or a related field shall have at least 12 months' experience or shall have completed a minimum of 10 management plans.

Proposed Regulations

(c) An applicant with a high school diploma shall have at least 24 months' experience or shall have completed a minimum of 15 management plans.

b. Experience may be obtained by:

(1) Preparing management plans or conducting asbestos inspections in jurisdictions outside of Virginia in accordance with all federal, state and local statutes; or

(2) Preparing management plans or conducting asbestos inspections under the direct supervision, as defined in this chapter, of a licensed management planner or inspector, or EPA-accredited management planner or inspector where no license is required. All reports prepared by the unlicensed individual shall be signed by the licensed or EPA-accredited management planner or inspector in charge. The licensed or EPA-accredited management planner or inspector assumes responsibility for all sampling and reports prepared by the unlicensed individual.

5. Project designer.

a. Each individual applying for an initial asbestos project designer license shall provide:

(1) Proof of successful completion of an EPA/AHERA or board-approved initial accredited project designer training program and all subsequent EPA/AHERA or board-approved accredited asbestos project designer refresher training programs; and

(2) Evidence of experience in the preparation of project designs or project specifications. The amount of experience required is dependent on the applicant's formal education and is as follows:

(a) An applicant with a bachelor's degree in engineering, architecture, industrial hygiene, physical science or a related field shall have six months' experience or shall have completed a minimum of five project designs.

(b) An applicant with a two-year associate's degree in engineering, architecture, industrial hygiene, physical science or related field shall have 12 months' experience or shall have completed a minimum of 10 project designs.

(c) An applicant with a high school diploma shall have at least 24 months' experience or shall have completed a minimum of 15 project designs.

b. Experience may be obtained by:

(1) Preparing asbestos project designs in jurisdictions outside of Virginia in accordance with all federal, state and local statutes.

(2) Preparing asbestos project designs under the direct supervision, as defined in this chapter, of a licensed asbestos project designer, or EPA-accredited asbestos project designer where no license is required. All project designs prepared by the unlicensed individual shall be signed by the licensed EPA-accredited project

designer in charge. The licensed or EPA-accredited project designer assumes responsibility for all project design reports prepared by the unlicensed individual.

6. Project monitor.

a. Each individual applying for an initial asbestos project monitor license shall provide:

(1) Proof of (i) a current certification by EPA as an asbestos project designer or asbestos supervisor and successful completion of a board-approved asbestos project monitor training program of 16 hours, including the examination or (ii) successful completion of a board-approved asbestos project monitor training program of 40 hours, including examination. Only project monitor training programs that are board approved shall be accepted for meeting the training requirement; and

(2) Evidence of 160 hours of experience in performing asbestos project monitoring through field work on project sites. This includes, but is not limited to, evaluating and monitoring asbestos work practices, collecting environmental asbestos air samples during abatement, performing visual inspections and taking final air samples to grant clearance for asbestos abatement projects.

b. Experience may be obtained by:

(1) Acting as an asbestos project monitor in jurisdictions outside of Virginia in accordance with all federal, state and local statutes.

(2) Acting as an asbestos project monitor under the direct supervision, as defined in this chapter, of a licensed asbestos project monitor or an accredited asbestos project monitor where no license is required. All project monitoring reports prepared by the unlicensed individual shall be signed by the licensed or accredited project monitor in charge. The licensed or accredited project monitor assumes responsibility for all reports and documents prepared by the unlicensed individual.

F. Experience and education verification. Each application for inspector, management planner, project monitor and project designer shall include a completed Experience Verification Form signed by a supervisor verifying the applicant's experience. In lieu of a verifying signature for experience, an applicant who is self employed may submit a copy of three completed inspections, management plans, project designs or project monitor reports, whichever is applicable. A letter from a supervisor verifying the experience may be submitted in lieu of the Experience Verification Form. If verification of a degree is required, the Education Verification Form shall be sent directly from the school to the department.

G. Conviction or guilt. The applicant shall not have been convicted or found guilty, regardless of adjudication, in any jurisdiction of any felony or of any misdemeanor involving lying, cheating or stealing or any violation while engaged in environmental remediation activity that resulted in the significant harm or the imminent and substantial threat of

significant harm to human health or the environment, there being no appeal pending therefrom or the time of appeal having lapsed. Any plea of nolo contendere shall be considered a conviction for the purposes of this section. The record of conviction, finding or case decision shall be considered prima facie evidence of a conviction or finding of guilt. The board, at its discretion, may deny licensure or certification to any applicant in accordance with § 54.1-204 of the Code of Virginia.

H. Standards of practice and conduct. Applicants shall be in compliance with the standards of practice and conduct set forth in 18 VAC 15-20-400 through 18 VAC 15-20-450 and 18 VAC 455 through 18 VAC 15-20-459.1, as applicable at the time of application to the board, while the application is under review by the board, and at all times when the license is in effect.

I. Standing. The applicant shall be in good standing in every jurisdiction where licensed and the applicant shall not have had a license that was suspended, revoked or surrendered in connection with any disciplinary action in any jurisdiction prior to applying for licensure in Virginia. The board, at its discretion, may deny licensure or certification to any applicant based on disciplinary action by any jurisdiction.

18 VAC 15-20-33. Qualifications for licensure – business entities.

A. General. Every business entity shall secure a license before transacting business.

B. Name. The business name shall be disclosed on the application. The name under which the entity conducts business and holds itself out to the public (i.e., the trade or fictitious name) shall also be disclosed on the application. Business entities shall register their trade or fictitious names with the State Corporation Commission or the clerk of court in the county or jurisdiction where the business is to be conducted in accordance with §§ 59.1-69 through 59.1-76 of the Code of Virginia before submitting their application to the board.

C. Address. The applicant shall disclose the firm's mailing address, and the firm's physical address. A post office box is only acceptable as a mailing address when a physical address is also provided.

D. Form of organization. Applicants shall meet the additional requirements listed below for their business type:

1. *Corporations.* All applicants shall have been incorporated in the Commonwealth of Virginia or, if a foreign corporation, shall have obtained a certificate of authority to conduct business in Virginia from the State Corporation Commission in accordance with § 13.1-544.2 of the Code of Virginia. The corporation shall be in good standing with the State Corporation Commission at the time of application to the board and at all times when the license is in effect.

2. *Limited liability companies.* All applicants shall have obtained a certificate of organization in the Commonwealth of Virginia or, if a foreign limited liability company, shall have obtained a certificate of registration to do business in Virginia from the State Corporation Commission in

accordance with § 13.1-1105 of the Code of Virginia. The company shall be in good standing with the State Corporation Commission at the time of application to the board and at all times when the license is in effect.

3. *Partnerships.* All applicants shall have a written partnership agreement. The partnership agreement shall state that all professional services of the partnership shall be under the direction and control of a licensed or certified professional.

4. *Sole proprietorships.* Sole proprietorships desiring to use an assumed or fictitious name, that is, a name other than the individual's full name, shall have their assumed or fictitious name recorded by the clerk of the court of the county or jurisdiction wherein the business is to be conducted.

E. Qualifications.

1. *Asbestos contractor.* Each applicant shall hold a valid Virginia contractor license issued by the Virginia Board for Contractors with an asbestos specialty and shall be in compliance with all other requirements found in Chapter 11 (§ 54.1-1100 et seq.) of Title 54.1 of the Code of Virginia governing the regulation of contractors.

2. *Asbestos analytical laboratory.* Each applicant shall submit evidence of meeting the standards to perform one or more of the following analysis:

a. *For PLM analysis,* a current NVLAP accreditation for bulk asbestos fiber analysis or a current AIHA accreditation and proficiency in the AIHA bulk asbestos program. A copy of the NVLAP Certificate of Accreditation, Scope of Accreditation and documentation of NVLAP proficiency or a copy of an AIHA accreditation certificate and proof of proficiency in the AIHA bulk program shall be submitted with the application.

b. *For PCM analysis:*

(1) *At fixed laboratory sites,* a current accreditation by AIHA or evidence that each facility has been rated "proficient" in the PAT Program's most recent round of asbestos evaluations, or evidence that each analyst is listed or has applied for listing in the Asbestos Analyst Registry (AAR) and has a performance rating of "acceptable" for the most recent Asbestos Analyst Testing (AAT) round. Each analyst shall have completed the NIOSH 582 training program or equivalent.

(2) *For on-site analysis,* each on-site analyst shall be listed or shall have applied for listing in the AAR and have a performance rating of "acceptable" for the most recent AAT round, or is accredited by AIHA or has been rated "proficient" in the PAT Program's most recent round of asbestos evaluations. Each analysis shall have completed the NIOSH 582 training program or equivalent.

c. *For TEM analysis,* a current accreditation by NVLAP to analyze asbestos airborne fibers using TEM. A copy of the NVLAP Certificate of Accreditation, Scope of

Proposed Regulations

Accreditation and documentation of NVLAP proficiency shall be submitted with the application.

F. *Conviction or guilt.* Neither the firm nor the owners, officers or directors shall have been convicted or found guilty, regardless of adjudication, in any jurisdiction of any felony or of any misdemeanor involving lying, cheating or stealing or of any violation while engaged in environmental remediation activity that resulted in the significant harm or the imminent and substantial threat of significant harm to human health or the environment, there being no appeal pending therefrom or the time of appeal having lapsed. Any plea of nolo contendere shall be considered a conviction for the purposes of this section. A certified copy of the final order, decree or case decision by a court or regulatory agency with lawful authority to issue such order, decree or case decision shall be admissible as prima facie evidence of such conviction or discipline. The board, at its discretion, may deny licensure to any applicant in accordance with § 54.1-204 of the Code of Virginia.

G. *Standards of practice and conduct.* Applicants shall be in compliance with the standards of practice and conduct set forth 18 VAC 15-20-400 through 18 VAC 15-20-454 and 18 VAC 15-20-459.2 through 18 VAC 15-20-459.5 at the time of application to the board, while the application is under review by the board, and at all times when the license is in effect.

H. *Standing.* Both the firm and the owners, officers and directors shall be in good standing in every jurisdiction where licensed and the applicant shall not have had a license that was suspended, revoked or surrendered in connection with any disciplinary action in any jurisdiction prior to applying for licensure in Virginia. The board, at its discretion, may deny licensure to any applicant based on disciplinary action by any jurisdiction.

I. *Denial of license.* The board may refuse to issue a license to any asbestos contractor or asbestos analytical laboratory applicant if the applicant or its owners, officers or directors have a financial interest in an asbestos contractor whose asbestos license has been revoked, suspended, or denied renewal in any jurisdiction.

18 VAC 15-20-34. Qualifications for accredited asbestos training program approval.

A. *Training programs desiring board approval shall meet the minimum requirements established in this chapter. Persons requesting approval as an accredited asbestos training program to prepare training program participants for licensure requirements shall submit an accredited asbestos Training Program Review and Audit Application with the following required information:*

1. Training provider's business name, physical address, mailing address, and phone number.
2. Copies of approval letters issued by EPA or other states granting approval of asbestos training programs presented by the provider.
3. Applicable fee specified in 18 VAC 15-20-52.
4. The training program curriculum.

5. *A narrative explanation that states how the training program meets the requirements for approval in the following areas:*

- a. Length of training in hours.
- b. Amount and type of hands-on training.
- c. Examinations (length, format and passing score).
- d. Topics covered in the training program.
- e. Assurances of test security and how exams are administered.

6. *A copy of all training program materials including, but not limited to, student manuals, instructor notebooks, handouts, and training aids.*

7. *A copy of the examination(s) used and applicable answer sheets.*

8. *The names and qualifications, including education and experience, of each instructor and subject areas that each instructor will teach.*

9. *A description of and an example of a certificate that will be issued to students who successfully complete the accredited asbestos training program. The certificate shall contain the information required by this chapter.*

10. *A proposed training program date for auditing purposes. The proposed date will be confirmed or an alternate date will be proposed within 10 business days after receipt of a complete accredited asbestos training program submission and the required fee.*

B. *A complete submission shall consist of all information required by this section. Receipt of application and deposit of fees by the department in no way indicates approval of a training program.*

C. *A complete application shall be submitted to the department no less than 45 days prior to the requested audit date.*

D. *Upon receipt of a completed application, a preliminary review will be conducted to ensure all written material and other documentation is accurate and up to date. If any deficiencies are noted, a letter will be sent to the applicant indicating the deficiencies and necessary steps to correct them. All deficiencies noted during the preliminary review shall be corrected prior to the on-site audit.*

E. *Upon successful completion of the preliminary review, an on-site audit shall be conducted to complete the application process. If any deficiencies are noted during the audit, the training provider will be informed, either in writing or verbally, and offered an opportunity to correct them. Once the audit is complete and any deficiencies corrected, a letter of approval will be sent to the accredited asbestos training program.*

F. *All accredited asbestos training programs approved by the board shall have a monitored, final written examination, except for asbestos workers needing an oral examination. The board recommends the examination include a practical component to test skill in asbestos abatement techniques. Students shall obtain a minimum examination grade of 70%*

correct. Records of the participant's examination shall be maintained in accordance with this chapter.

G. Letters of approval for accredited asbestos training programs shall be maintained at the business address listed on the approval letter and made accessible to the public. Each provider of an approved accredited asbestos training program shall maintain all records at the business address. The required records shall be available for review upon demand by the board or its representatives.

18 VAC 15-20-40. Experience and Education Verification Forms. (Repealed.)

Each application for inspector, management planner, project monitor and project designer shall include an Experience Verification Form completed by the applicant and signed by a supervisor verifying the job description of the applicant during the term of employment. The form shall contain the name and address of the employer, a complete and concise job description, a job title, the dates of employment or dates of work performed and the signature, typewritten or printed name, address and phone number of the supervisor verifying the experience. In lieu of a verifying signature for experience, an applicant who is self employed may submit a copy of three completed inspections, management plans, project designs or project monitor reports, whichever is applicable. A letter from a supervisor verifying the experience may be submitted in lieu of the Experience Verification Form. If verification of a degree is required, the Education Verification Form shall be sent directly from the school to the department.

PART IV.
FEES.

18 VAC 15-20-50. Fees. (Repealed.)

A. The fee for an initial application for or a renewal of an asbestos worker, supervisor, inspector, management planner, project designer, or project monitor license shall be \$25.

B. The renewal fee for an asbestos worker, supervisor, inspector, management planner, project designer, or project monitor license not renewed within 30 days after its expiration date shall be \$50.

C. The fee for an initial application for or a renewal of an asbestos analytical laboratory license shall be \$40.

D. The renewal fee for asbestos analytical laboratory licenses not renewed within 30 days after its expiration date shall be \$65.

E. The fee for an initial application for or a renewal of an asbestos contractor's license shall be \$40.

F. The renewal fee for asbestos contractor licenses not renewed within 30 days after its expiration date shall be \$65.

G. The fee for an initial application for approval of an accredited asbestos training program shall be \$400 per day of training.

H. The renewal fee for an accredited asbestos training program shall be \$50.

I. The renewal fee for accredited asbestos training programs not renewed within 30 days after its expiration date shall be \$75.

J. A license not renewed within six months after the expiration date printed on the license shall not be renewed and the person shall apply for a new license.

K. All checks or money orders shall be made payable to the Treasurer of Virginia.

L. Fees received shall not be refunded.

18 VAC 15-20-51. General fee requirements.

All fees are nonrefundable and shall not be prorated. The date on which the fee is received by the department or its agent will determine whether the fee is on time. Checks or money orders shall be made payable to the Treasurer of Virginia.

18 VAC 15-20-52. Application fees.

Application fees are set out in this section.

Fee Type	Fee Amount	When Due
Application for worker, supervisor, inspector, management planner, project designer or project monitor license	\$25	With application
Application for asbestos analytical laboratory license	\$40	With application
Application for an asbestos contractor license	\$40	With application
Application for accredited asbestos training program approval	\$400 per day of training	With application

18 VAC 15-20-53. Renewal and late renewal fees.

Renewal and late renewal fees are set out in this section.

Fee Type	Fee Amount	When Due
Renewal for worker, supervisor, inspector, management planner, project designer or project monitor license	\$25	With renewal application
Renewal for asbestos analytical laboratory license	\$40	With renewal application
Renewal for asbestos contractor's license	\$40	With renewal application
Renewal for accredited asbestos training program approval	\$50	With renewal application
Late renewal for worker, supervisor, inspector, management planner, project designer or project monitor license (includes a \$25 late renewal fee in	\$50	With renewal application

Proposed Regulations

addition to the regular \$25 renewal fee)		
Late renewal for asbestos analytical laboratory license (includes a \$25 late renewal fee in addition to the regular \$40 renewal fee)	\$65	With renewal application
Late renewal for asbestos contractor's license (includes a \$25 late renewal fee in addition to the regular \$40 renewal fee)	\$65	With renewal application
Late renewal for accredited asbestos training program approval (includes a \$25 late renewal fee in addition to the regular \$50 renewal fee)	\$75	With renewal application

PART V. RENEWAL.

18 VAC 15-20-60. ~~Expiration~~ **Renewal required.**

A. Each individual asbestos license issued under this chapter shall expire one year from the last day of the month in which it was issued.

B. Each asbestos contractor and each asbestos analytical laboratory license issued under this chapter shall expire one year from the last day of the month in which it was issued.

~~C. Each accredited asbestos training program approved prior to January 2, 2002 shall expire on January 31, 2004, and may be renewed for 24 months at a time thereafter. Each accredited asbestos training program approved after January 2, 2002, shall expire 24 months from the last day of the month in which it was approved.~~

~~D. A fee shall be required for renewal as specified in 18 VAC 15-20-53.~~

18 VAC 15-20-70. **Procedures for renewal application.**

A. The department shall mail a renewal notice to each licensee and to each approved accredited asbestos training program at the last known address. The notice shall outline the procedures for renewal and the renewal fee amount. Failure to receive the notice shall not relieve the licensee or the approved accredited asbestos training program of the obligation to renew in a timely fashion.

B. Prior to the expiration date shown on the license or approval letter, each licensed asbestos contractor, and licensed asbestos analytical laboratory and ~~approved accredited asbestos training program~~ desiring to renew the license or approval shall return the renewal notice and ~~together with the appropriate fee specified in 18 VAC 15-20-53 to the department. Should the licensee fail to receive the renewal notice, a copy of the current license may be submitted with the required fee. Should an approved accredited asbestos training program fail to receive the renewal notice, a letter indicating the desire to renew and the applicable fee may be submitted.~~

C. Prior to the expiration date shown on the individual's current license, the individual desiring to renew that license shall provide evidence of meeting the annual refresher training requirement for license renewal and the appropriate fee *specified in 18 VAC 15-20-53*. The board will accept any asbestos training programs that are approved by EPA/AHERA or the board. A copy of the training certificate *documenting the successful completion of the refresher training for the license discipline being renewed and meeting the requirements outlined in this chapter shall accompany the renewal notice and fee.*

D. Prior to the expiration date shown on the approval letter, each accredited asbestos training program desiring to renew the approval shall return the renewal notice to the department together with the following:

1. Appropriate fee specified in 18 VAC 15-20-53.

2. Any changes made to the training program.

3. Dates on which the training material was last updated.

4. Statement indicating that the training program continues to meet the regulation requirements established in this chapter.

Should an approved accredited asbestos training program fail to receive the renewal notice, a letter indicating the desire to renew and the applicable fee may be submitted.

~~D. E. Project monitors who also hold a valid Virginia asbestos supervisor or project designer license may meet the renewal training requirements by completing the supervisor refresher or project designer refresher, whichever is applicable. Project monitors who hold only a project monitor license shall complete an accredited asbestos project monitor refresher training program to meet the renewal training requirements.~~

~~E. F. Annual refresher training certificates shall only be used once to renew an individual license.~~

~~F. G. Each license and each accredited asbestos training program approval that is not renewed within 30 days of the expiration date on the license or approval shall be subject to late renewal fees as established in ~~18 VAC 15-20-50~~ 18 VAC 15-20-53.~~

~~G. H. Each license and each approved accredited asbestos training program not renewed within six months after the expiration date shall not be renewed and the licensee or approved accredited asbestos training program shall apply for a new license or new approval.~~

18 VAC 15-20-80. **Change of address or name. (Repealed.)**

~~Each licensee and approved accredited asbestos training program shall notify the board, in writing, of any change of address or name. This notification shall be sent to the board within 30 days of such relocation or name change.~~

PART IV.

ASBESTOS WORKER LICENSING REQUIREMENTS.

18 VAC 15-20-90. **Qualifications for licensure. (Repealed.)**

~~Each individual applying to the board for licensure as an asbestos worker shall submit a completed application, all~~

~~training documentation as required by 18 VAC 15-20-30 D and the appropriate fee as required by 18 VAC 15-20-50.~~

~~PART V.~~

~~ASBESTOS SUPERVISOR LICENSING REQUIREMENTS.~~

~~18 VAC 15-20-101. Qualifications for licensure. (Repealed.)~~

~~Each individual applying to the board for licensure as an asbestos supervisor shall submit a completed application, all training documentation as required by 18 VAC 15-20-30 C and the appropriate fee as required by 18 VAC 15-20-50.~~

~~PART VI.~~

~~ASBESTOS CONTRACTOR LICENSING REQUIREMENTS.~~

~~18 VAC 15-20-110. Qualifications for licensure. (Repealed.)~~

~~A. Each applicant shall submit a completed asbestos contractor application and fee as required by 18 VAC 15-20-50.~~

~~B. Each applicant shall hold a valid Virginia contractor license with an asbestos specialty and shall be in compliance with all other requirements found in Chapter 11 (§ 54.1-1100 et seq.) of Title 54.1 of the Code of Virginia governing the regulation of contractors.~~

~~18 VAC 15-20-150. Denial of license. (Repealed.)~~

~~The board may refuse to issue a license to any asbestos contractor applicant if the applicant or its owners, officers or directors have a financial interest in an asbestos contractor whose asbestos license has been revoked, suspended or denied renewal in any jurisdiction.~~

~~PART VII.~~

~~ASBESTOS INSPECTOR LICENSING REQUIREMENTS.~~

~~18 VAC 15-20-250. Qualifications for licensure. (Repealed.)~~

~~A. Each individual applying to the board for licensure as an asbestos inspector shall submit a completed application, all training documents as required by 18 VAC 15-20-30 C, the appropriate fee as established in 18 VAC 15-20-50, and evidence of meeting the experience requirements as established in subsection B of this section. Evidence of experience and education shall comply with 18 VAC 15-20-40.~~

~~B. The applicant shall provide evidence of experience in performing asbestos inspections in buildings or industrial facilities, including collecting bulk samples, categorizing ACM, assessing ACM and preparing inspection reports. The amount of experience required is dependent on the applicant's formal education and is as follows:~~

- ~~1. An applicant with a bachelor's degree in engineering, architecture, industrial hygiene, physical science or a related field shall have at least six months' experience or have completed a minimum of five inspections.~~
- ~~2. An applicant with a two year associate's degree in engineering, architecture, industrial hygiene, physical science or a related field shall have at least 12 months' experience or have completed a minimum of 10 inspections.~~

~~3. An applicant with a high school diploma shall have at least 24 months' experience or have completed a minimum of 15 inspections.~~

~~18 VAC 15-20-251. Qualifying experience. (Repealed.)~~

~~Experience may be obtained by:~~

- ~~1. Conducting asbestos inspections in jurisdictions outside of Virginia in accordance with all federal, state and local statutes.~~
- ~~2. Conducting asbestos inspections under the direct supervision, as defined in this chapter, of a licensed inspector, or EPA-accredited inspector where no license is required. All reports prepared by the unlicensed individual shall be signed by the licensed or EPA-accredited inspector in charge. The licensed or EPA-accredited inspector assumes responsibility for all sampling and reports prepared by the unlicensed individual.~~

~~PART VIII.~~

~~ASBESTOS MANAGEMENT PLANNER LICENSING REQUIREMENTS.~~

~~18 VAC 15-20-270. Qualifications for licensure. (Repealed.)~~

~~A. Each individual applying to the board for licensure as an asbestos management planner shall submit a completed application, all training documents as required by 18 VAC 15-20-30 C, the appropriate fee as required by 18 VAC 15-20-50, and evidence of meeting the experience requirements established by 18 VAC 15-20-250 B and subsection B of this section. The applicant shall also meet all qualifications to be licensed as an asbestos inspector, whether or not the license is held. Evidence of experience and education shall comply with 18 VAC 15-20-40.~~

~~B. The applicant shall provide evidence of experience evaluating inspection reports, selecting response actions, analyzing the cost of response actions, ranking response actions, preparing operations and maintenance plans and preparing management plans. The amount of experience required is dependent on the applicant's formal education and is as follows:~~

- ~~1. An applicant with a bachelor's degree in engineering, architecture, industrial hygiene, physical science or a related field shall have at least six months' experience or shall have completed a minimum of five management plans.~~
- ~~2. An applicant with a two-year associate's degree in engineering, architecture, industrial hygiene, physical science or a related field shall have at least 12 months' experience or shall have completed a minimum of 10 management plans.~~
- ~~3. An applicant with a high school diploma shall have at least 24 months' experience or shall have completed a minimum of 15 management plans.~~

Proposed Regulations

18 VAC 15-20-271. Qualifying experience. (Repealed.)

Experience may be obtained by:

- ~~1. Preparing management plans or conducting asbestos inspections in jurisdictions outside of Virginia in accordance with all federal, state and local statutes.~~
- ~~2. Preparing management plans or conducting asbestos inspections under the direct supervision, as defined in this chapter, of a licensed management planner or inspector, or EPA-accredited management planner or inspector where no license is required. All reports prepared by the unlicensed individual shall be signed by the licensed or EPA-accredited management planner or inspector in charge. The licensed or EPA-accredited management planner or inspector assumes responsibility for all sampling and reports prepared by the unlicensed individual.~~

~~PART IX.~~

~~ASBESTOS PROJECT DESIGNER LICENSING REQUIREMENTS.~~

18 VAC 15-20-290. Qualifications for licensure. (Repealed.)

~~A. Each individual applying to the board for licensure as an asbestos project designer shall submit a completed application, all training documents as established in 18 VAC 15-20-30 C, the appropriate fee as established in 18 VAC 15-20-50, and evidence of meeting the experience requirements as established in subsection B of this section. Evidence of experience and education shall comply with 18 VAC 15-20-40.~~

~~B. The applicant shall provide evidence of experience in the preparation of project designs or project specifications. The amount of experience required is dependent on the applicant's formal education and is as follows:~~

- ~~1. An applicant with a bachelor's degree in engineering, architecture, industrial hygiene, physical science or related field shall have six months' experience or shall have completed a minimum of five project designs.~~
- ~~2. An applicant with a two-year associate's degree in engineering, architecture, industrial hygiene, physical science or related field shall have 12 months' experience or shall have completed a minimum of 10 project designs.~~
- ~~3. An applicant with a high school diploma shall have at least 24 months' experience or shall have completed a minimum of 15 project designs.~~

18 VAC 15-20-291. Qualifying experience. (Repealed.)

Experience may be obtained by:

- ~~1. Preparing asbestos project designs in jurisdictions outside of Virginia in accordance with all federal, state and local statutes.~~
- ~~2. Preparing asbestos project designs under the direct supervision, as defined in this chapter, of a licensed asbestos project designer, or EPA-accredited asbestos project designer where no license is required. All project designs prepared by the unlicensed individual shall be~~

~~signed by the licensed EPA-accredited project designer in charge. The licensed or EPA-accredited project designer assumes responsibility for all project design reports prepared by the unlicensed individual.~~

~~PART X.~~

~~ASBESTOS PROJECT MONITOR LICENSING REQUIREMENTS.~~

18 VAC 15-20-330. Qualifications for licensure. (Repealed.)

~~A. Each individual applying for licensure as an asbestos project monitor shall submit a completed application, all training documents as required by 18 VAC 15-20-30 C, the appropriate fee as established in 18 VAC 15-20-50, and evidence of meeting the experience requirements as established in subsection B of this section. Evidence of experience and education shall comply with 18 VAC 15-20-40.~~

~~B. The applicant shall provide evidence of experience in performing asbestos project monitoring through field work on project sites. This includes, but is not limited to, evaluating and monitoring asbestos work practices, collecting environmental asbestos air samples during abatement, performing visual inspections and taking final air samples to grant clearance for asbestos abatement projects. Each applicant shall provide evidence of 160 hours of said experience.~~

18 VAC 15-20-331. Qualifying experience. (Repealed.)

Experience may be obtained by:

- ~~1. Acting as an asbestos project monitor in jurisdictions outside of Virginia in accordance with all federal, state and local statutes.~~
- ~~2. Acting as an asbestos project monitor under the direct supervision, as defined in this chapter, of a licensed asbestos project monitor, or an accredited asbestos project monitor where no license is required. All project monitoring reports prepared by the unlicensed individual shall be signed by the licensed or accredited project monitor in charge. The licensed or accredited project monitor assumes responsibility for all reports and documents prepared by the unlicensed individual.~~

18 VAC 15-20-332. Project monitor training requirements. (Repealed.)

~~A. An applicant currently certified by the EPA as an asbestos project designer or asbestos supervisor shall successfully complete a board-approved asbestos project monitor training program of 16 hours and examination. Evidence of current project designer or current supervisor accreditation shall be submitted with the application.~~

~~B. An applicant not currently certified as an asbestos project designer or asbestos supervisor shall successfully complete a board-approved asbestos project monitor training program of 40 hours and examination. Evidence of completion of the 40-hour training program shall be submitted with the application.~~

~~C. Only project monitor training programs that are board approved will be accepted for meeting the training requirements.~~

~~PART XI.
ASBESTOS ANALYTICAL LABORATORY LICENSING
REQUIREMENTS.~~

~~18 VAC 15-20-361. Qualifications for licensure.
(Repealed.)~~

~~A. Each applicant for an asbestos analytical laboratory license shall submit a completed application, the appropriate fee as required by 18 VAC 15-20-50, and evidence of meeting the standards to perform one or more of the analyses described in subsections B, C and D of this section. Each license issued shall indicate which kind of analysis the asbestos analytical laboratory is seeking authorization to perform.~~

~~B. For authorization to analyze bulk materials using PLM, the applicant shall provide evidence that the asbestos analytical laboratory is currently NVLAP accredited for bulk asbestos fiber analysis or evidence that the asbestos analytical laboratory is AIHA accredited and proficient in the AIHA bulk asbestos program. A copy of the NVLAP Certificate of Accreditation, Scope of Accreditation and documentation of NVLAP proficiency or a copy of an AIHA accreditation certificate and proof of proficiency in the AIHA bulk program shall be submitted with the application for licensure.~~

~~C. For authorization to analyze airborne fibers using PCM:~~

~~1. For fixed laboratory sites, the applicant shall provide evidence that each facility is accredited by AIHA or that each facility has been rated "proficient" in the PAT Program's most recent round of asbestos evaluations, or the applicant shall provide evidence that each analyst is listed or has applied for listing in the Asbestos Analyst Registry (AAR) and has a performance rating of "acceptable" for the most recent Asbestos Analyst Testing (AAT) round. The applicant shall also provide evidence that each analyst has completed the NIOSH 582 training program or equivalent.~~

~~2. For laboratories that will be conducting on-site analysis, the applicant shall provide evidence that each on-site analyst is listed or has applied for listing in the AAR and has a performance rating of "acceptable" for the most recent AAT round within six months after January 2, 2002, or is accredited by AIHA or has been rated "proficient" in the PAT Program's most recent round of asbestos evaluations. The applicant shall also provide evidence that each analyst has completed the NIOSH 582 training program or equivalent.~~

~~D. For licensure to analyze asbestos airborne fibers using TEM, the applicant shall provide evidence that the asbestos analytical laboratory is currently NVLAP accredited to analyze asbestos airborne fibers using TEM. A copy of the NVLAP Certificate of Accreditation, Scope of Accreditation and documentation of NVLAP proficiency shall be submitted with the application.~~

PART XII VI.

GENERAL STANDARDS OF PRACTICE AND CONDUCT.

18 VAC 15-20-400. Responsibility to the public.

The primary obligation of the ~~regulant~~ licensee is to the public. If the ~~regulant's~~ licensee's judgment is overruled under circumstances when the safety, health, property and welfare of the public are endangered, the ~~regulant~~ licensee shall inform the employer or client of the possible consequences and notify appropriate authorities if the situation is not resolved. The ~~regulant~~ licensee shall take such action only when his authority to correct a problem has been ignored or overruled.

18 VAC 15-20-410. Public statements.

A. The ~~regulant~~ licensee shall be truthful in all matters relating to the performance of asbestos abatement or asbestos consulting services.

B. When serving as an expert or technical witness, the ~~regulant~~ licensee shall express an opinion only when it is based on an adequate knowledge of the facts in issue and on a background of technical competence in the subject matter. Except when appearing as an expert witness in court or an administrative proceeding when the parties are represented by counsel, the ~~regulant~~ licensee shall issue no statements, reports, criticisms, or arguments on matters relating to practices which are inspired or paid for by an interested party or parties, unless one has prefaced the comment by disclosing the identities of the party or parties on whose behalf the ~~regulant~~ licensee is speaking, and by revealing any self-interest.

C. A ~~regulant~~ Licensees or applicants shall not knowingly make a materially false statement, submit falsified documents or fail to disclose a material fact requested in connection with an application submitted to the board by any individual or business entity for licensure or renewal.

18 VAC 15-20-420. Solicitation of work.

In the course of soliciting work:

1. The ~~regulant~~ licensee shall not bribe.
2. The ~~regulant~~ licensee shall not falsify or permit misrepresentation of the ~~regulant's~~ licensee's work or an associate's academic or professional qualifications, nor shall the ~~regulant~~ licensee misrepresent the degree of responsibility for prior assignments.
3. Materials used in the solicitation of employment shall not misrepresent facts concerning employers, employees, associates, joint ventures or past accomplishments of any kind.
4. Materials used in the solicitation of services shall not misrepresent facts of approval, federal, or state requirements.

18 VAC 15-20-430. Professional responsibility.

A. The licensee or ~~approved~~ entity *accredited asbestos training provider* shall, upon request or demand, produce to the board, or any of its representatives, any plan, document,

Proposed Regulations

book, record or copy of it in his possession concerning a transaction covered by this chapter, and shall cooperate in the investigation of a complaint filed with the board against a licensee or ~~approved entity~~ *accredited asbestos training provider*.

B. A licensee or ~~approved entity~~ *accredited asbestos training provider* shall not use the design, plans or work of another licensee or ~~approved entity~~ *accredited asbestos training provider* without the original professional's knowledge and consent and after consent, a thorough review to the extent that full responsibility shall be assumed by the user.

C. Accredited asbestos training providers shall admit board representatives for the purpose of conducting an on-site audit, or any other purpose necessary to evaluate compliance with this chapter and other applicable laws and regulations.

18 VAC 15-20-440. Good standing in other jurisdictions.

A. ~~Regulants~~ *Licensees, accredited asbestos training providers, training managers, or principal instructors* who perform project monitoring, project design, inspections, management planning, asbestos abatement training, asbestos contracting or supervisor work in other jurisdictions shall be in good standing in every jurisdiction where licensed, certified, or approved and shall not have had a license, certification or approval suspended, revoked or surrendered in connection with a disciplinary action.

B. ~~Regulants~~ *Licensees, accredited asbestos training providers, training managers, or principal instructors* shall notify the board in writing no later than 10 days after the final disciplinary action taken by another jurisdiction against their license or other approval to conduct asbestos abatement activities.

C. ~~Regulants~~ *Licensees, accredited asbestos training providers, training managers, or principal instructors* may be subject to disciplinary action or removal of an asbestos training program accreditation for disciplinary actions taken by another jurisdiction.

18 VAC 15-20-450. Grounds for disciplinary action.

A. The board shall have the authority to fine any licensee or accredited asbestos training program, accredited asbestos training provider or instructor, and to deny renewal, suspend, revoke or deny application for any license or approval as an accredited asbestos training program, accredited asbestos training provider or instructor provided for under Chapter 5 (§ 54.1-500 et seq.) of Title 54.1 of the Code of Virginia for:

1. Violating or inducing another person to violate any of the provisions of Chapter 1, 2, 3, or 5 of Title 54.1 of the Code of Virginia, or any of the provisions of this chapter.
2. Obtaining a license, approval as an accredited asbestos training program, approval as an accredited asbestos training provider or approval as an instructor through fraudulent means.
3. Altering, or falsifying or issuing a fraudulent Virginia Asbestos License or a training certificate ~~issued by~~ *issued by* from an accredited asbestos training program.

4. Violating any provision of AHERA or ASHARA, or any federal or state regulation pertinent to asbestos activity.

5. Having been found guilty by the board, an administrative body, or by a court of any misrepresentation in the course of performing his asbestos-related operating duties.

6. Subject to the provisions of § 54.1-204 of the Code of Virginia, having been convicted or found guilty, regardless of adjudication in any jurisdiction of the United States, of any felony or of any misdemeanor involving lying, cheating, or stealing, or of any violation while engaged in environmental remediation activity, which resulted in the significant harm or the imminent and substantial threat of significant harm to human health or the environment there being no appeal pending therefrom or the time for appeal having elapsed. Any plea of nolo contendere shall be considered a conviction for the purposes of this chapter. A certified copy of the final order, decree or case decision by a court or regulatory agency with lawful authority to issue such order, decree or case decision shall be admissible as prima facie evidence of such conviction or discipline.

7. Failing to notify the board in writing within 30 days of pleading guilty or nolo contendere or being convicted or found guilty of any felony or of any misdemeanor involving lying, cheating, or stealing or of any violation while engaged in environmental remediation activity which resulted in the significant harm or the imminent and substantial threat of significant harm to human health or the environment.

8. Negligence, or a continued pattern of incompetence, in the practice of the discipline in which the asbestos license is held.

9. Failing or neglecting to send any information or documentation that was requested by the board or its representatives.

10. Refusing to allow state or federal representatives access to any area of an abatement site for the purpose of lawful compliance inspections.

11. *Failing to notify the board in writing within 30 days after any change in address or name.*

12. *Acting as or being an ostensible licensee for undisclosed persons who do or will control or direct, directly or indirectly, the operations of the licensee's business.*

Any unlawful act or violation of any provision of Chapter 5 (§ 54.1-500 et seq.) of Title 54.1 of the Code of Virginia or of the regulations of the board by any asbestos supervisor or asbestos worker may be cause for disciplinary action against the asbestos contractor for whom he works if it appears to the satisfaction of the board that the asbestos contractor knew or should have known of the unlawful act or violation.

B. Any individual or firm whose license, approval as an accredited asbestos training program, or approval as an accredited asbestos training provider is revoked under this section shall not be eligible to reapply for a period of one year from the effective date of the final order of revocation. The individual or firm shall meet all education, experience and training requirements, complete the application and submit the required fee for consideration as a new applicant.

PART ~~XIII~~ VII.
STANDARDS OF PRACTICE AND CONDUCT FOR
LICENSED ASBESTOS CONTRACTORS.

18 VAC 15-20-451. Asbestos contractor responsibilities.

A. Licensed asbestos contractors shall comply with all requirements, procedures, standards and regulations covering any part of an asbestos project established by the U.S. Environmental Protection Agency, the U.S. Occupational Safety and Health Administration, the Virginia Department of Labor and Industry, and the Divisions of Air Pollution and Waste Management of the Department of Environmental Quality (§ 54.1-517 of the Code of Virginia).

B. Licensed asbestos contractors shall comply with the requirements found in § 54.1-1100 of the Code of Virginia governing the regulation of general contractors.

C. A licensed asbestos contractor shall employ only licensed asbestos supervisors and workers to perform work on any asbestos project.

D. A licensed asbestos contractor shall ensure that a licensed asbestos supervisor is present at each job site while an asbestos project is in progress.

E. Prior to the start of any asbestos project, the licensed asbestos contractor shall:

1. Notify the building or property owner or agent of the owner that a licensed project monitor is required to determine that proper work practices are used and compliance with all asbestos laws and regulations is maintained, to collect environmental air samples during the asbestos project, to perform visual inspections of the work area, and to grant final clearance upon completion of the asbestos project.

2. Obtain a written acknowledgment from the owner that the owner has been notified of the requirement to secure the services of a licensed asbestos project monitor. Such acknowledgment must include the address of the building where the asbestos project is to take place; the date the work is to be performed; the name, address, and license number of the licensed asbestos contractor performing the work; and the signature and date of signature of both the building or property owner and the licensed asbestos contractor.

3. Conflict of interest situations and relationships between asbestos contractors and asbestos project monitors are set forth in subdivision 2 of 18 VAC 15-20-453.

18 VAC 15-20-453. Conflict of interest.

The following situations and relationships between license categories are deemed to represent a conflict of interest and are prohibited.

1. It is a conflict of interest and a violation of ~~these regulations this chapter~~ for an asbestos contractor to have an employee/employer relationship with, or financial interest in, a laboratory utilized by the contractor for asbestos sample analysis. Laboratories owned by the building owner performing analysis on suspect asbestos samples taken

from the building owners' property are exempt from this section.

2. It is a conflict of interest and a violation of ~~these regulations this chapter~~ for an asbestos contractor to have an employee/employer relationship with an asbestos project monitor working on an asbestos project performed by that asbestos contractor. An asbestos contractor shall not have any financial interests in the firm of which a project monitor is an employee and provides project monitoring services for that contractor. This section does not relieve a contractor of the OSHA personal monitoring requirements set forth in 29 CFR 1926.1101.

3. It is a conflict of interest and a violation of ~~these regulations this chapter~~ for an asbestos contractor to enter into a contract to perform an asbestos project if the asbestos inspection or project design was performed by individuals with an employer/employee relationship with, or financial interest in, the asbestos contractor, unless the asbestos contractor provides the building owner with the Virginia Asbestos Licensing Consumer Information Sheet and the Virginia Asbestos Licensing Inspector/Project Designer/Contractor Disclosure Form as prescribed by the department. The asbestos contractor's relationship with the asbestos inspector or project designer on the project shall be disclosed. The disclosure form shall be signed and dated by the licensed contractor and submitted as part of the bid. The disclosure form shall be kept on the asbestos project site and available for review.

PART ~~XIV~~ VIII.
STANDARDS OF PRACTICE AND CONDUCT FOR
ASBESTOS PROJECT MONITORS.

18 VAC 15-20-456. Responsibilities.

A. Asbestos project monitors shall conduct inspections of the contractor's work practices and inspections of the containment when the project monitor is present.

B. Asbestos project monitors *shall be present on the job site each day asbestos abatement activities are being conducted, shall perform the duties and functions established in 18 VAC 15-20-455, and shall maintain a daily log of all work performed.* The daily log shall include, but not be limited to, inspection reports, air sampling data, type of work performed by the contractor, problems encountered and corrective action taken.

C. Asbestos project monitors shall take final air samples on all abatement projects, except for abatement projects in residential buildings.

D. Project monitors who analyze PCM air samples on site shall be employed by a licensed analytical laboratory and shall be listed or have applied for listing in the AAR and rated "acceptable" or is accredited by AIHA or has been rated "proficient" in the PAT Program's most recent round of asbestos evaluations.

Proposed Regulations

PART XV IX.
STANDARDS OF PRACTICE AND CONDUCT FOR
ASBESTOS PROJECT DESIGNERS.

PART XVI X.
STANDARDS OF PRACTICE AND CONDUCT FOR
ASBESTOS INSPECTORS AND MANAGEMENT
PLANNERS.

PART XVII XI.
STANDARDS OF PRACTICE AND CONDUCT FOR
ASBESTOS ANALYTICAL LABORATORIES.

PART XVIII.
ACCREDITED ASBESTOS TRAINING PROGRAM
APPROVAL.

18 VAC 15-20-459.6. Accredited asbestos training program requirements. (Repealed.)

A. Training programs desiring board approval shall meet the minimum requirements established in this chapter. Persons requesting approval as an accredited asbestos training program to prepare training program participants for licensure requirements shall submit an accredited asbestos Training Program Review and Audit Application with the following required information:

1. Training provider's business name, physical address, mailing address, and phone number.
2. Copies of approval letters issued by EPA or other states granting approval of asbestos training programs presented by the provider.
3. Applicable fee.
4. The training program curriculum.
5. A narrative explanation that states how the training program meets the requirements for approval in the following areas:
 - a. Length of training in hours.
 - b. Amount and type of hands-on training.
 - c. Examinations (length, format and passing score).
 - d. Topics covered in the training program.
 - e. Assurances of test security and how exams are administered.
6. A copy of all training program materials including, but not limited to, student manuals, instructor notebooks, handouts, and training aids.
7. A copy of the examination(s) used and applicable answer sheets.
8. The names and qualifications, including education and experience, of each instructor and subject areas that each instructor will teach.
9. A description of and an example of a certificate that will be issued to students who successfully complete the accredited asbestos training program. The certificate shall contain the information required by this chapter.

~~10. A proposed training program date for auditing purposes. The proposed date will be confirmed or an alternate date will be proposed within 10 business days after receipt of a complete accredited asbestos training program submission and the required fee.~~

~~B. A complete submission shall consist of all information required by this section. Receipt of application and deposit of fees by the department in no way indicates approval of a training program.~~

~~C. A complete application shall be submitted to the department no less than 45 days prior to the requested audit date.~~

18 VAC 15-20-459.7. Approval process. (Repealed.)

~~A. Upon receipt of a completed application, a preliminary review will be conducted to ensure all written material and other documentation is accurate and up to date. If any deficiencies are noted, a letter will be sent to the applicant indicating the deficiencies and necessary steps to correct them. All deficiencies noted during the preliminary review shall be corrected prior to the on-site audit.~~

~~B. Upon successful completion of the preliminary review, an on-site audit shall be conducted to complete the application process. If any deficiencies are noted during the audit, the training provider will be informed, either in writing or verbally, and offered an opportunity to correct them. Once the audit is complete and any deficiencies corrected, a letter of approval will be sent to the accredited asbestos training program.~~

18 VAC 15-20-459.8. Examination. (Repealed.)

~~All accredited asbestos training programs approved by the board shall have a monitored, final written examination, except for asbestos workers needing an oral examination. The board recommends the examination include a practical component to test skill in asbestos abatement techniques. Students shall obtain a minimum examination grade of 70% correct. Records of the participant's examination shall be maintained in accordance with this chapter.~~

18 VAC 15-20-459.9. Letters of approval. (Repealed.)

~~Letters of approval for accredited asbestos training programs shall be maintained at the business address listed on the approval letter and made accessible to the public. Each provider of an approved accredited asbestos training program shall maintain all records at the business address. The required records shall be available for review upon demand by the board or its representatives.~~

18 VAC 15-20-459.10. Refresher approval. (Repealed.)

~~A. Refresher training programs shall be one day (8 hours) for supervisors, workers, project designers and project monitors, and one-half day (4 hours) for inspectors and management planners. The refresher training program shall review federal and state regulations; discuss changes to the regulations, if applicable, and developments in state-of-the-art procedures; and review key aspects of the initial training program.~~

~~B. Persons wishing to conduct refresher training programs shall submit a training program review and audit application as established in 18 VAC 15-20-459.6.~~

18 VAC 15-20-459.11. ~~Renewal of accredited asbestos training programs. (Repealed.)~~

~~Providers of accredited asbestos training programs desiring to renew their approval shall submit the renewal notice to the department along with the following:~~

- ~~1. Appropriate fee.~~
- ~~2. Name of the training program for which they are renewing.~~
- ~~3. Any changes made to the training program.~~
- ~~4. Dates on which the training material was last updated.~~
- ~~5. Statement indicating that the training program continues to meet the regulation requirements established in this chapter.~~

18 VAC 15-20-459.12. ~~Changes to an approved accredited asbestos training program. (Repealed.)~~

~~Once an accredited asbestos training program has been approved, prior to the continuation of the accredited asbestos training program, substantial changes in the information required by subdivisions 1 through 5 of this section shall be submitted to the board for review and approval. The board will state its approval or disapproval of the changes by mail.~~

- ~~1. Training program curriculum.~~
- ~~2. Training program examination.~~
- ~~3. Training program materials.~~
- ~~4. Principal instructors.~~
- ~~5. Certificate of completion.~~

18 VAC 15-20-459.13. ~~Transfer of approval of an accredited asbestos training program. (Repealed.)~~

~~The transfer of the approval of an accredited asbestos training program will require a review by the following procedure:~~

- ~~1. The applicant for transfer shall submit an application to the department and materials for review to determine if substantial changes have been made to the program. All submissions shall be in accordance with 18 VAC 15-20-459.6.~~
- ~~2. Receipt of applications and deposit of fees submitted does not indicate approval of the transfer.~~
- ~~3. A review of the submitted materials shall be performed to determine if substantial changes have been made. A substantial change is defined as a change in training program materials, curriculum, principal instructors or facilities at the time of transfer of the accredited asbestos training program. A complete field audit may be conducted of any applicant believed to have made a substantial change.~~

18 VAC 15-20-459.14. ~~Access by the department. (Repealed.)~~

~~Accredited asbestos training providers shall permit department representatives to attend, evaluate, and monitor any accredited asbestos training program. Prior notice of attendance by agency representatives is not required.~~

18 VAC 15-20-459.15. ~~Suspension or revocation of approval of an accredited asbestos training program. (Repealed.)~~

~~A. The board may withdraw approval of any accredited asbestos training program for the following reasons:~~

- ~~1. The school, instructors, or training programs no longer meet the standards established in this chapter.~~
- ~~2. The board determines that the provider is not conducting the training in a manner that meets the requirements as set forth in this chapter.~~
- ~~3. Suspension or revocation of training approval in another state or by the EPA.~~

~~B. Decisions regarding withdrawal of approval shall be made by the board under the provisions of the Virginia Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).~~

PART XIX XII.
ACCREDITED ASBESTOS TRAINING PROGRAM
PERFORMANCE STANDARDS OF PRACTICE AND
CONDUCT.

18 VAC 15-20-460. ~~General. (Repealed.)~~

~~This part outlines the recordkeeping responsibilities for an accredited asbestos training provider (training provider) performing asbestos training under Virginia law. All records are required to be available for review by representatives of the board. Records required to be maintained by the training provider shall be maintained at the physical location of the accredited asbestos training provider.~~

18 VAC 15-20-461. ~~Changes to an approved accredited asbestos training program.~~

~~Once an accredited asbestos training program has been approved, prior to the continuation of the accredited asbestos training program, substantial changes in the information required by subdivisions 1 through 5 of this section shall be submitted to the board for review and approval. The board will state its approval or disapproval of the changes by mail.~~

- ~~1. Training program curriculum.~~
- ~~2. Training program examination.~~
- ~~3. Training program materials.~~
- ~~4. Principal instructors.~~
- ~~5. Certificate of completion.~~

Proposed Regulations

18 VAC 15-20-462. Transfer of approval of an accredited asbestos training program.

The transfer of the approval of an accredited asbestos training program will require a review by the following procedure:

1. The applicant for transfer shall submit an application to the department and materials for review to determine if substantial changes have been made to the program. All submissions shall be in accordance with subsections A, B and C of 18 VAC 15-20-34.
2. Receipt of applications and deposit of fees submitted does not indicate approval of the transfer.
3. A review of the submitted materials shall be performed to determine if substantial changes have been made. A substantial change is defined as a change in training program materials, curriculum, principal instructors or facilities at the time of transfer of the accredited asbestos training program. A complete field audit may be conducted of any applicant believed to have made a substantial change.

18 VAC 15-20-463. Access by the department.

Accredited asbestos training providers shall permit department representatives to attend, evaluate, and monitor any accredited asbestos training program. Prior notice of attendance by agency representatives is not required. All records are required to be available for review by department representatives. Records required to be maintained by the training provider shall be maintained at the physical location of the accredited asbestos training provider.

18 VAC 15-20-464. Withdrawal of approval of an accredited asbestos training program.

A. The board may withdraw approval of any accredited asbestos training program for the following reasons:

1. The school, instructors, or training programs no longer meet the standards established in this chapter.
2. The board determines that the provider is not conducting the training in a manner that meets the requirements as set forth in this chapter.
3. Suspension or revocation of training approval in another state or by the EPA.

B. Decisions regarding withdrawal of approval shall be made by the board under the provisions of the Virginia Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

18 VAC 15-20-470. Recordkeeping and provision of records to the board.

A. The training manager shall notify the board no less than 48 hours prior to the start date of any accredited asbestos training program.

B. The training manager shall provide an updated notification when an accredited asbestos training program will begin on a date other than the start date specified in the original notification as follows:

1. For accredited asbestos training programs beginning prior to the start date provided to the board, an updated notification must be received by the board at least 48 hours before the new start date.

2. For accredited asbestos training programs beginning after the start date provided to the board, an updated notification must be received by the board at least 48 hours before the start date provided to the board.

C. The training manager shall update the board of any change in location of an accredited asbestos training program at least 48 hours prior to the start date provided to the board.

D. The training manager shall update the board regarding any accredited asbestos training program cancellations or any other change to the original notification at least 48 hours prior to the start date provided to the board. This requirement shall not apply to situations or circumstances beyond the control of the training provider.

E. Each notification, including updates, shall include the following:

1. Notification type (original, update, cancellation).
2. Training program name, Virginia accreditation number, address, and telephone number.
3. Course discipline, type (initial/refreshers), and the language in which the instruction will be given.
4. Dates and times of training.
5. Training locations, telephone number, and address.
6. Principal instructor's name.
7. Training manager's name and signature.

A. F. For all accredited asbestos training programs approved by the board, the training provider shall keep a training program participant list of all ~~training program participants~~ of the individuals attending the accredited asbestos training program. The training program participant list shall contain the following minimum information:

- ~~1. Training provider;~~
- ~~2. Date of training;~~
- ~~3. Location of training program presentation;~~
- ~~4. Type and length of training;~~
- ~~5. Training program manager and principal instructor;~~
- ~~6. Training program participant's name as it will appear on the Certificate of Completion to be issued by the training provider;~~
- ~~7. Participant's employer, if applicable;~~
- ~~8. Participant's name, address, and social security number;~~
- ~~9. Participant's Virginia asbestos license number, if applicable;~~
- ~~10. The resulting certificate number assigned to a participant who successfully completes the accredited~~

~~asbestos training program when applicable and expiration date; and~~

the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia.

41. The participant's examination score, when applicable.

1. Training program name, Virginia accreditation number, address, and telephone number.
2. Course discipline and type (initial/refresher).
3. Dates of training.
4. Location of training program presentation.
5. Each participant's name, address, social security number, course completion certificate number, and course test score.
6. Principal instructor's name.
7. Training manager's name and signature.

FORMS

Asbestos License Application Instructions, 33AINS (~~eff. 10/30/04~~ rev. 1/02).

Asbestos License Application, 33ALIC (~~eff. 10/30/04~~ rev. 1/02).

Experience Verification, 33AEXPED (~~eff. 10/30/04~~ rev. 1/05).

Education Verification, 33AEXPED (~~eff. 10/30/04~~ rev. 1/05).

Virginia Asbestos Licensing Consumer Information Sheet, 33ACIS (~~eff. 10/30/04~~ rev. 1/02).

Inspector/Project Designer Contractor Disclosure Form, 33ADIS (~~eff. 10/30/04~~ rev. 1/02).

Asbestos Contractor License Application, 33ACON (~~eff. 10/30/04~~ rev. 1/02).

Asbestos Analytical Laboratory License Application, 33ALAB (~~eff. 10/30/04~~ rev. 1/02).

Asbestos Training Program Review and Audit Application, 33ACRS (~~eff. 10/30/04~~ rev. 4/02); w/instructions, 33ACRSRQ (~~eff. 10/30/04~~ rev. 1/02).

VA.R. Doc. No. R04-241; Filed December 9, 2005, 11:26 a.m.

Title of Regulation: 18 VAC 15-30. Virginia Lead-Based Paint Activities Regulations (amending 18 VAC 15-30-420, 18 VAC 15-30-510, 18 VAC 15-30-810, and 18 VAC 15-30-820; adding 18 VAC 15-30-51 through 18 VAC 15-30-54, 18 VAC 15-30-161 through 18 VAC 15-30-167, 18 VAC 15-30-332, and 18 VAC 15-30-334; repealing 18 VAC 15-30-30, 18 VAC 15-30-40, 18 VAC 15-30-50, and 18 VAC 15-30-100 through 18 VAC 15-30-330).

Statutory Authority: §§ 54.1-201 and 54.1-501 of the Code of Virginia.

Public Hearing Date: March 30, 2006 - 9 a.m.

Public comments may be submitted until April 14, 2006.

(See Calendar of Events section for additional information)

Agency Contact: David E. Dick, Executive Director, Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, VA 23230-4917, telephone (804) 367-2648, FAX (804) 367-6128, or e-mail alhi@dpor.virginia.gov.

Basis: The Board for Asbestos, Lead, and Home Inspectors is empowered to promulgate regulations under the legal authority found in § 54.1-201 of the Code of Virginia, which empowers regulatory boards generally, and § 54.1-501 of the Code of Virginia, which empowers the Board for Asbestos, Lead, and Home Inspectors specifically.

Purpose: The proposed amendments empower the board to deny license and approval as well as to take disciplinary action against those acting as or being an ostensible licensee

~~B. G. The training program participant list shall be completed by the training provider program principal instructor and training program participants daily.~~

~~C. H. The training program participant list shall be retained by the training provider for three years following the date of completion of the training program.~~

~~D. The training provider shall provide to the board the training program participant list as described in subsection A of this section within 24 hours of training program completion.~~

~~I. The training manager shall provide to the board the accredited asbestos training program participant list no later than 24 hours following the training program completion.~~

~~J. Notifications and training program participant lists shall be submitted electronically in the manner established by the board specifically to receive this documentation using a sample form designed by and available from the board. Any variation upon this procedure shall be approved by the board prior to submission.~~

~~E. K. The training provider shall retain all examinations completed by training program participants for a period of three years.~~

~~F. Training providers shall notify the department no less than 48 hours prior to conducting an accredited asbestos training program.~~

~~G. L. The department will shall not recognize training certificates from approved training providers that fail to notify or fail to provide a training program participant list.~~

PART ~~XX~~ XIII.

ACCREDITED ASBESTOS TRAINING PROGRAM STANDARDS.

NOTICE: The forms used in administering 18 VAC 15-20, Virginia Asbestos Licensing Regulations are not being published; however, the name of each form is listed below. The forms are available for public inspection at the Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia, or at the office of

Proposed Regulations

for undisclosed persons who do or will control or direct, directly or indirectly, the operations of the licensed or approved entity. The board will be able to deny application to or take disciplinary action against individuals who have been disciplined and have found others to become licensed on their behalf.

Requiring training providers to submit notices and training program participant lists electronically will speed up the processing of license applications and enable licenses to be issued and renewed faster. Language is provided to allow manual reporting by those who do not have the hardware and software to submit electronically.

The proposed amendments requiring social security numbers instead of the date of birth on training program participant lists implements § 54.1-116 of the Code of Virginia, provides a means of quickly matching data to the appropriate record and conforms the regulatory requirements of this set of regulations with the board's Asbestos Licensing Regulations. Many entities authorized to provide lead-based paint activities training are also authorized to provide asbestos training. Conforming the reporting requirements will ease the burden on those board-authorized entities that offer both types of training by enabling them to report the same data for both.

The intent of reorganizing the regulations is to present the regulatory requirements in a format that is easier to understand and to make them more consistent with other DPOR board regulations. This will further the efficient and economical performance of important government functions.

Substance: The board has, from time to time, taken disciplinary action against certain firms and individuals or denied licensure or approval to those firms and individuals under its regulatory authority and its affirmative obligation to protect the public. The board is concerned that those so disciplined or denied may find others who have not been so disciplined or denied to apply for and become licensed or approved. Those disciplined or denied will then operate as the ostensible licensee, approved entity or individual, thus rendering the board's regulatory authority ineffective. The board's proposed amendments empower the board to deny the application of or take disciplinary action against anyone found to be an ostensible owner acting on the behalf of a disqualified individual.

Issues: No disadvantages to the public or the Commonwealth have been identified.

The public is protected by empowering the board to take disciplinary action against those acting as or being an ostensible licensee for undisclosed persons who do or will control or direct the operations of the licensed or approved entity.

The agency will benefit by requiring all training program notifications and rosters to be submitted in a uniform manner that will lead to streamlining the processing of applications and will ultimately get licenses to applicants sooner.

The agency's Compliance and Investigations Division will benefit from reorganizing the regulations by making the regulations more consistent with other DPOR board regulations. The public, government officials and the industry

will benefit by reorganizing the regulations in a format that is easier to understand.

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 Board for Asbestos, Lead and Home Inspectors (board) proposes to: 1) list "acting as or being an ostensible licensee for undisclosed persons who do or will control or direct, directly or indirectly, the operations of the licensee's business" as grounds for discipline, 2) list "failure to notify the board in writing within 30 days after any change in address or name" as grounds for discipline, 3) require that notifications and training program participants lists be submitted electronically on forms provided by the board, and 4) require that each accredited lead training program maintain and make available to the board each participant's social security number rather than their birth date.

Estimated economic impact.

Health risks associated with lead-based paint. According to the U.S. Center for Disease Control and Prevention, Agency for Toxic Substances and Disease Registry,¹ lead can affect almost every organ and system in the body. The most sensitive is the central nervous system, particularly in children. A child who swallows large amounts of lead may develop blood anemia, severe stomachache, muscle weakness, and brain damage. Lead can also damage kidneys and the male reproductive system. The effects are the same whether it is breathed or swallowed. At high levels, lead may decrease reaction time, cause weakness in fingers, wrists, or ankles, and possibly affect the memory.

Purpose of these regulations. These regulations contain procedures and requirements for the accreditation of lead-based paint activities training programs and providers, procedures and requirements for the licensure of individuals and firms engaged in lead-based paint activities in target housing and child-occupied facilities, and standards for performing such activities. Lead-based paint activities are defined as risk assessment, inspection, project design and abatement that affect or relate to target housing and child-occupied facilities. Target housing is defined as any housing constructed prior to 1978, except for housing for the elderly, or persons with disabilities (unless any one or more children age six years or under resides or is expected to reside in such

¹ U.S. Center for Disease Control and Prevention, Agency for Toxic Substances and Disease Registry ToxFQA's: Lead, June 1999.

housing for the elderly or persons with disabilities) or any zero-bedroom dwelling.

New grounds for disciplinary action. The board and Department of Professional and Occupational Regulation (department) have seen situations where firms or individuals who having had their license revoked or license application denied, have found others who have not been so disciplined or denied to apply for and become licensed. The individual who had his license revoked or license application denied then directed the operations of the licensee's business. Since the license was presumably denied or revoked due to incompetence or dishonest or sloppy practice, then the situation where the disciplined individual can effectively operate as licensed despite the denial or revocation minimizes the board and department's ability to protect the public from the effects of incompetent, dishonest, or haphazard lead-based paint activities.

Consequently, the board proposes to add the following to the list of grounds for disciplinary action: "acting as or being an ostensible licensee for undisclosed persons who do or will control or direct, directly or indirectly, the operations of the licensee's business." In practice, it may be difficult to prove that a licensee is actually permitting someone else to control their business. Nevertheless, as long as the board does not mistakenly discipline legitimate licensees, this proposed amendment has the potential to produce a net benefit for the Commonwealth by reducing the likelihood that dishonest or incompetent individuals can continue to practice and expose the public to unnecessary health and financial risks.

The board also proposes to add "failure to notify the board in writing within 30 days after any change in address or name" as grounds for discipline. The board needs to keep track of licensees' identity and location in order to monitor their compliance with the regulations. The risk to public health of incompetent or dishonest lead-based paint activities is significant. The cost for licensees of keeping the board informed is small since, according to the department, they can prepare and email notifications in ten minutes or less. Thus, the proposal to allow the board to enforce a requirement that will help enable it to monitor licensees' compliance with the regulations will likely produce a net benefit.

Format of communication. The board proposes to amend these regulations to state that "Notifications and training program participant lists shall be submitted electronically in the manner established by the board specifically to receive this documentation using a sample form designed by and available from the board. Any variation upon this procedure shall be approved by the board prior to submission." According to the department, those without access to the necessary equipment to submit electronically will be permitted to submit notifications and training program participant lists by alternative means. The proposed standard electronic method of submitting notifications and training program participant lists will enable the department to process the information more rapidly. The saved staff time can thus be used more productively on other work.

Training program participant list identity data. These regulations require that the manager of accredited lead

training programs provide to the board a list of program participants no later than 10 business days following the training program completion. Under the current regulations, the list must include identifying information for each participant, including date of birth. The board proposes to eliminate the requirement for date of birth and add a requirement for social security number. Since different individuals share dates of birth, but no two individuals share social security numbers, the proposed amendment will decrease the probability that program participants are misidentified. Also, the department has found that social security numbers help speed data processing and license issuance.

Some individuals may have concerns about giving out their social security number. But, licensure applicants already submit their social security numbers. Section § 54.1-116 of the Code of Virginia specifies that:

Every applicant for a license, certificate, registration or other authorization to engage in a business, trade, profession or occupation issued by the Commonwealth pursuant to this title, and every applicant for renewal thereof, shall provide on the application either his social security number or control number issued by the Department of Motor Vehicles pursuant to § 46.2-342.

Consistent with the above code section, the department has stated that it will accept a control number issued by the Department of Motor Vehicles (DMV) in lieu of a social security number. Thus, the proposed amendment will produce a small net benefit in that it will reduce the probability of misidentification and speed data processing, while not producing significant security concerns since a control number issued by the DMV can be used in lieu of the social security number.

Businesses and entities affected. The proposed amendments affect the 421 licensed lead-paint workers, 204 licensed lead-paint supervisors, 96 licensed lead-paint inspectors, 245 licensed lead-paint risk assessors, 57 licensed lead-paint project designers, 145 licensed lead-paint contractors, the 21 firms that are accredited to provide lead-based paint activities training, as well as property owners and the public.²

Localities particularly affected. The proposed regulations apply to all Virginia localities.

Projected impact on employment. The proposed amendments are unlikely to significantly affect employment.

Effects on the use and value of private property. The proposed amendments will not significantly affect the use and value of honest and competent lead-based paint businesses. A small number of firms or individuals who having had their license revoked or license application denied, have found others who have not been so disciplined or denied to apply for and become licensed or approved, may not be able to operate, and hence lose value, due to the proposal to add "acting as or being an ostensible licensee for undisclosed persons who do or will control or direct, directly or indirectly,

² Source for numbers of license holders: Department of Professional and Occupational Regulation. Numbers were current as of August 31, 2005.

Proposed Regulations

the operations of the licensee's business" as grounds for discipline.

Small businesses: costs and other effects. The proposed amendments do not produce additional costs for legitimate small businesses.

Small businesses: alternative method that minimizes adverse impact. Since the proposed amendments do not produce additional costs for legitimate small businesses, there is no alternative method that minimizes adverse impact.

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

Summary:

The proposed amendments (i) authorize the board to deny license and approval as well as to take disciplinary action against those "acting as or being an ostensible licensee for undisclosed persons who do or will control or direct, directly or indirectly, the operations of the licensee's business"; (ii) require training providers to submit all notices and training program participant lists electronically on forms provided by the board; (iii) replace "date of birth" as a data element required to be submitted to the board on each lead-based paint training program participant list with "social security number"; and (iv) reorganize the regulatory requirements in a format that is consistent with other DPOR regulations.

18 VAC 15-30-30. Licensure required. (Repealed.)

~~A. Each person who engages in or offers to engage in any lead-based paint activity shall first obtain a license from the board.~~

~~B. All licenses must be specific for the discipline being performed.~~

~~C. The board shall issue a license as a lead abatement firm, lead abatement supervisor, lead abatement worker, lead inspector, lead risk assessor, or lead project designer to any person who applies and meets the qualifications specified in this chapter and who is not otherwise in violation of this chapter.~~

18 VAC 15-30-40. Accreditation required. (Repealed.)

~~A. Each person who provides a training program or offers to provide a training program for any discipline of lead-based paint activity shall first obtain an approval from the board as an accredited lead training provider.~~

~~B. Accredited lead training providers shall offer and provide training only for the disciplines for which they are approved.~~

~~C. The board shall approve an accredited lead training program, training manager and principal instructor for any firm that applies and meets the qualifications specified in this chapter and is not otherwise in violation of this chapter.~~

PART III.

APPLICATION AND RENEWAL REQUIREMENTS ENTRY.

18 VAC 15-30-50. General. (Repealed.)

~~A. Each person desiring to be issued a license or accreditation shall apply on forms provided by the department.~~

~~B. Individual applicants shall be at least 18 years of age.~~

~~C. Each application shall be completed according to the instructions provided with the application form and shall be accompanied by the fee established in 18 VAC 15-30-160. Incomplete applications shall not be processed by the board. Application fees pay the board's costs to evaluate applications and shall not be refunded.~~

~~D. The applicant shall disclose the following information about himself in the case of an individual, or about the firm and every member of the responsible management of the firm in the case of a firm:~~

~~1. A conviction in any jurisdiction of any felony.~~

~~2. A conviction in any jurisdiction of any misdemeanor.~~

~~3. Any disciplinary action taken in another jurisdiction in connection with the applicant's environmental remediation practice including, but not limited to, monetary penalties, fines, suspension, revocation, or surrender of a license in connection with a disciplinary action.~~

~~4. Any current or previously held environmental remediation certifications, accreditations or licenses issued by Virginia or any other jurisdiction.~~

~~Subject to the provisions of § 54.1-204 of the Code of Virginia, the board may deny any application for licensure or accreditation as a lead training provider when any of the parties listed in this subsection have been convicted of any offense listed in this subsection or has been the subject of any disciplinary action listed in subdivision 3 of this subsection. Any plea of nolo contendere shall be considered a conviction for the purposes of this subsection. A certified copy of a final order, decree or case decision by a court or regulatory agency with the lawful authority to issue such order shall be admissible as prima facie evidence of such conviction or discipline.~~

~~E. Each applicant shall disclose his physical address for all licenses or accreditations. A post office box shall not be acceptable.~~

~~F. The receipt of an application and the deposit of fees by the board does not indicate approval by the board.~~

~~G. Training requirements shall be verified by submittal to the board of the training certificate issued by the accredited lead training provider for that course.~~

~~H. Education requirements shall be verified by submittal to the board on the Education Verification Form sent directly from the school.~~

~~I. Experience requirements shall be verified by resumes, letters of reference, or documentation of work experience.~~

~~J. All persons seeking licensure or accreditation by the board shall have all necessary occupational or professional licenses as required by Virginia statute and local ordinance to transact the business of their profession and shall meet the requirements of this chapter.~~

18 VAC 15-30-51. Application procedures.

All applicants seeking licensure, interim licensure or accredited lead training program approval shall submit an application with the appropriate fee specified in 18 VAC 15-30-162. Application shall be made on forms provided by the department.

By signing the application or submitting it electronically to the department, the applicant certifies that he has read and understands the board's statutes and regulations.

The receipt of an application and the deposit of fees by the board does not indicate approval by the board.

The board may make further inquiries and investigations with respect to the applicant's qualifications to confirm or amplify information supplied.

Applicants will be notified if their application is incomplete. Applicants who fail to complete the process within 12 months after the date the department receives the application shall submit a new application and fee.

18 VAC 15-30-52. Qualifications for licensure – individuals.

A. General. Applicants shall meet all applicable entry requirements at the time application is made.

B. Name. The applicant shall disclose his full legal name.

C. Age. The applicant shall be at least 18 years old.

D. Address. The applicant shall disclose a physical address. A post office box is only acceptable when a physical address is also provided.

E. Specific entry requirements.

1. Worker. Each applicant for lead abatement worker licensure shall provide evidence of successful completion of a board-approved initial lead abatement worker course.

2. Project designer. Each applicant for lead project designer licensure shall provide evidence of successful completion of a board-approved initial lead project designer course and successful completion of a board-approved initial lead abatement supervisor course and one of the following:

a. A bachelor's degree in engineering, architecture, or a related profession, and one year experience in building construction and design or a related field; or

b. Four years of experience in building construction and design or a related field.

3. Supervisor.

a. Each applicant for lead abatement supervisor licensure shall provide evidence of:

(1) Successful completion of a board-approved initial lead abatement supervisor course; and

(2) One year experience as a licensed lead abatement worker or two years experience in a related field (e.g., lead, asbestos or environmental remediation) or in the building trades.

b. Each applicant shall pass a board-approved licensing examination for supervisors within 36 months after completion of the board-approved lead abatement supervisor initial training course or the board-approved lead supervisor refresher course. Applicants who fail the examination three times must provide to the board evidence, after the date of their third examination failure, of having retaken and satisfactorily completed the initial training requirements and make new application to the board. The applicant is then eligible to sit for the examination an additional three times.

c. A licensed lead abatement supervisor may perform the duties of a licensed lead abatement worker.

4. Inspector.

a. Each applicant for lead inspector licensure shall provide evidence of successful completion of a board-approved initial lead inspector course.

b. Each applicant shall pass a board-approved licensing examination for lead inspector within 36 months after completion of the board-approved lead inspector initial training course or the board-approved lead inspector refresher course. Applicants who fail the examination three times must provide to the board evidence, after the date of their third examination failure, of having retaken and satisfactorily completed the initial training requirements and make new application to the board. The applicant is then eligible to sit for the examination an additional three times.

5. Risk assessor.

a. Each applicant for lead risk assessor licensure shall provide evidence of successful completion of a board-approved initial lead risk assessor training course and successful completion of a board-approved initial lead inspector training course that was at least three days in length and one of the following:

(1) Certification or licensure as an industrial hygienist, a professional engineer, a registered architect or licensure in a related engineering/health/environmental field;

(2) A bachelor's degree and one year of experience in a related field (e.g., lead, asbestos, environmental remediation work, or construction);

(3) An associate's degree and two years experience in a related field (e.g., lead, asbestos, environmental remediation work, or construction); or

(4) A high school diploma or its equivalent, and at least three years experience in a related field (e.g., lead,

Proposed Regulations

asbestos, environmental remediation work, or construction).

b. Each applicant shall pass a board-approved licensure examination for risk assessor within 36 months after completion of the board-approved lead risk assessor initial training course or the board-approved lead risk assessor refresher course. Applicants who fail the examination three times must provide to the board evidence, after the date of their third examination failure, of having retaken and satisfactorily completed the initial training requirements and make new application to the board. The applicant is then eligible to sit for the examination an additional three times.

F. Training verification. Training requirements shall be verified by submittal to the board of the training certificate issued by the accredited lead training provider for that course.

G. Education verification. Education requirements shall be verified by submittal to the board on the Education Verification Form sent directly from the school.

H. Experience verification. Experience requirements shall be verified by resumes, letters of reference, or documentation of work experience.

I. Conviction or guilt. The applicant shall disclose the following information:

1. A conviction in any jurisdiction of any felony.
2. A conviction in any jurisdiction of any misdemeanor.
3. Any disciplinary action taken in another jurisdiction in connection with the applicant's environmental remediation practice including, but not limited to, monetary penalties, fines, suspension, revocation, or surrender of a license in connection with a disciplinary action.
4. Any current or previously held environmental remediation certifications, accreditations or licenses issued by Virginia or any other jurisdiction.

Subject to the provisions of § 54.1-204 of the Code of Virginia, the board may deny any application for licensure or accreditation as a lead training provider when any of the parties listed in this subsection have been convicted of any offense listed in this subsection or has been the subject of any disciplinary action listed in subdivision 3 of this subsection. Any plea of nolo contendere shall be considered a conviction for the purposes of this subsection. A certified copy of a final order, decree or case decision by a court or regulatory agency with the lawful authority to issue such order shall be admissible as prima facie evidence of such conviction or discipline.

J. Standards of conduct and practice. Applicants shall be in compliance with the standards of conduct and practice set forth in Part VIII (18 VAC 15-30-510 et seq.) of this chapter at the time of application to the board, while the application is under review by the board, and at all times when the license is in effect.

K. Standing. The applicant shall be in good standing in every jurisdiction where licensed and the applicant shall not have

had a license that was suspended, revoked or surrendered in connection with any disciplinary action in any jurisdiction prior to applying for licensure in Virginia. The board, at its discretion, may deny licensure or approval to any applicant based on disciplinary action by any jurisdiction.

18 VAC 15-30-53. Qualifications for licensure – business entities.

A. General. Every business entity shall secure a license before transacting business.

B. Name. The business name shall be disclosed on the application. The name under which the entity conducts business and holds itself out to the public (i.e., the trade or fictitious name) shall also be disclosed on the application. Business entities shall register their trade or fictitious names with the State Corporation Commission or the clerk of court in the county or jurisdiction where the business is to be conducted in accordance with §§ 59.1-69 through 59.1-76 of the Code of Virginia before submitting their application to the board.

C. Address. The applicant shall disclose the firm's mailing address and the firm's physical address. A post office box is only acceptable as a mailing address when a physical address is also provided.

D. Form of organization. Applicants shall meet the additional requirements listed below for their business type:

1. Corporations. All applicants shall have been incorporated in the Commonwealth of Virginia or, if a foreign corporation, shall have obtained a certificate of authority to conduct business in Virginia from the State Corporation Commission in accordance with § 13.1-544.2 of the Code of Virginia. The corporation shall be in good standing with the State Corporation Commission at the time of application to the board and at all times when the license is in effect.

2. Limited liability companies. All applicants shall have obtained a certificate of organization in the Commonwealth of Virginia or, if a foreign limited liability company, shall have obtained a certificate of registration to do business in Virginia from the State Corporation Commission in accordance with § 13.1-1105 of the Code of Virginia. The company shall be in good standing with the State Corporation Commission at the time of application to the board and at all times when the license is in effect.

3. Partnerships. All applicants shall have a written partnership agreement. The partnership agreement shall state that all professional services of the partnership shall be under the direction and control of a licensed or certified professional.

4. Sole proprietorships. Sole proprietorships desiring to use an assumed or fictitious name, that is a name other than the individual's full name, shall have their assumed or fictitious name recorded by the clerk of the court of the county or jurisdiction wherein the business is to be conducted.

E. Qualifications.

1. Lead contractor. Each applicant for lead contractor licensure shall:

a. Hold a valid Virginia contractor license with a lead specialty issued by the Virginia Board for Contractors and comply with the provisions of Chapter 11 (§ 54.1-1100 et seq.) of Title 54.1 of the Code of Virginia governing the regulation of contractors.

b. Certify that:

(1) Only properly licensed lead abatement supervisors and workers will be employed to conduct lead-based paint activities;

(2) A licensed lead abatement supervisor is present at each job site during all work site preparation and during post-abatement cleanup, and shall be on site or available by telephone, pager or answering service and able to be present at the work site in no more than two hours when abatement activities are being conducted;

(3) The standards for conducting lead-based paint activities established in this chapter and standards established by the EPA and OSHA shall be followed at all times during the conduct of lead-based paint activities; and

(4) The company is in compliance with all other occupational and professional licenses and standards as required by Virginia statute and local ordinance to transact the business of a lead abatement contractor.

F. Conviction or guilt. Neither the firm nor the owners, officers or directors shall have been convicted or found guilty, regardless of adjudication, in any jurisdiction of any felony or of any misdemeanor involving lying, cheating or stealing or of any violation while engaged in environmental remediation activity that resulted in the significant harm or the imminent and substantial threat of significant harm to human health or the environment, there being no appeal pending therefrom or the time of appeal having lapsed. Any plea of nolo contendere shall be considered a conviction for the purposes of this section. A certified copy of the final order, decree or case decision by a court or regulatory agency with lawful authority to issue such order, decree or case decision shall be admissible as prima facie evidence of such conviction or discipline. The board, at its discretion, may deny licensure to any applicant in accordance with § 54.1-204 of the Code of Virginia.

G. Standards of conduct and practice. Applicants shall be in compliance with the standards of conduct and practice set forth in Part VIII (18 VAC 15-30-510 et seq.) and Part IX (18 VAC 15-30-760 et seq.) of this chapter at the time of application to the board, while the application is under review by the board, and at all times when the license is in effect.

H. Standing. Both the firm and the owners, officers and directors shall be in good standing in every jurisdiction where licensed and the applicant shall not have had a license that was suspended, revoked or surrendered in connection with any disciplinary action in any jurisdiction prior to applying for licensure in Virginia. The board, at its discretion, may deny licensure to any applicant based on disciplinary action by any jurisdiction.

I. Denial of license. The board may refuse to issue a license to any lead contractor applicant if the applicant or its owners, officers or directors have a financial interest in a lead contractor whose lead license has been revoked, suspended or denied renewal in any jurisdiction.

18 VAC 15-30-54. Qualifications for accredited lead training program approval.

A. For a training program to obtain accreditation from the board to teach lead-based paint activities, the program shall demonstrate through its application material that it meets the minimum requirements for principal instructor qualifications, required topic review, length of training, and recordkeeping for each discipline for which the program is seeking accreditation. Training programs shall offer courses that teach the standards for conducting lead-based paint activities contained in this chapter and other such standards adopted by the EPA.

B. Each applicant for approval as an accredited lead training provider shall meet the requirements established by this chapter before being granted approval to offer an accredited lead training program. Applicants requesting approval of a lead training program to prepare participants for licensure shall apply on a form provided by the board. The application form shall be completed in accordance with the instructions supplied and shall include the following:

1. The course for which it is applying for accreditation.
2. A statement signed by the training program manager, which certifies that the training program meets the minimum requirements established in this chapter.
3. The names and qualifications, including education and experience, of each principal instructor.
4. A copy of the student manuals and instructor manuals or other materials to be used.
5. A copy of the course agenda that includes the time allocation for each course topic.
6. A copy of the test and answer sheet.
7. A description of the facilities and equipment to be used for lecture and hands-on training.
8. A description of the activities and procedures that will be used for conducting the assessment of hands-on skills.
9. A copy of the quality control plan as described in this chapter.
10. An example of a certificate that will be issued to students who successfully complete the course.
11. A proposed course date for auditing purposes.
12. The application fee required by 18 VAC 15-30-162.

C. The completed application form with attachments and fee shall be received by the board no later than 45 days before the desired audit date.

D. An applicant may seek approval for as many initial and refresher courses as it chooses, but shall submit a separate application and fee for each program.

Proposed Regulations

E. Applicants may seek accreditation to offer lead-based paint activities initial or refresher courses in any of the following disciplines: lead abatement worker, lead project designer, lead abatement supervisor, lead inspector, and lead risk assessor.

F. Each training program shall be conducted in compliance with this chapter to qualify for and maintain approval as an accredited lead training program.

G. Upon receipt of an application, the board shall conduct a preliminary review and shall notify the applicant in writing of any deficiencies in the submittal packages. Applicants will have one year from the board's receipt of the application to correct any problems noted in the review.

H. After the application has been found to be complete and in compliance with this chapter, an on-site audit of the training program shall be conducted. The board shall conduct an additional on-site audit, grant approval or deny approval based on the board's evaluation of the level of compliance with this chapter found during the initial on-site audit.

I. Applicants denied approval shall have one year from the date of receipt of the application by the board to correct any deficiencies and notify the board in writing.

J. An accredited training provider shall have been approved by the board before its training certificates shall be accepted by the board as evidence that an individual has completed an accredited lead training program.

K. Each accredited lead training program that is granted approval shall be sent a form indicating the discipline approved and an expiration date that shall be maintained at the business address listed on the application.

18 VAC 15-30-100. Expiration. (Repealed.)

~~A. Interim licenses shall expire six months from the last day of the month during which the individual completed the board approved initial or refresher accredited lead training program required by Part IV (18 VAC 15-30-170 et seq.) of this chapter regardless of the date on which the board received the application for initial licensure or the date the board issued the license.~~

~~B. Interim licenses shall not be renewed or extended.~~

~~C. Individual licenses shall expire 12 months from the last day of the month wherein the individual completed the initial training program or refresher training program required by Part IV (18 VAC 15-30-170 et seq.) of this chapter, regardless of the date on which the board received the application for individual licensure or the date the board issued the license. In no case shall an individual license expire later than the last day of the month which is 36 months after the date the individual completed the initial training program or most recent refresher training program.~~

~~D. Contractor licenses shall expire 12 months from the last day of the month wherein issued.~~

~~E. Accredited lead training programs approval shall expire 24 months from the last day of the month in which the board granted approval.~~

18 VAC 15-30-110. Refresher training and individual license renewal. (Repealed.)

~~A. Licensees desiring to maintain an individual license shall satisfactorily complete the refresher training program established by this chapter and assure that the board receives documentation of satisfactory completion no later than the last day of the month that is 36 months after the date of completion of the initial training program or refresher training program established by Part IV (18 VAC 15-30-170 et seq.) of this chapter and not less often than once each 36 months thereafter. In the case of a proficiency-based course completion, refresher training is required every 60 months instead of 36 months.~~

~~B. The board shall renew an individual license for an additional 12 months upon receipt of a renewal application and fee in compliance with 18 VAC 15-30-140 and 18 VAC 15-30-160, provided that the licensee has complied with subsection A of this section. In no case shall an individual license expire later than the last day of the month that is 36 months, or in the case of proficiency-based course 60 months, after the initial training program or most recent refresher training program was completed.~~

18 VAC 15-30-120. Licensed contractor renewal. (Repealed.)

~~The board shall renew a contractor license for an additional 12 months upon receipt of a renewal application and the renewal fee in compliance with 18 VAC 15-30-140 and 18 VAC 15-30-160.~~

18 VAC 15-30-130. Accredited training program renewal. (Repealed.)

~~A. Accredited lead training providers desiring to maintain approval of their accredited lead training program shall cause the board to receive the following no later than 48 months after the date of initial approval and not less often than once each 48 months thereafter:~~

- ~~1. The training provider's name, address, and telephone number.~~
- ~~2. A list of courses for which it is applying for re-accreditation.~~
- ~~3. A statement signed by the training program manager which certifies that:
 - ~~a. The course materials for each course meet the requirements of Part VIII (18 VAC 15-30-440 et seq.) of this chapter.~~
 - ~~b. The training manager and principal instructors meet the qualifications listed in 18 VAC 15-30-340.~~
 - ~~c. The training program manager complies at all times with all requirements of this chapter.~~
 - ~~d. The quality control program meets the requirements noted in 18 VAC 15-30-410.~~
 - ~~e. The recordkeeping requirements of this chapter will be followed.~~~~

~~B. The board shall renew an accredited lead training program for an additional 24 months upon receipt of a renewal application and fee, provided that the accredited lead training provider is in compliance with subsection A of this section.~~

~~C. An audit by a board representative may be performed to verify the certified statements and the contents of the application before relicensure is granted.~~

18 VAC 15-30-140. Renewal application. (Repealed.)

~~A. The board shall mail a renewal notice to the licensee or accredited lead training provider at the last known address. The notice shall outline the procedures for renewal and the renewal fee amount. Failure to receive the notice shall not relieve the licensee or accredited lead training provider of the obligation to renew.~~

~~B. Prior to the expiration date shown on the license or approval, each licensee or accredited lead training provider desiring to renew the license or approval shall return to the board the renewal notice and the renewal fee. Documentation of refresher training programs for individuals and of the requirements in 18 VAC 15-30-130 A for accredited lead training programs shall be sent to the board.~~

~~C. Should the licensee or accredited lead training provider fail to receive the renewal notice, a photocopy of the current lead license or accredited lead training program approval may be substituted for the renewal notice and mailed with the required fee to the board.~~

~~D. Interim licensure shall not be renewed or extended. Each applicant who wishes a second interim license must provide to the board evidence of having retaken and satisfactorily completed the initial training requirements and make a new application to the board.~~

~~E. If the renewal fee is not received by the board within 30 days after the expiration date printed on the license or accredited lead training program approval, a late renewal fee shall be required in addition to the renewal fee.~~

~~F. Any licensee or accredited lead training provider who fails to renew his license or accredited lead training program approval within six months after the expiration date on the license or approval shall not be permitted to renew and shall apply as a new applicant.~~

18 VAC 15-30-150. Change of address or name. (Repealed.)

~~Each licensed individual, licensed firm, and accredited lead training provider shall notify the board, in writing, of any change of address or name. This notification shall be sent to the board within 30 days of such relocation or name change.~~

18 VAC 15-30-160. Fees. (Repealed.)

~~A. The fee for an initial or a renewal of a lead abatement worker, lead abatement supervisor, lead inspector, lead risk assessor, or lead project designer license shall be \$25.~~

~~B. The renewal fee for an individual license not renewed within 30 days after the expiration date on the license shall be \$50, which consists of the \$25 renewal fee and a \$25 late renewal fee.~~

~~C. The fee for an initial or a renewal of a lead abatement contractor license shall be \$40.~~

~~D. The renewal fee for a lead abatement contractor license not renewed within 30 days after the expiration date shall be \$65, which consists of the \$40 renewal fee and a \$25 late renewal fee.~~

~~E. The application fee for approval of an accredited lead training program shall be \$400 for each eight hours of course duration required by 18 VAC 15-30-380.~~

~~F. The application fee for approval of an accredited lead refresher training program shall be \$400, except for the project designer refresher, which shall be \$200.~~

~~G. The renewal fee for an accredited lead training program and an accredited lead refresher training program shall be \$100 per course.~~

~~H. The renewal fee for an accredited lead training program and an accredited lead refresher training program not renewed within 30 days after the expiration date shall be \$125 per course, which consists of the \$100 renewal fee and a \$25 late renewal fee.~~

~~I. Fees for approval of an accredited lead training program and an accredited lead refresher training program shall not be imposed on any state, local government, or nonprofit training program.~~

~~J. The examination fee shall consist of the administration expenses of the board ensuing from the board's examination procedures and contract charges. Examination service contracts shall be established through competitive negotiations in compliance with the Virginia Public Procurement Act (§ 2.2-4300 et seq. of the Code of Virginia). The examination shall not exceed a cost of \$75 to the candidate.~~

~~K. Applicants who submit a dishonored check will be charged a \$25 service fee in addition to the required application fee.~~

**PART IV.
FEES.**

18 VAC 15-30-161. General fee requirements.

A. All fees are nonrefundable and shall not be prorated. The date on which the fee is received by the department or its agent will determine whether the fee is on time. Checks or money orders shall be made payable to the Treasurer of Virginia.

B. Fees for approval and renewal of an accredited lead training program and an accredited lead refresher training program shall not be imposed on any state, local government, or nonprofit training program.

C. The examination fee shall consist of the administration expenses of the board ensuing from the board's examination procedures and contract charges. Examination service contracts shall be established through competitive negotiations in compliance with the Virginia Public Procurement Act (§ 2.2-4300 et seq. of the Code of Virginia). The examination shall not exceed a cost of \$75 to the candidate.

Proposed Regulations

18 VAC 15-30-162. Application fees.

Application fees are as follows:

Fee Type	Fee Amount	When Due
Application for worker, supervisor, inspector, risk assessor or project designer license	\$25	With application
Application for a lead contractor license	\$40	With application
Application for accredited lead training program approval	\$400 per day of training	With application
Application for accredited lead refresher training program approval except for project designer refresher	\$400	With application
Application for accredited lead project designer refresher training program approval	\$200	With application

18 VAC 15-30-163. Renewal and late renewal fees.

Renewal and late renewal fees are as follows:

Fee Type	Fee Amount	When Due
Renewal for worker, supervisor, inspector, risk assessor or project designer license	\$25	With renewal application
Renewal for lead contractor's license	\$40	With renewal application
Renewal for accredited asbestos training program approval	\$100	With renewal application
Late renewal for worker, supervisor, inspector, risk assessor or project designer license (includes a \$25 late renewal fee in addition to the regular \$25 renewal fee)	\$50	With renewal application
Late renewal for lead contractor's license (includes a \$25 late renewal fee in addition to the regular \$40 renewal fee)	\$65	With renewal application
Late renewal for accredited lead training program approval (includes a \$25 late renewal fee in addition to the regular \$100 renewal fee)	\$125	With renewal application

PART V. RENEWAL.

18 VAC 15-30-164. Renewal required.

A. Interim licenses shall expire six months from the last day of the month during which the individual completed the board-approved initial or refresher accredited lead training program

required by 18 VAC 15-30-52 regardless of the date on which the board received the application for initial licensure or the date the board issued the license.

B. Interim licenses shall not be renewed or extended.

C. Individual licenses shall expire 12 months from the last day of the month wherein the individual completed the initial training program or refresher training program required by 18 VAC 15-30-52 regardless of the date on which the board received the application for individual licensure or the date the board issued the license. In no case shall an individual license expire later than the last day of the month which is 36 months after the date the individual completed the initial training program or most recent refresher training program.

D. Contractor licenses shall expire 12 months from the last day of the month wherein issued.

E. Accredited lead training programs approval shall expire 24 months from the last day of the month in which the board granted approval.

18 VAC 15-30-165. Procedures for renewal.

A. The board shall mail a renewal notice to the licensee or accredited lead training provider at the last known address. The notice shall outline the procedures for renewal and the renewal fee amount. Failure to receive the notice shall not relieve the licensee or accredited lead training provider of the obligation to renew.

B. Prior to the expiration date shown on the license or approval, each licensee or accredited lead training provider desiring to renew the license or approval shall return to the board the renewal notice and the renewal fee. Documentation of refresher training programs for individuals and of the requirements in 18 VAC 15-30-166 C for accredited lead training programs shall be sent to the board.

C. Should the licensee or accredited lead training provider fail to receive the renewal notice, a photocopy of the current lead license or accredited lead training program approval may be substituted for the renewal notice and mailed with the required fee to the board.

D. Interim licensure shall not be renewed or extended. Each applicant who wishes a second interim license must provide to the board evidence of having retaken and satisfactorily completed the initial training requirements and make a new application to the board.

18 VAC 15-30-166. Qualifications for renewal.

A. Individuals.

1. Licensees desiring to maintain an individual license shall satisfactorily complete the refresher training program established by this chapter and assure that the board receives documentation of satisfactory completion no later than the last day of the month that is 36 months after the date of completion of the initial training program or refresher training program and not less often than once each 36 months thereafter. In the case of a proficiency-based course completion, refresher training is required every 60 months instead of 36 months.

2. The board shall renew an individual license for an additional 12 months upon receipt of a renewal application and fee in compliance with 18 VAC 15-30-163 and 18 VAC 15-30-165, provided that the licensee has complied with subdivision 1 of this subsection. In no case shall an individual license expire later than the last day of the month that is 36 months, or in the case of proficiency-based course 60 months, after the initial training program or most recent refresher training program was completed.

B. Contractors. The board shall renew a contractor license for an additional 12 months upon receipt of a renewal application and the renewal fee in compliance with 18 VAC 15-30-163 and 18 VAC 15-30-165. Return of the renewal application and renewal fee to the board shall constitute a certification that the licensee is in full compliance with the board's regulations.

C. Accredited training programs.

1. Accredited lead training providers desiring to maintain approval of their accredited lead training program shall cause the board to receive the following no later than 48 months after the date of initial approval and not less often than once each 48 months thereafter:

a. The training provider's name, address, and telephone number.

b. A statement signed by the training program manager that certifies that:

(1) The course materials for each course meet the requirements of Part VII (18 VAC 15-30-440 et seq.) of this chapter.

(2) The training manager and principal instructors meet the qualifications listed in 18 VAC 15-30-340.

(3) The training program manager complies at all times with all requirements of this chapter.

(4) The quality control program meets the requirements noted in 18 VAC 15-30-410.

(5) The recordkeeping requirements of this chapter will be followed.

2. Return of the renewal application and renewal fee to the board shall constitute a certification that the accredited lead training provider is in full compliance with the board's regulations.

3. An audit by a board representative may be performed to verify the certified statements and the contents of the application before relicensure is granted.

4. Accredited lead training programs determined by the board to have met the renewal requirements shall be issued an approval for an additional 24 months.

18 VAC 15-30-167. Late renewal.

A. If the renewal fee is not received by the board within 30 days after the expiration date printed on the license or accredited lead training program approval, a late renewal fee shall be required in addition to the renewal fee.

B. Any licensee or accredited lead training provider who fails to renew his license or accredited lead training program approval within six months after the expiration date on the license or approval shall not be permitted to renew and shall apply as a new applicant.

PART IV. INDIVIDUAL LICENSURE REQUIREMENTS.

18 VAC 15-30-170. Licensed lead abatement worker. (Repealed.)

~~Each applicant for lead abatement worker licensure shall comply with the application requirements established in 18 VAC 15-30-50 and include evidence of successful completion of a board-approved initial lead abatement worker course.~~

18 VAC 15-30-180. Licensed lead project designer. (Repealed.)

~~Each applicant for lead project designer licensure shall comply with the application requirements established in 18 VAC 15-30-50 and include evidence of successful completion of a board-approved initial lead project designer course and successful completion of a board-approved initial lead abatement supervisor course and one of the following:~~

~~1. A bachelor's degree in engineering, architecture, or a related profession, and one year experience in building construction and design or a related field; or~~

~~2. Four years of experience in building construction and design or a related field.~~

18 VAC 15-30-205. Licensed lead abatement supervisor. (Repealed.)

~~A. Each applicant for lead abatement supervisor licensure shall comply with the application requirements established in 18 VAC 15-30-50 and include evidence of:~~

~~1. Successful completion of a board-approved initial lead abatement supervisor course; and~~

~~2. One year experience as a licensed lead abatement worker or two years experience in a related field (e.g., lead, asbestos or environmental remediation) or in the building trades.~~

~~B. Each applicant shall pass a board-approved licensing examination for supervisors within 36 months after completion of the board-approved lead abatement supervisor initial training course or the board-approved lead supervisor refresher course.~~

~~C. Applicants who fail the examination three times must provide to the board evidence, after the date of their third examination failure, of having retaken and satisfactorily completed the initial training requirements and make new application to the board. The applicant is then eligible to sit for the examination an additional three times.~~

~~D. A licensed lead abatement supervisor may perform the duties of a licensed lead abatement worker.~~

Proposed Regulations

18 VAC 15-30-225. Licensed lead inspector. (Repealed.)

A. Each applicant for lead inspector licensure shall comply with the application requirements established in 18 VAC 15-30-50 and include evidence of successful completion of a board-approved initial lead inspector course.

B. Each applicant shall pass a board-approved licensing examination for lead inspector within 36 months after completion of the board-approved lead inspector initial training course or the board-approved lead inspector refresher course.

C. Applicants who fail the examination three times must provide to the board evidence, after the date of their third examination failure, of having retaken and satisfactorily completed the initial training requirements and make new application to the board. The applicant is then eligible to sit for the examination an additional three times.

18 VAC 15-30-245. Licensed lead risk assessor. (Repealed.)

A. Each applicant for lead risk assessor licensure shall comply with the application requirements established in 18 VAC 15-30-50 and include evidence of successful completion of a board-approved initial lead risk assessor training course and successful completion of a board-approved initial lead inspector training course that was at least three days in length and one of the following:

1. Certification or licensure as an industrial hygienist, a professional engineer, a registered architect or licensure in a related engineering/health/environmental field;
2. A bachelor's degree and one year of experience in a related field (e.g., lead, asbestos, environmental remediation work, or construction);
3. An Associate's degree and two years experience in a related field (e.g., lead, asbestos, environmental remediation work, or construction); or
4. A high school diploma or its equivalent, and at least three years experience in a related field (e.g., lead, asbestos, environmental remediation work, or construction).

B. Each applicant shall pass a board-approved licensure examination for risk assessor within 36 months after completion of the board-approved lead risk assessor initial training course or the board-approved lead risk assessor refresher course.

C. Applicants who fail the examination three times must provide to the board evidence, after the date of their third examination failure, of having retaken and satisfactorily completed the initial training requirements and make new application to the board. The applicant is then eligible to sit for the examination an additional three times.

PART V.

LICENSED CONTRACTOR REQUIREMENTS.

18 VAC 15-30-250. Requirements for licensure. (Repealed.)

A. Each applicant for lead contractor licensure shall hold a valid Virginia contractor license with a lead specialty issued by

the Virginia Board for Contractors, and shall comply with the provisions of Chapter 11 (§ 54.1-1100 et seq.) of Title 54.1 of the Code of Virginia governing the regulation of contractors.

B. Firms seeking contractor licensing shall certify that:

1. Only properly licensed lead abatement supervisors and workers will be employed to conduct lead-based paint activities;
2. A licensed lead abatement supervisor is present at each job site during all work site preparation and during post-abatement cleanup, and shall be on-site or available by telephone, pager or answering service, and able to be present at the work site in no more than two hours when abatement activities are being conducted; and
3. The standards for conducting lead-based paint activities established in this chapter and standards established by the EPA and OSHA shall be followed at all times during the conduct of lead-based paint activities; and
4. The company is in compliance with all other occupational and professional licenses and standards as required by Virginia statute and local ordinance to transact the business of a lead abatement contractor.

PART VI.

TRAINING PROGRAM ACCREDITATION.

18 VAC 15-30-260. General. (Repealed.)

A. Each applicant for approval as an accredited lead training provider shall meet the requirements established by this chapter before being granted approval to offer an accredited lead training program. Applicants requesting approval of a lead training program to prepare participants for licensure shall apply on a form provided by the board. The application form shall be completed in accordance with the instructions supplied and shall include the following:

1. The course for which it is applying for accreditation.
2. A statement signed by the training program manager, which certifies that the training program and each principal instructor meets the minimum requirements established in this chapter.
3. A copy of the student manuals and instructor manuals or other materials to be used.
4. A copy of the course agenda which includes the time allocation for each course topic.
5. A copy of the test and answer sheet.
6. A description of the facilities and equipment to be used for lecture and hands-on training.
7. A description of the activities and procedures that will be used for conducting the assessment of hands-on skills.
8. A copy of the quality control plan as described in this chapter.
9. An example of a certificate that will be issued to students who successfully complete the course.
10. A proposed course date for auditing purposes.

~~11. The application fee required by 18 VAC 15-30-160.~~

~~B. The completed application form with attachments and fee shall be received by the board no later than 45 days before the desired audit date.~~

~~C. An applicant may seek approval for as many initial and refresher courses as it chooses, but shall submit a separate application and fee for each program.~~

~~D. Applicants may seek accreditation to offer lead-based paint activities initial or refresher courses in any of the following disciplines: lead abatement worker, lead project designer, lead abatement supervisor, lead inspector, and lead risk assessor.~~

~~E. Each training program shall be conducted in compliance with this chapter to qualify for and maintain approval as an accredited lead training program.~~

~~18 VAC 15-30-270. Board review and audit procedures. (Repealed.)~~

~~A. Upon receipt of an application, the board shall conduct a preliminary review and shall notify the applicant, in writing, of any deficiencies in the submittal packages. Applicants will have one year from the board's receipt of the application to correct any problems noted in the review.~~

~~B. After the application has been found to be complete and in compliance with this chapter, an on-site audit of the training program shall be conducted. The board shall conduct an additional on-site audit, grant approval or deny approval based on the board's evaluation of the level of compliance with this chapter found during the initial on-site audit.~~

~~C. Applicants denied approval shall have one year from the date of receipt of the application by the board to correct any deficiencies and notify the board in writing.~~

~~D. An accredited training provider shall have been approved by the board before its training certificates shall be accepted by the board as evidence that an individual has completed an accredited lead training program.~~

~~18 VAC 15-30-280. Accreditation approval. (Repealed.)~~

~~Each accredited lead training program which is granted approval shall be sent a form indicating the discipline approved and an expiration date which shall be maintained at the business address listed on the application.~~

~~18 VAC 15-30-290. Changes to an approved course. (Repealed.)~~

~~Once a training course has been approved, substantial changes in any of the approved items must be submitted to the board for review and approval prior to the continuation of the training course. These items include, but are not limited to:~~

- ~~1. Course curriculum.~~
- ~~2. Course examination.~~
- ~~3. Course materials.~~
- ~~4. Training manager and principal instructor or instructors.~~
- ~~5. Certificate of completion.~~

~~The board shall communicate its approval or disapproval in the same manner as for initial applications for accreditation approval.~~

~~18 VAC 15-30-300. Change of ownership. (Repealed.)~~

~~When an accredited lead training provider offering an accredited lead training program has a change of ownership, the new owner shall apply anew.~~

**PART VII VI.
REQUIREMENTS FOR THE ACCREDITATION OF
STANDARDS OF PRACTICE AND CONDUCT FOR
ACCREDITED LEAD TRAINING PROGRAMS.**

~~18 VAC 15-30-330. General. (Repealed.)~~

~~For a training program to obtain accreditation from the board to teach lead-based paint activities, the program shall demonstrate through its application material that it meets the minimum requirements for principal instructor qualifications, required topic review, length of training, and recordkeeping for each discipline for which the program is seeking accreditation. Training programs shall offer courses which teach the standards for conducting lead-based paint activities contained in this chapter, and other such standards adopted by the EPA.~~

~~18 VAC 15-30-332. Changes to an approved course.~~

~~Once a training course has been approved, substantial changes in any of the approved items must be submitted to the board for review and approval prior to the continuation of the training course. These items include, but are not limited to:~~

- ~~1. Course curriculum.~~
- ~~2. Course examination.~~
- ~~3. Course materials.~~
- ~~4. Training manager and principal instructor or instructors.~~
- ~~5. Certificate of completion.~~

~~The board shall communicate its approval or disapproval in the same manner as for initial applications for accreditation approval.~~

~~18 VAC 15-30-334. Change of ownership.~~

~~When an accredited lead training provider offering an accredited lead training program has a change of ownership, the new owner shall apply anew.~~

~~18 VAC 15-30-420. Recordkeeping and provision of records to the board.~~

~~A. Each accredited lead training program shall maintain and make available upon request from the board the following records:~~

- ~~1. All documents specified in 18 VAC 15-30-360 that demonstrate the qualifications listed in 18 VAC 15-30-340 of the training manager and principal instructors.~~
- ~~2. Current curriculum/course materials and documents reflecting any changes made to these materials.~~
- ~~3. Course examination.~~

Proposed Regulations

4. Information on how the hands-on assessment is conducted including, but not limited to, who conducts the assessment, how the skills are graded, what facilities are used, and the pass/fail rate.
5. The quality control plan described in 18 VAC 15-30-410.
6. Results of the student's hands-on skills assessments and course examination and a copy of each student's course completion certificate.
7. Any other material not listed in this chapter that was submitted to the board as part of the application for accreditation.

The accredited lead training provider shall retain these records at the location specified on the training program application for a minimum of three years and six months.

B. The training manager shall notify the board at least seven business days prior to the start date of any accredited lead training program. For the purposes of this section, a business day shall mean Monday through Friday with the exception of federal holidays.

C. The training manager shall provide an updated notification when an accredited lead training program will begin on a date other than the start date specified in the original notification as follows:

1. For accredited lead training programs beginning prior to the start date provided to the board, an updated notification must be received by the board at least seven business days before the new start date.
2. For accredited lead training programs beginning after the start date provided to the board, an updated notification must be received by the board at least two business days before the start date provided to the board.

D. The training manager shall update the board of any change in location of an accredited lead training program at least seven business days prior to the start date provided to the board.

E. The training manager shall update the board regarding any accredited lead training program cancellations or any other change to the original notification at least two business days prior to the start date provided to the board. This requirement shall not apply to situations or circumstances beyond the control of the training provider.

F. Each notification, including updates, shall include the following:

1. Notification type (original, update, cancellation).
2. Training program name, Virginia accreditation number, address, and telephone number.
3. Course discipline, type (initial/refresher), and the language in which the instruction will be given.
4. Dates and times of training.
5. Training locations, telephone number, and address.
6. Principal instructor's name.

7. Training manager's name and signature.
- G. The training program participant list shall be completed by the training provider and training program participants daily.
- H. The training program participant list shall be retained by the training provider for three years following the date of completion of the training program.
- I. The training manager shall provide to the board the accredited lead training program participant list no later than 10 business days following the training program completion. For the purposes of this section, a business day shall mean Monday through Friday with the exception of federal holidays.
- J. The training program participant list shall include the following:
 1. Training program name, Virginia accreditation number, address, and telephone number.
 2. Course discipline and type (initial/refresher).
 3. Dates of training.
 4. Each participant's name, address, ~~date of birth~~ *social security number*, course completion certificate number, and course test score.
 5. Training manager's name and signature.

~~K. Written notifications and training program participant lists must be submitted using the U.S. Postal Service, by fax, by commercial delivery service, or hand delivered using a sample form available from the board or a similar form that contains the information required by this section. Notifications and training program participant lists may also shall be submitted electronically via an e-mail address in the manner established by the board specifically to receive this documentation using a sample form designed by and available from the board. Any variation upon this procedure shall be approved by the board prior to submission.~~

L. The training provider shall retain all examinations completed by training program participants for a period of three years.

M. The department ~~will~~ *shall* not recognize training certificates from approved training providers that fail to notify or fail to provide a training program participant list.

~~PART VII.~~

TRAINING COURSE CURRICULA REQUIREMENTS.

~~PART VIII.~~

STANDARDS FOR CONDUCTING LEAD-BASED PAINT ACTIVITIES.

18 VAC 15-30-510. General requirements.

A. This part establishes work practice standards for conducting lead-based paint activities in target housing and child-occupied facilities.

B. Notification shall be sent by the licensed lead abatement contractor to the Virginia Department of Labor and Industry prior to the commencement of any lead-based paint

abatement activities. The notification shall be sent in a manner prescribed by the Virginia Department of Labor and Industry.

C. No licensed lead abatement contractor shall enter into a contract to perform a lead abatement project if the lead inspection or project design is to be performed by individuals with an employer/employee relationship with, or financial interest in, the lead abatement contractor unless the contractor provides the building owner with a "Virginia Lead Consumer Information and Disclosure Sheet," which is available from the board. Persons licensed to perform post-abatement clearance procedures shall be independent of and have no financial interest in or an employer/employee relationship with the licensed lead abatement contractor.

D. The relationships described in subsection C of *this section* must be disclosed and the disclosure form must be signed and dated by the building owner, or his agent, and the contracting entity prior to the signing of any contract to conduct lead-based paint activities. The contractor must provide the disclosure form to all parties involved in the lead abatement project. The disclosure form shall be kept on the lead abatement project site and available for review.

E. When performing a lead-based paint inspection, lead-hazard screen, risk assessment or abatement, a licensed individual must perform that activity in compliance with documented methodologies. Documented methodologies that are appropriate for this chapter include the following:

1. U.S. Department of Housing and Urban Development (HUD) Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing, June 1995 edition, including the 1997 Revision to Chapter 7: Lead-Based Paint Inspection.
2. 40 CFR Part 745, Subpart D.
3. EPA Guidance on Residential Lead-Based Paint, Lead-Contaminated Dust and Lead-Contaminated Soil (60 FR 47248-47257).
4. EPA Residential Sampling for Lead: Protocols for Dust and Soil Sampling, Final Report (EPA 747-R-95-001, March 1995).
5. Any future EPA or HUD guidance that may replace the above methodologies.
6. Regulations, guidance, methods or protocols authorized by the board.

F. Individuals conducting lead-based paint activities shall comply with the work practice standards enumerated in this chapter.

G. Any lead-based paint activities, as described in this chapter, shall be performed only by individuals licensed by the board to perform such activities.

H. All reports and plans required by 18 VAC 15-30-520 through 18 VAC 15-30-651 shall be maintained by the licensed firm or individual who prepared the report for at least three years. The licensed firm or individual also shall provide copies of these reports to the building owner or person who contracted for its services.

PART X IX.

GENERAL STANDARDS OF PRACTICE AND CONDUCT.

18 VAC 15-30-810. Grounds for denial of application, denial of renewal, or discipline.

A. The board shall have the authority to fine any licensee or accredited lead training provider, training manager or principal instructor, and to deny renewal, to suspend, to revoke or to deny application for any license or approval as an accredited lead training program, accredited lead training provider, training manager or principal instructor provided for under Chapter 5 of Title 54.1 of the Code of Virginia for:

1. Violating or inducing another person to violate any of the provisions of Chapter 1, 2, 3, or 5 of Title 54.1 of the Code of Virginia, or any of the provisions of this chapter.
2. Obtaining a license, approval as an accredited lead training program, approval as an accredited lead training provider or approval as a training manager or principal instructor through fraudulent means.
3. Altering, falsifying or issuing a fraudulent Virginia lead license or a training certificate issued by an accredited lead training provider.
4. Violating any provision of any federal or state regulation pertinent to lead-based paint activities.
5. Having been found guilty by the board, another regulatory authority, or by a court, of any misrepresentation in the course of performing his operating duties.
6. Subject to the provisions of § 54.1-204 of the Code of Virginia, having been convicted or found guilty, regardless of adjudication in any jurisdiction of the United States, of any felony or of any misdemeanor involving lying, cheating, or stealing, or of any violation while engaged in environmental remediation activity that resulted in the significant harm or the imminent and substantial threat of significant harm to human health or the environment, there being no appeal pending therefrom or the time for appeal having elapsed. Any plea of nolo contendere shall be considered a conviction for the purposes of this chapter. A certified copy of the final order, decree or case decision by a court or regulatory agency with lawful authority to issue such order, decree or case decision shall be admissible as prima facie evidence of such conviction or discipline.
7. Failing to notify the board in writing within 30 days of pleading guilty or nolo contendere or being convicted or found guilty of any felony or of any misdemeanor involving lying, cheating, or stealing or of any violation while engaged in environmental remediation activity that resulted in the significant harm or the imminent threat of significant harm to human health or the environment.
8. Negligence, or a continued pattern of incompetence, in the practice of the discipline in which a lead license is held.
9. Failing or neglecting to send any information or documentation that was requested by the board or its representatives.

Proposed Regulations

10. Refusing to allow state or federal representatives access to any area of an abatement site for the purpose of lawful compliance inspections.

11. Any unlawful act or violation of any provision of Chapter 5 of Title 54.1 of the Code of Virginia or of the regulations of the board by any lead abatement supervisor or lead abatement worker may be cause for disciplinary action against the lead abatement contractor for whom he works if it appears to the satisfaction of the board that the lead abatement contractor knew or should have known of the unlawful act or violation.

12. *Failing to notify the board in writing within 30 days after any change in address or name.*

13. *Acting as or being an ostensible licensee for undisclosed persons who do or will control or direct, directly or indirectly, the operations of the licensee's business.*

B. Any individual or firm whose license, approval as an accredited lead training program, approval as an accredited lead training provider or approval as a training manager or principal instructor is revoked under this section shall not be eligible to reapply for a period of one year from the effective date of the final order of revocation. The individual or firm shall meet all education, experience, and training requirements, complete the application, and submit the required fee for consideration as a new applicant.

C. *The board shall conduct disciplinary procedures in accordance with §§ 2.2-4019 and 2.2-4021 of the Administrative Process Act.*

18 VAC 15-30-820. Suspension or revocation of approval of an accredited lead training provider.

A. The board may suspend, revoke, or modify an accredited lead training program's approval if an accredited lead training provider, training manager, or other person with supervisory authority over the training program has:

1. Misrepresented the contents of a training course to the board or the student population.
2. Failed to submit required information or notification in a timely manner.
3. Failed to submit training program notifications as required and in the manner described in 18 VAC 15-30-420.
4. Failed to submit training program participant lists as required and in the manner described in 18 VAC 15-30-420.
5. Failed to maintain required records.
6. Falsified accreditation records, qualifications of the training manager and principal instructors, or other accreditation information.
7. Failed to comply with the federal, state, or local lead-based paint statutes or regulations.
8. *Acted as an ostensible licensee for undisclosed persons who do or will control or direct, directly or indirectly, the operations of the accredited lead training provider's business.*

B. The board shall conduct disciplinary procedures in accordance with §§ 2.2-4019 and 2.2-4021 of the Administrative Process Act.

NOTICE: The forms used in administering 18 VAC 15-30, Virginia Lead-Based Paint Activities Regulations, are not being published; however, the name of each form is listed below. The forms are available for public inspection at the Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia, or at the office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia.

FORMS

Lead Contractor License Application, 33LCON (rev. 5/03 5/00).

Lead License Application Requirements, 33LINS (rev. 5/03 10/03).

Lead License Application, 33LLIC (rev. 5/03 10/03).

Experience Verification Form, 33LEXP (rev. 5/03 12/04).

Education Verification Form, 33LED (rev. 5/03 5/00).

Lead Training Course Application Requirements, 33LCRSRQ (rev. 5/03 10/03).

Lead Training Course Application, 33LCRS (rev. 7/03 10/03).

Training Notification, 33LTN (eff. 7/04 rev. 9/04).

Training Program Participant List, 33LPL (eff. 7/04 rev. 9/04).

Inspector/Risk Assessor/Project Designer/Contractor Disclosure Form, 33LDIS (eff. 1/04).

Virginia Lead Consumer Information and Disclosure Sheet, 33LCIS (eff. 1/04).

VA.R. Doc. No. R04-239; Filed December 9, 2005, 11:27 a.m.

BOARD FOR BARBERS AND COSMETOLOGY

Title of Regulation: 18 VAC 41-60. **Body-Piercing Regulations (adding 18 VAC 41-60-10 through 18 VAC 41-60-220).**

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

Public Hearing Date: March 7, 2006 - 10 a.m.

Public comments may be submitted until March 10, 2006.
(See Calendar of Events section for additional information)

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

Background: Chapter 869 of the 2002 Acts of Assembly mandated a separate licensing category under the Board for Barbers and Cosmetology for body-piercing practitioners as well as the salon where these services are provided. The regulations contain the requirements for obtaining a license,

renewal and reinstatement; safety and sanitation procedures; and standards of professional conduct.

To comply with Chapter 869 of the 2002 Acts of Assembly and fulfill the Board for Barbers and Cosmetology responsibility to promulgate regulations, new regulations are promulgated to ensure competence and integrity of all licensees and that the health and sanitary standards and safety are adequate in salons and other facilities where body-piercing services are provided, and administer the regulatory program. The board intends to seek additional comment prior to adoption of final regulations on training and experience requirements specifically but not limited to length of experience required for an apprenticeship program, length of experience required for an apprenticeship sponsor, curriculum requirements for apprenticeship training programs.

This action is a part of a previous regulatory action that began with a combined set of regulations for tattooing and body piercing. On April 26, 2004, the board adopted separate tattooing emergency regulations and on October 25, 2004, the board adopted separate body-piercing regulations in order to promulgate regulations that would pertain specifically to each professional service. The separate emergency regulations are intended to provide clarity and flexibility in the promulgation of regulations that would apply to each professional service.

Basis: The proposed regulatory action to promulgate regulations governing the licensure and practice of body piercing under the Board for Barbers and Cosmetology is mandated by Chapter 869 of the 2002 Acts of Assembly.

Section 54.1-201 of the Code of Virginia authorizes the board to promulgate regulations in accordance with the Administrative process Act (§ 2.2-4000 et seq.) necessary to assure continued competency, to prevent deceptive or misleading practices by practitioners and to effectively administer the regulatory system administered by the regulatory board.

Purpose: The board proposes to promulgate regulations governing the licensure and practice of body piercing as directed by Chapter 869 of the 2002 Acts of Assembly.

The proposed regulatory action is necessary to ensure minimal competence of body-piercing practitioners. This regulatory action will establish qualifications for licensure, standards of practice, requirements for maintaining licensure as a body piercer, body-piercing salon, body-piercer – ear only, or body-piercing - ear only salon in the Commonwealth of Virginia. This regulatory action will establish fees necessary to administer the licensure program.

As directed by the 2002 Session of the General Assembly, this regulatory action is required to protect the health, safety and welfare of citizens of the Commonwealth in that it will provide for and ensure that licensees have met qualifications that demonstrate competency that protects the health, safety and welfare of citizens of the Commonwealth and that health and sanitary standards and safety are adequate in salons where body-piercing services are being provided.

Substance: The proposed regulations contain provisions for the licensing of body piercing under the Board for Barbers and Cosmetology as directed by Chapter 869 of the 2002 Acts of

Assembly. In addition to establishing the requirements for licensure, these regulations will ensure competency and integrity of all licensees, provide for, and ensure that health and sanitation standards are adequate in facilities where body-piercing services are provided.

These regulatory requirements include: (i) definitions of words and terms relative to the practice of providing body-piercing services that will ensure that licensees understand the scope and limitations of their profession; (ii) general requirements for obtaining a license to provide services as a body piercer or body piercer – ear only; (iii) requirements for becoming a body-piercing apprenticeship sponsor; (iv) general requirements for obtaining a license to operate a body-piercing salon or body-piercing – ear only salon; (v) fees for initial, renewal, and reinstatement applications for body piercers, body-piercing salons, body piercers – ear only, or body-piercing – ear only salons; (vi) sanitation and safety standards for salons that address disinfection and storage of implements, sanitation of equipment, and safety standards pertaining to the use of chemical products, the proper handling of blood spills, and client health guidelines; and (vii) measures to be taken to ensure that clients are qualified to receive piercing services in compliance with § 18.2-371.3 of the Code of Virginia pertaining to minimum age; and (viii) requirements for obtaining certain disclosures and maintenance of records of notification to the client pertaining to risks associated with receiving piercing services.

Issues: The primary advantage of the proposed regulatory action is that it will establish the licensing requirements for the practice of body piercing. The proposed regulatory action will be an advantage to the public in that it will provide clear and effective regulations to ensure competency and integrity and prevent deceptive or misleading practices by individuals providing body-piercing services.

There are no disadvantages to the public or the Commonwealth with regards to regulations governing the licensure and practice of body-piercing practitioners.

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. Pursuant to Chapter 869 of the 2002 Virginia Acts of Assembly, the Board for Barbers and Cosmetology (board) proposes to promulgate regulations that set out licensure requirements for body piercing and body-piercing salons.

Proposed Regulations

Estimated economic impact. Chapter 869 of the 2002 Virginia Acts of Assembly established that "No person shall offer to engage in ... body-piercing without a valid license issued by the Board, ..." and that "No individual or entity shall operate a ... body-piercing salon without a valid license issued by the Board." Exceptions are made for those that are not selling services as body piercers.¹ The board proposes these regulations to detail how licensure may be obtained.

Licensure of body piercers and piercing salons can be beneficial to the public in that transmission of disease and occurrences of injury may be reduced due to required instruction concerning disease transmission, safety procedures, competent practice, and physical facility and operations requirements that are designed to minimize such risks. On the other hand, licensure requirements do impose new costs for providers of body-piercing services.

Health Risks

Body piercing introduces significant health risks. Koenig and Carnes (1999) cite the following complication rates for ear piercing: redness and swelling 30%, drainage 26%, infection 24%, bleeding 11%, cyst formation 4%, large scars 3%, and trauma or tear 2%. Samantha, Tweeten and Rickman (1998) found that patients with genital piercing were at higher risk of contracting a sexually transmitted disease. Body piercing has been associated with local soft tissue infection,² perichondritis from high ear piercing,³ sepsis, and toxic shock syndrome.⁴ Also, piercing has been linked to viral hepatitis.⁵ Koenig and Carnes (1999) cite studies that note that "The possible complications of oral/facial piercings include ... airway obstruction, chipped or cracked teeth, prolonged bleeding from piercings of high vascularity, cellulitis ..., gingival injury, interference with mastication and swallowing, speech impediment, increased salivary flow, and obstruction of radiographs ..."⁶

Bacterial infection can occur from improper initial piercing technique or from poor hygiene.⁷ Martel and Anderson (2002)

list the needles, piercing gun, lack of baffler precautions such as gloves, and improper skin preparation as some of the sources of infection. Proposed requirements for training in piercing technique and hygiene, as well as requirements for salon equipment will likely reduce adverse health outcomes to some degree. No research is currently available to help estimate by what degree risks of adverse health outcomes will be decreased due to the proposed requirements.

Costs for Practitioners and Salons

The board proposes the following requirements for licensure as a body piercer: 1) completion of a minimum of five hours of health education to include but not be limited to blood borne disease, sterilization, and aseptic techniques related to body piercing, and first aid and CPR, 2) payment of a \$55 fee, 3) completion of an approved body-piercing apprenticeship program (unless grandfathered), 4) payment of a fee up to \$225 examination fee (unless grandfathered), and 5) a passing grade on the board approved examination. The proposed regulations include a grandfather clause whereby persons who have completed five years of documented work experience within the preceding eight years as a body piercer, are not required to go through a board-approved apprenticeship and take the exam. Body piercers licensed in another U.S. jurisdiction who have completed a training or apprenticeship program and an exam that is substantially equivalent can pay the \$55 fee and become licensed in Virginia. The license expires after two years. The body piercer must complete five hours of health education during the two-year term, as well as pay a \$55 fee, for license renewal.

Given demand to meet the required completion of a minimum of five hours of health education to include but not be limited to blood borne disease, sterilization, and aseptic techniques related to body-piercing, and first aid and CPR, a provider may in the future design a five-hour course to address all those subjects. Currently, the American Red Cross offers the following: a five-hour course on CPR and proper use of an automated external defibrillator for \$55 and a two-hour course on first aid for \$45. A firm called American Environmental Health and Safety offers: 1) a one-hour course on blood-borne pathogens for \$10 to \$30, 2) a 2.5 to 3.5 hour CPR classes for \$15 to \$40, and 3) a two- to three-hour first aid course for \$15 to \$40.⁸

Apprenticeship programs must include at least 1,500 hours of instruction in: 1) microbiology, 2) immunization, 3) sanitation and disinfection, 4) safety, 5) blood borne pathogen standards, 6) professional standards, and 7) practical training. The regulations specify required subcategories for each of the 7 categories listed above. The proposed regulations specify that 350 hours are to be devoted to microbiology, immunization, safety, blood borne pathogen standards, and professional standards, 150 hours are to be devoted to sanitation and disinfection, and that the remaining 1,000 hours are to be devoted to practical training and the following minimum number of performances: a) 20 ear lobe: 20, b) 15 helix-ear, c) 15 concha-ear, d) 15 tragus-ear, e) 20 tongue, f) 15 navel, g) 15 eyebrow, h) 15 lip, i) 15 septum, j) 20 nostril, k) 10 male nipple, l) 10 female nipple, m) 12 Monroe (face

¹ § 54.1-701 exempts 1) Persons authorized by the laws of the Commonwealth to practice medicine and surgery or osteopathy or chiropractic; 2) Registered nurses licensed to practice in the Commonwealth; 3) Persons employed in state or local penal or correctional institutions, rehabilitation centers, sanatoria, or institutions for care and treatment of the mentally ill or mentally deficient or for care and treatment of geriatric patients, as barbers, cosmetologists, wax technicians, nail technicians, hair braiders, barber instructors, cosmetology instructors, wax technician instructors or nail technician instructors who practice only on inmates of or patients in such sanatoria or institutions; 4) Persons licensed as funeral directors or embalmers in the Commonwealth; 5) Gratuitous services as a barber, nail technician, cosmetologist, wax technician, hair braider, tattooer, or body-piercer; 6) Students enrolled in an approved school taking a course in barbering, nail care, cosmetology, waxing, hair braiding, tattooing, or body-piercing; 7) Persons working in a cosmetology salon whose duties are expressly confined to hair braiding or the shampooing and cleansing of human hair under the direct supervision of a cosmetologist or barber; 8) Apprentices serving in a barbershop, nail salon, waxing salon, cosmetology salon, or hair braiding salon licensed by the Board in accordance with the Board's regulations; and 9) Schools of barbering, nail care, waxing, cosmetology, or hair braiding in public schools.

² Sources: Samantha, Tweeten and Rickman (1998) and Peticolas, Tilliss and Cross-Poline (2000)

³ Source: Staley, Fitzgibbon and Anderson (1997)

⁴ Source: Koenig and Carnes (1999)

⁵ Ibid

⁶ Sources: Perkins, Meisner and Harrison (1997) and Price and Lewis (1997). Peticolas, Tilliss and Cross-Poline (2000) note similar complications.

⁷ Ibid

⁸ The fee ranges largely depend on class size.

cheek), n) 12 Prince Albert (male genitalia), o) 12 frenum (male genitalia), p) 12 clitoral hoods (female genitalia), q) 12 labias (female genitalia). An approved apprenticeship sponsor may award up to 500 hours of credit based on an assessment of the apprentice's competence in theory and practical requirements. No hours may be credited toward sanitation and disinfection training. According to the Department of Professional and Occupational Regulation (department), the typical length of body-piercer apprenticeships in practice are at least 1,500 hours. Apprenticeship sponsors must: 1) have a current Virginia body-piercing license, 2) have been legally practiced body-piercing for at least 7 years, and 3) be in good standing in all jurisdictions where body-piercing is regulated.

The proposed requirements for licensure as a body-piercer – ear only include: 1) completion of a minimum of three hours of health education to include but not be limited to blood borne disease and first aid, 2) verification of training on a mechanized, pre-sterilized ear-piercing system that penetrates the outer perimeter or lobe of the ear or both, and 3) payment of a \$55 fee. The license expires after two years. The body piercer – ear only must complete three hours of health education during the two-year term, as well as pay a \$55 fee, for license renewal.

In order to obtain an initial body-piercing or body-piercing-ear only salon license, the applicant must pay a \$90 fee and report the salon address. The proposed regulations list several requirements for salons and practitioner responsibilities, most of which pertain to sanitary practice. For example, "Used instruments that are not ultrasonically cleaned prior to being placed in the used instrument container shall be kept in a germicidal soap solution until brush scrubbed in hot water and soap and sterilized by autoclaving." According to the department, all the listed requirements are standard for reputable body-piercing salons. Basic ultrasonic cleaners and autoclaves used by body-piercing salons cost from \$70 to \$200 and \$1,000 or less, respectively.⁹ The department will not inspect the premises for initial licensure.¹⁰ The department will inspect salons in response to complaints.¹¹

Costs for Purchasers of Services

The costs associated with required licensure will likely reduce the supply of body-piercing services and increase the market prices for those services. Some potential body piercers who would have chosen to sell their services without the licensure requirement will likely chose not to sell body-piercing services if they must face the time and dollar costs associated with obtaining licensure. Reduced competition for those that do offer services will likely result in higher market prices for body-piercing services.¹²

Fewer professional practitioners offering services and higher prices may encourage more individuals, particularly teenagers, to obtain piercings from friends or other amateurs. To the extent that potential higher prices and reduced numbers of professionals induce some price sensitive and

distance sensitive¹³ individuals to obtain their piercings from friends or other amateurs rather than from professionals, the benefit of potential reduced unsanitary and unsafe practices by professionals may be partially offset.

There are serious health risks associated with body-piercing. The proposed licensure requirements will reduce the risk to public health. As mentioned earlier, no research is currently available to help estimate by what degree risks of adverse health outcomes will be decreased due to the proposed requirements. Thus, a precise comparison of the costs to benefits cannot be made.

Businesses and entities affected. The proposed regulations affect body piercing salons¹⁴ and the subset of the 770 jewelry stores and 268 department stores in Virginia where piercing services are offered, as well as individuals who perform body piercing and their clients.¹⁵ The Department of Professional and Occupational Regulation estimates that approximately 200 body-piercing practitioners and facilities will become licensed.

Localities particularly affected. The proposed regulations affect localities throughout the Commonwealth.

Projected impact on employment. Some individuals and businesses who otherwise would have offered services without the costs associated with required licensure will likely not sell body-piercer services under the proposed regulations. Thus, there will likely be a moderate reduction in employment.

Effects on the use and value of private property. For those individuals who would not have met all the requirements needed for licensure, the proposed regulations will increase costs. The increased costs will likely discourage some individuals from professionally selling body-piercing services. Thus, the supply of body piercers will likely be less than if there were no licensure requirement. Reduced competition in the sale of body-piercing services will result in higher market prices for those services. Body-piercing salons that stay in the market will garner higher revenue. For those salons that were already meeting licensure requirements, the proposed regulations do not increase costs, other than the nominal fees. Thus, these salons will likely have increased profits and value.

Small businesses: costs and other effects. As described above, the proposed regulations raise the cost of providing body-piercing services in Virginia. The Department of Professional and Occupational Regulation estimates that approximately 200 body-piercing practitioners and facilities will become licensed. Body-piercing only firms will all be small businesses. Piercing services are offered at a subset of jewelry stores and department stores. According to the Virginia Employment Commission, there are 770 jewelry stores and 260 department stores in Virginia with fewer than 500 employees.

⁹ Source: Association of Professional Piercers

¹⁰ Source: Department of Professional and Occupational Regulation

¹¹ Ibid

¹² Source: Kleiner, M. M. (2000).

¹³ A reduced supply in body piercers will result in fewer piercing salons and increased average distance to a piercing salon for potential clients.

¹⁴ The U.S. Census Bureau has not created a NAICS code for body-piercing salons. The NAICS code for Other Personal Care Services includes body-piercing salons. The Virginia Employment Commission reports 306 other personal care services firms in the Commonwealth.

¹⁵ Source for figures: Virginia Employment Commission

Proposed Regulations

Small businesses: alternative method that minimizes adverse impact. The board initially proposed regulations that did not have a separate "ear only" license. Those proposed regulations would have been tremendously costly for small businesses that offer ear piercing, but not other forms of body piercing. Local jewelers, mall retailers that perform ear piercing, etc., would have only been legally permitted to employ individuals who had completed a 1,500-hour apprenticeship that included the following successful number and variety of procedures: 20 ear lobe, 15 helix-ear, 15 concha-ear, 15 tragus-ear, 20 tongue, 15 navel, 15 eyebrow, 15 lip, 15 septum, 10 male nipple, 10 female nipple, 12 Monroe (face cheek), 12 Prince Albert (male genitalia), 12 frenum (male genitalia), 12 clitoral hoods (female genitalia), and 12 labias (female genitalia). The supply of individuals who initially would have completed such training would be far less than would be needed to offer ear-piercing services at the various small businesses where such services are now offered. Most of these small businesses would likely be no longer able to offer ear-piercing services. Most of the individuals currently employed offering these services would have lost their jobs.

By including a body-piercer – ear only license, the current proposed regulations have a much smaller adverse impact on small businesses. The 1,500-hour apprenticeship is not required. The proposed requirements for licensure as a body-piercer – ear only include: 1) completion of a minimum of three hours of health education to include but not be limited to blood borne disease and first aid, 2) verification of training on a mechanized, pre-sterilized ear-piercing system that penetrates the outer perimeter or lobe of the ear or both, and 3) payment of a \$55 fee.

References

Kleiner MM, "Occupational licensing," *The Journal of Economic Perspectives*, Fall 2000;14:4.

Koenig LM and M Carnes, "Body piercing: medical concerns with cutting-edge fashion," *Journal of General Internal Medicine*, 1999;14:379.

Martel S and JE Anderson, "Decorating the 'human canvas': Body art and your patients; tattoos and body piercing have caught on as teenage, and even preteen, fashion statements. Here's how to help your patients avoid the pitfalls of this form of self-expression," *Contemporary Pediatrics*, August 2002 v19 i8 p86 (10).

Muldoon KA, "Body piercing in adolescents," *Journal of Pediatric Health Care*, 1997;11:298.

Perkins CS, Meisner J and JM Harrison, "A complication of tongue piercing," *British Dental Journal*, 1997;182:147.

Peticolas T, Tilliss TSI and GN Cross-Poline, "Oral and perioral piercing: A unique form of self-expression," *The Journal of Contemporary Dental Practice*, 2000;1:1.

Price SS and MW Lewis, "Body piercing involving oral sites," *Journal of American Dental Association*, 1997;128:1017.

Samantha S, Tweeten M and LM Rickman, "Infectious complications of body piercing," *Clinical Infectious Disease*, 1998;26:735.

Staley R, Fitzgibbon JJ and C Anderson, "Auricular infections caused by high ear piercing in Adolescents," *Pediatrics*, 1997;99:610.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The Board for Barbers and Cosmetology concurs with the Department of Planning and Budget's economic impact analysis.

Summary:

The proposed regulation establishes licensing requirements for the practice of body piercing. The proposed regulations include (i) definitions of words and terms relative to the practice of providing body-piercing services; (ii) general requirements for obtaining a license to provide services as a body piercer or body piercer - ear only; (iii) requirements for becoming a body-piercing apprenticeship sponsor; (iv) general requirements for obtaining a license to operate a body-piercing salon or body-piercing - ear only salon; (v) fees for initial, renewal, and reinstatement applications for body piercers, body-piercing salons, body piercers - ear only, or body-piercing - ear only salons; (vi) sanitation and safety standards for salons that address disinfection and storage of implements, sanitation of equipment and safety standards pertaining to the use of chemical products, the proper handling of blood spills, and client health guidelines; (vii) measures to be taken to ensure that clients are qualified to receive piercing services in compliance with § 18.2-371.3 of the Code of Virginia pertaining to minimum age; and (viii) requirements for obtaining certain disclosures and maintenance of records of notification to the client pertaining to risks associated with receiving piercing services.

CHAPTER 60. BODY-PIERCING REGULATIONS

PART I. GENERAL.

18 VAC 41-60-10. Definitions.

The following words and terms when used in this chapter shall have the following meanings, unless the context clearly indicates otherwise. All terms defined in Chapter 7 (§ 54.1-700 et seq.) of Title 54.1 of the Code of Virginia are incorporated in this chapter.

"Apprenticeship program" means an approved body-piercing training program conducted by an approved apprenticeship sponsor.

"Apprenticeship sponsor" means an individual approved to conduct body-piercing apprenticeship training who meets the qualifications in 18 VAC 41-60-70.

"Aseptic technique" means a hygienic practice that prevents and hinders the direct transfer of microorganisms, regardless of pathogenicity, from one person or place to another person or place.

"Body piercer – ear only" means any person who uses only a mechanized, presterilized ear-piercing system that penetrates

the outer perimeter or lobe of the ear or both for compensation.

"Body piercing – ear only" means the use of a mechanized, presterilized ear-piercing system that penetrates the outer perimeter or lobe of the ear or both.

"Body-piercing – ear only salon" means any place in which a fee is charged for the act of using a mechanized, presterilized ear-piercing system that penetrates the outer perimeter or lobe of the ear or both.

"Endorsement" means a method of obtaining a license by a person who is currently licensed in another state.

"Gratuitous services" as used in § 54.1-701.5 of the Code of Virginia means providing body-piercing services without receiving compensation or reward, or obligation. Gratuitous services do not include services provided at no charge when goods are purchased.

"Licensee" means any person, partnership, association, limited liability company, or corporation holding a license issued by the Board for Barbers and Cosmetology.

"Reinstatement" means having a license restored to effectiveness after the expiration date has passed.

"Renewal" means continuing the effectiveness of a license for another period of time.

"Sterilization area" means a separate room or area separate from workstations with restricted client access in which body-piercing instruments are cleaned, disinfected, and sterilized.

"Temporary location" means a fixed location at which body-piercing is performed for a specified length of time of not more than seven days in conjunction with a single event or celebration.

PART II. ENTRY.

18 VAC 41-60-20. General requirements.

A. In order to receive a license as a body piercer in compliance with § 54.1-703 of the Code of Virginia, an applicant must meet the following qualifications:

1. The applicant shall be in good standing as a body piercer in every jurisdiction where licensed, certified, or registered. The applicant shall disclose to the board at the time of application for licensure any disciplinary action taken in another jurisdiction in connection with the applicant's practice as a body piercer. The applicant shall disclose to the board at the time of application for licensure whether he has been previously licensed in Virginia as a body piercer.
2. The applicant shall disclose his physical address. A post office box is not acceptable.
3. The applicant shall sign, as part of the application, a statement certifying that the applicant has read and understands the Virginia body-piercing license laws and the board's body-piercing regulations.
4. In accordance with § 54.1-204 of the Code of Virginia, the applicant shall not have been convicted in any jurisdiction of

a misdemeanor or felony which directly relates to the profession of body piercing. The board shall have the authority to determine, based upon all the information available, including the applicant's record of prior convictions, if the applicant is unfit or unsuited to engage in the profession of body piercing. The board will decide each case by taking into account the totality of the circumstances. Any plea of nolo contendere shall be considered a conviction for the purposes of this section. The applicant shall provide a certified copy of a final order, decree or case decision by a court or regulatory agency with the lawful authority to issue such order, decree or case decision, and such copy shall be admissible as prima facie evidence of such conviction. This record shall be forwarded by the applicant to the board within 10 days after all appeal rights have expired.

5. The applicant shall provide evidence satisfactory to the board that the applicant has passed the board-approved examination, administered either by the board or by a designated testing service.

6. Persons who (i) make application within one year after the effective date of this chapter; (ii) have completed five years of documented work experience within the preceding eight years as a body piercer; and (iii) have completed a minimum of five hours of health education including but not limited to blood borne disease, sterilization, and aseptic techniques related to body piercing and first aid and CPR that is acceptable to the board are not required to complete subdivision 5 of this subsection.

B. Eligibility to sit for board-approved body-piercer examination.

1. Training in the Commonwealth of Virginia. Any person completing an approved body-piercing apprenticeship program in a Virginia licensed body-piercing salon shall be eligible to sit for the examination.

2. Training outside of the Commonwealth of Virginia, but within the United States and its territories. Any person completing a body-piercing training or apprenticeship program that is substantially equivalent to the Virginia program but is outside of the Commonwealth of Virginia must submit to the board documentation of the successful completion of training or apprenticeship to be eligible for examination.

C. In order to receive a license as a body piercer - ear only, an applicant must meet the following qualifications:

1. The applicant shall have completed a minimum of three hours of health education to include but not limited to blood borne disease and first aid that is acceptable to the board and provide verification of training on a mechanized, presterilized ear-piercing system that penetrates the outer perimeter or lobe of the ear or both.

2. The applicant shall be in good standing in every jurisdiction where licensed, certified, or registered. The applicant shall disclose to the board at the time of application for licensure any disciplinary action taken in another jurisdiction in connection with the applicant's licensed, certified, or registered practice. The applicant shall

Proposed Regulations

disclose to the board at the time of application for licensure whether he has been previously licensed in Virginia in any profession regulated by the board.

3. The applicant shall disclose his physical address. A post office box is not acceptable.

4. The applicant shall sign, as part of the application, a statement certifying that the applicant has read and understands the Virginia body-piercing license laws and the board's body-piercing regulations.

5. In accordance with § 54.1-204 of the Code of Virginia, the applicant shall not have been convicted in any jurisdiction of a misdemeanor or felony which directly relates to the profession of body piercing. The board shall have the authority to determine, based upon all the information available, including the applicant's record of prior convictions, if the applicant is unfit or unsuited to engage in the profession of body piercing. The board will decide each case by taking into account the totality of the circumstances. Any plea of *nolo contendere* shall be considered a conviction for the purposes of this section. The applicant shall provide a certified copy of a final order, decree or case decision by a court or regulatory agency with the lawful authority to issue such order, decree or case decision, and such copy shall be admissible as *prima facie* evidence of such conviction. This record shall be forwarded by the applicant to the board within 10 days after all appeal rights have expired.

18 VAC 41-60-30. License by endorsement.

Upon proper application to the board, any person currently licensed to practice as a body piercer in any other state or jurisdiction of the United States and who has completed a training or apprenticeship program and an examination that is substantially equivalent to that required by this chapter may be issued a body-piercer license without an examination. The applicant must also meet the requirements set forth in 18 VAC 41-60-20 A 1 through A 4.

18 VAC 41-60-40. Examination requirements and fees.

A. Applicants for initial licensure shall pass an examination approved by the board. The examinations may be administered by the board or by a designated testing service.

B. Any candidate failing to appear as scheduled for examination shall forfeit the examination fee.

18 VAC 41-60-50. Reexamination requirements.

Any applicant who does not pass a reexamination within one year of the initial examination date shall be required to submit a new application and examination fee.

18 VAC 41-60-60. Examination administration.

A. The examinations may be administered by the board or the designated testing service.

B. The applicant shall follow all procedures established by the board with regard to conduct at the examination. Such procedures shall include any written instructions communicated prior to the examination date and any instructions communicated at the site, either written or oral, on

the date of the examination. Failure to comply with all procedures established by the board and the testing service with regard to conduct at the examination may be grounds for denial of application.

C. The fee for examination or reexamination is subject to contracted charges to the board by an outside vendor. These contracts are competitively negotiated and bargained for in compliance with the Virginia Public Procurement Act (§ 2.2-4300 et seq. of the Code of Virginia). Fees may be adjusted and charged to the candidate in accordance with these contracts. The fee shall not exceed \$225 per candidate.

18 VAC 41-60-70. General requirements for a body-piercing apprenticeship sponsor.

A. Upon filing an application with the Board for Barbers and Cosmetology, any person meeting the qualifications set forth in this section may be eligible to sponsor a body-piercing apprentice if the person:

1. Holds a current Virginia body-piercing license;
2. Provides documentation of legally practicing body piercing for at least seven years; and
3. Provides documentation indicating that he is in good standing in all jurisdictions where the practice of body piercing is regulated.

B. Apprenticeship sponsors shall be required to maintain a body-piercer license.

C. Apprenticeship sponsors shall ensure compliance with the 1500-hour Body-Piercing Apprenticeship Program and Body-Piercing Apprenticeship Standards.

18 VAC 41-60-80. Salon license.

A. Any individual wishing to operate a body-piercing salon or body-piercing – ear only salon shall obtain a salon license in compliance with § 54.1-704.1 of the Code of Virginia.

B. A body-piercing salon license or body-piercing – ear only salon license shall not be transferable and shall bear the same name and address of the business. Any changes in the name, address, or ownership of the salon shall be reported to the board in writing within 30 days of such changes. New owners shall be responsible for reporting such changes in writing to the board within 30 days of the changes.

C. In the event of a closing of a body-piercing salon or body-piercing – ear only salon, the board must be notified by the owners in writing within 30 days of the closing, and the license must be returned by the owners to the board.

D. Any individual wishing to operate body-piercing salon in a temporary location must have a body-piercing salon license issued by the board.

PART III.
FEES.

18 VAC 41-60-90. Fees.

The following fees apply:

FEE TYPE	AMOUNT DUE	WHEN DUE
<i>Individuals:</i>		
Application	\$55	With application
License by endorsement	\$55	With application
Renewal:	\$55	With renewal card prior to expiration date
Reinstatement	\$110* *includes \$55 renewal fee and \$55 reinstatement fee	With reinstatement application
<i>Salons:</i>		
Application	\$90	With application
Renewal	\$90	With renewal card prior to expiration date
Reinstatement	\$180* *includes \$90 renewal fee and \$90 reinstatement fee	With reinstatement application

18 VAC 41-60-100. Refunds.

All fees are nonrefundable and shall not be prorated.

PART IV.
RENEWAL/REINSTATEMENT.

18 VAC 41-60-110. License renewal required.

All body-piercer, body-piercer – ear only, body-piercing salon and body-piercing - ear only salon licenses shall expire two years from the last day of the month in which they were issued.

18 VAC 41-60-120. Continuing education requirement.

All licensed body piercers shall be required to satisfactorily complete a minimum of five hours of health education to include but not limited to blood borne disease, sterilization, and aseptic techniques related to body piercing and first aid and CPR during their licensed term. All licensed body piercers – ear only shall be required to satisfactorily complete a minimum of three hours of health education to include but not limited to blood borne disease and first aid during their licensed term. Documentation of training completion shall be provided at the time of renewal along with the required fee.

18 VAC 41-60-130. Notice of renewal.

The Department of Professional and Occupational Regulation will mail a renewal notice to the licensee outlining the procedures for renewal. Failure to receive this notice, however, shall not relieve the licensee of the obligation to renew. If the licensee fails to receive the renewal notice, a copy of the old license may be submitted as evidence of intent to renew, along with the required fee.

18 VAC 41-60-140. Failure to renew.

A. When a body piercer or body piercer - ear only fails to renew their license within 30 days following its expiration date, the

licensee shall meet the renewal requirements prescribed in 18 VAC 41-60-130 and apply for reinstatement of the license by submitting to the Department of Professional and Occupational Regulation a reinstatement application along with the required renewal and reinstatement fees.

B. When a body piercer or body piercer - ear only fails to renew his license within two years following the expiration date, reinstatement is no longer possible. To resume practice, the former body-piercer licensee shall apply for licensure as a new applicant, shall meet all current application requirements, shall pass the board's current examination and shall receive a new license. To resume practice, the former body-piercer - ear only licensee shall apply for licensure as a new applicant, shall meet all current application requirements, and shall receive a new license.

C. When a body-piercing salon or body-piercing - ear only salon fails to renew its license within 30 days following the expiration date shall be required to apply for reinstatement of the license by submitting to the Department of Professional and Occupational Regulation a reinstatement application along with the required renewal and reinstatement fees.

D. When a body-piercing salon or body-piercing - ear only salon fails to renew its license within two years following the expiration date, reinstatement is no longer possible. To resume practice, the former licensee shall apply for licensure as a new applicant and shall meet all current application requirements.

E. The date a renewal fee is received by the Department of Professional and Occupational Regulation, or its agent, will be used to determine whether the requirement for reinstatement of a license is applicable and an additional fee is required.

F. When a license is reinstated, the licensee shall have the same license number and shall be assigned an expiration date two years from the previous expiration date of the license.

G. A licensee who reinstates his license shall be regarded as having been continuously licensed without interruption. Therefore, a licensee shall be subject to the authority of the board for activities performed prior to reinstatement.

H. A licensee who fails to reinstate his license shall be regarded as unlicensed from the expiration date of the license forward. Nothing in this chapter shall divest the board of its authority to discipline a licensee for a violation of the law or regulations during the period of time for which the individual was licensed.

PART V.
BODY-PIERCING APPRENTICESHIP PROGRAMS.

18 VAC 41-60-150. Applicants for board approval.

A. Any person desiring to enroll in the body-piercing apprenticeship program shall be required to provide documentation of satisfactory completion of a minimum of five hours of health education to include but not limited to blood borne disease, sterilization, and aseptic techniques related to body-piercing, and first aid and CPR.

B. Any body piercer desiring approval to perform the duties of an apprenticeship sponsor and offer the board's body-piercing apprenticeship program shall meet the requirements in 18 VAC 41-60-70.

Proposed Regulations

18 VAC 41-60-160. Body-piercing apprenticeship curriculum requirements.

Body-piercing apprenticeship curriculum requirements are set out in this section:

1. Microbiology:
 - a. Microorganisms, viruses, bacteria, fungi;
 - b. Transmission cycle of infectious diseases; and
 - c. Characteristics of antimicrobial agents.
2. Immunization;
 - a. Types of immunizations;
 - b. Hepatitis A – G transmission and immunization;
 - c. HIV/AIDS;
 - d. Tetanus, streptococcal, zoonotic, tuberculosis, pneumococcal, and influenza;
 - e. Measles, mumps, and rubella;
 - f. Vaccines and immunization; and
 - g. General preventative measures to be taken to protect the body-piercer and client.
3. Sanitation and disinfection:
 - a. Definition of terms:
 - (1) Sterilization;
 - (2) Disinfection and disinfectant;
 - (3) Sterilizer or sterilant;
 - (4) Antiseptic;
 - (5) Germicide;
 - (6) Decontamination; and
 - (7) Sanitation;
 - b. The use of steam sterilization equipment and techniques;
 - c. The use of chemical agents, antiseptics, disinfectants, and fumigants;
 - d. The use of sanitation equipment;
 - e. Pre-service sanitation procedure; and
 - f. Post-service sanitation procedure.
4. Safety:
 - a. Proper needle handling and disposal;
 - b. How to avoid overexposure to chemicals;
 - c. The use of Material Safety Data Sheets;
 - d. Blood spill procedures;
 - e. Equipment and instrument storage; and
 - f. First aid and CPR.

5. Blood borne pathogen standards:
 - a. OSHA and CDC blood borne pathogen standards;
 - b. Control Plan for blood borne pathogens;
 - c. Exposure Control Plan for Body Piercers;
 - d. Overview of compliance requirements; and
 - e. Disorders and when not to service a client.
6. Professional standards:
 - a. History of body piercing;
 - b. Ethics;
 - c. Recordkeeping:
 - (1) Client health history;
 - (2) Consent forms; and
 - (3) HIPPA Standards.
 - d. Preparing station, making appointments, salon ethics:
 - (1) Maintaining professional appearance, notifying clients of schedule changes; and
 - (2) Promoting services of the salon and establishing clientele.
 - e. Salon management:
 - (1) Licensing requirements; and
 - (2) Taxes;
7. Body piercing:
 - a. Client consultation;
 - b. Client health form;
 - c. Client disclosure form;
 - d. Client preparation;
 - e. Sanitation and safety precautions;
 - f. Implement selection and use;
 - g. Proper use of equipment; and
 - h. Material selection and use.

18 VAC 41-60-170. Body-piercing hours of instruction and performances.

A. Curriculum requirements specified in 18 VAC 41-60-160 shall be taught over a minimum of 1,500 hours as follows:

1. 350 hours shall be devoted to theory pertaining to subdivisions 1, 2, 4, 5, and 6 of 18 VAC 41-60-160;
2. 150 hours shall be devoted to theory pertaining to subdivision 3 of 18 VAC 41-60-160; and
3. The remaining 1,000 hours shall be devoted to practical training and the following performances pertaining to subdivision 7 of 18 VAC 41-60-160:

Body-Piercing Performances

ear lobe	20
helix - ear	15
concha - ear	15
tragus - ear	15
tongue	20
navel	15
eyebrow	15
lip	15
septum	15
nostril	20
male nipple	10
female nipple	10
Monroe (face cheek)	12
Prince Albert (male genitalia)	12
Frenum (male genitalia)	12
clitoral hoods (female genitalia)	12
labias (female genitalia)	12
Total	250

B. An approved body-piercing apprenticeship program may conduct an assessment of an apprentice's competence in the theory and practical requirements for body piercing and, based on the assessment, give a maximum of 500 hours of credit towards the requirements in subdivisions A 1 and A 3 of this section. No credit shall be allowed for the 150 hours required in subdivision A 2 of this section.

PART VI.
STANDARDS OF PRACTICE.

18 VAC 41-60-180. Display of license.

A. Each body-piercing salon owner or body-piercing - ear only salon owner shall ensure that all current licenses issued by the board shall be displayed in the reception area of the salon in plain view of the public. Duplicate licenses shall be posted in a like manner in every salon location where the licensee provides services.

B. Each body-piercing salon or body-piercing - ear only salon owner shall ensure that no licensee performs any service beyond the scope of practice for the applicable license.

C. Each body-piercing salon or body-piercing - ear only salon owner shall offer to licensees the full series of Hepatitis B vaccine.

D. Each body-piercing salon or body-piercing - ear only salon owner shall maintain a record for each licensee of:

1. Proof of completion of the full series of Hepatitis B vaccine;
2. Proof of immunity by blood titer; or
3. Written declaration of refusal of the owner's offer of a full series of Hepatitis B vaccine.

E. All licensees shall operate under the name in which the license is issued.

18 VAC 41-60-190. Physical facilities.

A. A body-piercing salon or body-piercing - ear only salon must be in a permanent building, which must be in a location permissible under local zoning codes, if any. If applicable, the

body-piercing salon or body-piercing - ear only salon shall be separated from any living quarters by complete floor to ceiling partitioning and shall contain no access to living quarters.

B. The body-piercing salon, body-piercing - ear only salon, or temporary location shall be maintained in a clean and orderly manner.

C. A body-piercing salon, body-piercing - ear only salon, or temporary location shall have a blood spill clean-up kit in the work area.

D. Work surfaces in a body-piercing salon, body-piercing - ear only salon, or temporary location shall be cleaned with an EPA-registered, hospital grade disinfectant. Surfaces that come in contact with blood or other body fluids shall be immediately disinfected with an EPA-registered germicide solution. Appropriate personal protective equipment shall be worn during cleaning and disinfecting procedures.

E. In a body-piercing salon, body-piercing - ear only salon, or temporary location, cabinets or containers for the storage of instruments, single-use articles, and other utensils shall be provided for each operator and shall be maintained in a sanitary manner.

F. In a body-piercing salon, body-piercing - ear only salon, or temporary location, bulk single-use articles shall be commercially packaged and handled in such a way as to protect them from contamination.

G. In a body-piercing salon, body-piercing - ear only salon, or temporary location, all materials applied to the human skin shall be from single-use articles or transferred from bulk containers to single use containers and shall be disposed of after each use.

H. In a body-piercing salon or body-piercing - ear only salon, the walls, ceilings, and floors shall be kept in good repair. The body-piercing area shall be constructed of smooth, hard, surfaces that are nonporous, free of open holes or cracks, light colored, and easily cleaned. New physical facilities shall not include any dark-colored surfaces in the body-piercing area. Existing physical facilities with dark-colored surfaces in the body-piercing area shall replace the dark-colored surfaces with light-colored surfaces whenever the facilities are extensively remodeled or upon relocation of the business.

I. A body-piercing salon, body-piercing - ear only salon, or temporary location shall have adequate lighting of at least 50 foot-candles of illumination in the body-piercing and sterilization areas.

J. In a body-piercing salon, body-piercing - ear only salon, or temporary location, adequate mechanical ventilation shall be provided.

K. A body-piercing salon, body-piercing - ear only salon, or temporary location shall be equipped with hand-cleaning facilities for its personnel with unobstructed access to the body-piercing or body-piercing - ear only area such that the body piercer or body piercer - ear only can return to the area without having to touch anything with his hands. Hand-cleaning facilities shall be equipped either with hot and cold or tempered running water under pressure and liquid germicidal soap or with a sanitizing solution to clean hands. Hand-cleaning facilities shall be equipped with single-use towels or mechanical hand drying

Proposed Regulations

devices and a covered refuse container. Such facilities shall be kept clean and in good repair. All facilities must have running water and soap accessible for cleaning of hands contaminated by body fluids.

L. Animals are not permitted in the body-piercing salon, body-piercing - ear only salon, or temporary location except for guide or service animals accompanying persons with disabilities or nonmammalian animals in enclosed glass containers such as fish aquariums, which shall be outside of the body-piercing or sterilization areas. No animals are allowed in the body-piercing, body-piercing - ear only or sterilization areas.

M. In a body-piercing salon, body-piercing - ear only salon, or temporary location, the use of tobacco products and consumption of alcoholic beverages shall be prohibited in the body-piercing, body-piercing - ear only or sterilization areas.

N. In a body-piercing salon, body-piercing - ear only salon, or temporary location, no food or drink will be stored or consumed in the body-piercing, body-piercing - ear only, or sterilization areas.

O. In a body-piercing salon, body-piercing - ear only salon, or temporary location, if body-piercing or body-piercing - ear only is performed where cosmetology services are provided, it shall be performed in an area that is separate and enclosed.

18 VAC 41-60-200. Body piercer and body piercer - ear only responsibilities.

A. All body piercers and body piercers - ear only shall provide to the owner:

1. Proof of completion of the full series of Hepatitis B vaccine;
2. Proof of immunity by blood titer; or
3. Written declaration of refusal of the owner's offer of a full series of Hepatitis B vaccine.

B. All body piercers and body piercers - ear only shall wear clean outer garments, maintain a high degree of personal cleanliness, and conform to hygienic practices while on duty.

C. All body piercers and body piercers - ear only shall clean their hands thoroughly using hot or tempered water with a liquid germicidal soap or use sanitizing solution to clean hands before and after body piercing and as necessary to remove contaminants.

D. All body piercers and body piercers - ear only must wear single-use examination gloves while assembling instruments and while providing piercing services.

E. Each time there is an interruption in the service, each time the gloves become torn or perforated, or whenever the ability of the gloves to function as a barrier is compromised:

1. Gloves should be removed and disposed of; and
2. Hands shall be cleaned and a fresh pair of gloves used.

F. Body piercers and body piercers - ear only shall use standard precautions while providing piercing services. A body piercer or body piercer - ear only diagnosed with a communicable disease shall provide to the department a written statement from a health

care practitioner that the body piercer's condition no longer poses a threat to public health.

G. Body piercers and body piercers - ear only with draining lesions on their hands or face will not be permitted to work until cleared by a health-care professional.

H. The area of the client's skin to be pierced shall be cleaned with an approved germicidal soap according to label directions.

I. The external skin of the client to be pierced shall be cleaned with an approved germicidal soap according to the label directions. In the case of oral piercings, the operator shall provide the individual with antiseptic mouthwash in a single-use cup and shall ensure that the individual utilizes the mouthwash provided. In the case of a lip, labret or cheek piercing, procedures described in this subsection for both skin and oral piercings shall be followed.

J. If shaving is required, razors shall be single-use and disposed of in a puncture-resistant container.

K. Each body piercer or body piercer - ear only performing any piercing procedures in the salon shall have the education, training and experience, or any combination thereof, to practice aseptic technique and prevent the transmission of blood borne pathogens. All procedures shall be performed using aseptic technique.

L. A set of individual, sterilized needles shall be used for each client. Single use disposable instruments shall be disposed of in a puncture-resistant container.

M. Used, nondisposable instruments shall be kept in a separate, puncture-resistant container until brush scrubbed in hot water soap and then sterilized by autoclaving. Contaminated instruments shall be handled with disposable gloves.

N. Used instruments that are ultrasonically cleaned shall be rinsed under running hot water prior to being placed in the used instrument container;

O. Used instruments that are not ultrasonically cleaned prior to being placed in the used instrument container shall be kept in a germicidal or soap solution until brush scrubbed in hot water and soap and sterilized by autoclaving.

P. The ultrasonic unit shall be sanitized daily with a germicidal solution.

Q. Nondisposable instruments shall be sterilized and shall be handled and stored in a manner to prevent contamination. Instruments to be sterilized shall be sealed in bags made specifically for the purpose of autoclave sterilization and shall include the date of sterilization. If nontransparent bags are utilized, the bag shall also list the contents.

R. Autoclave sterilization bags with a color code indicator that changes color upon proper sterilization shall be utilized during the autoclave sterilization process.

S. Instruments shall be placed in the autoclave in a manner to allow live steam to circulate around them.

T. Contaminated disposable and single use items shall be disposed of in accordance with state regulations regarding disposal of biological hazardous materials.

18 VAC 41-60-210. Body-piercing client qualifications, disclosures, and records.

A. Except as permitted in § 18.2-371.3 of the Code of Virginia, a client must be a minimum of 18 years of age and shall present at the time of the body piercing a valid, government-issued, positive identification card including, but not limited to, a driver's license, passport, or military identification. The identification must contain a photograph of the individual and a printed date of birth.

B. The body piercer shall verify and document in the permanent client record the client's age, date of birth, and the type of identification provided.

C. No person may be body pierced who appears to be under the influence of alcohol or drugs.

D. Body piercing shall not be performed on any skin surface that manifests any evidence of unhealthy conditions such as rashes, boils, infections, or abrasions.

E. Before receiving a body piercing, each client and client's parent or guardian, if applicable, shall be informed verbally and in writing, using the client disclosure form prescribed by the board, about the possible risk and dangers associated with the application of each body piercing. Signatures of the client, the client's parent or guardian, if applicable, and the body piercer shall be required on the client disclosure form to acknowledge receipt of both the verbal and written disclosures.

F. The body-piercing salon or temporary location shall maintain proper records for each client. The information shall be permanently recorded and made available for examination by the department or authorized agent. Records shall be maintained at the body-piercing salon for at least two years following the date of the last entry. The temporary location client records shall be maintained by the license holder. The permanent records shall include the following:

1. The name, address, and telephone number of the client;
2. The date body piercing was performed;
3. The client's age, date of birth, and a copy of the positive identification provided to the body piercer;
4. The specific type of jewelry used for the piercing and, when available, the manufacturer's catalogue or identification number for the type of jewelry used;
5. The location on the body where the body piercing was performed;
6. The name of the body piercer;
7. A statement that the client has received a copy of applicable written care instructions and that the client has read and understands the instructions; and
8. The signature of the client and, if applicable, parent or guardian.

18 VAC 41-60-220. Grounds for license revocation or suspension; denial of application, renewal or reinstatement; or imposition of a monetary penalty.

A. The board may, in considering the totality of the circumstances, fine any licensee and suspend or revoke or refuse to renew or reinstate any license, or deny any application issued under the provisions of Chapter 7 (§ 54.1-700 et seq.) of Title 54.1 of the Code of Virginia and the regulations of the board if the board finds that:

1. The licensee is incompetent or negligent in practice, or incapable mentally or physically, as those terms are generally understood in the profession, to practice as a body piercer or body piercer - ear only;
2. The licensee or applicant is convicted of fraud or deceit in the practice body piercing or body piercing - ear only;
3. The licensee or applicant obtained, renewed or reinstated a license by false or fraudulent representation;
4. The licensee or applicant violates or induces others to violate, or cooperates with others in violating, any of the provisions of this chapter or Chapter 7 (§ 54.1-700 et seq.) of Title 54.1 of the Code of Virginia or any local ordinance or regulation governing standards of health and sanitation of the establishment in which body piercers or body piercers - ear only may practice or offer to practice;
5. The licensee or applicant fails to produce, upon request or demand of the board or any of its agents, any document, book, record, or copy thereof in a licensee's or owner's possession or maintained in accordance with this chapter;
6. A licensee fails to notify the board of a change of name or address in writing within 30 days of the change for each and every license. The board shall not be responsible for the licensee's failure to receive notices, communications and correspondence caused by the licensee's failure to promptly notify the board in writing of any change of name or address or for any other reason beyond the control of the board;
7. The licensee or applicant publishes or causes to be published any advertisement that is false, deceptive, or misleading;
8. The licensee or applicant fails to notify the board in writing within 30 days of the suspension, revocation, or surrender of a license, certificate, or permit in connection with a disciplinary action in any other jurisdiction or of any license, certificate, or permit which has been the subject of disciplinary action in any other jurisdiction; or
9. In accordance with § 54.1-204 of the Code of Virginia, the licensee or applicant has been convicted in any jurisdiction of a misdemeanor or felony that directly relates to the profession of body piercing. The board shall have the authority to determine, based upon all the information available, including the applicant's record of prior convictions, if the applicant is unfit or unsuited to engage in the profession of body piercing or body piercing - ear only. The board will decide each case by taking into account the totality of the circumstances. Any plea of nolo contendere shall be considered a conviction for the purposes of this section. The applicant shall provide a certified copy of a

Proposed Regulations

final order, decree or case decision by a court or regulatory agency with the lawful authority to issue such order, decree or case decision, and such copy shall be admissible as prima facie evidence of such conviction. This record shall be forwarded by the applicant to the board within 10 days after all appeal rights have expired.

B. In addition to subsection A of this section, the board may, in considering the totality of the circumstances, revoke, suspend or refuse to renew or reinstate the license of any body-piercing salon or impose a fine as permitted by law, or both, if the board finds that:

1. The owner or operator of the body-piercing salon or body-piercing - ear only salon fails to comply with the facility requirements of body-piercing salons provided for in this chapter or in any local ordinances; or

2. The owner or operator allows a person who has not obtained a license to practice as a body piercer or body piercer - ear only unless the person is duly enrolled as an apprentice.

C. In addition to subsection A of this section, the board may, in considering the totality of the circumstances, revoke, suspend or refuse to renew or reinstate the license of any licensee or impose a fine as permitted by law, or both, if the board finds that the licensee fails to take sufficient measures to prevent transmission of communicable or infectious diseases or fails to comply with any local, state or federal law or regulation governing the standards of health and sanitation for the practice of body piercing or body piercing - ear only.

NOTICE: The forms used in administering 18 VAC 41-60, Body-Piercing Regulations, are listed below. Any amended or added forms are reflected in the listing and are published following the listing.

FORMS

Salon, Shop & Parlor License Application, 1213SLSH (12/05).

Body-Piercer Examination & License Application, 1241EX (12/05).

Body-Piercer Apprenticeship Completion Form, 1244BPAC (12/05).

Commonwealth of Virginia
 Department of Professional and Occupational Regulation
 3600 West Broad Street
 Post Office Box 11066
 Richmond, Virginia 23230-1066
 (804) 367-8509
www.dpor.virginia.gov



Board for Barbers & Cosmetology
SALON, SHOP & PARLOR LICENSE APPLICATION
 Fee \$90.00

**A check or money order payable to the TREASURER OF VIRGINIA, or
 a completed credit card insert must be mailed with your application package.
 APPLICATION FEES ARE NOT REFUNDABLE.**

1. Type of license you are requesting. Please select only **one**.
 Barber Shop (1304)
 Cosmetology Salon (1202)
 Nail Salon (1208)
 Waxing Salon (1218)
 Hair Braiding Salon (1223)
 Tattoo Parlor (1232)
 Body-Piercing Salon (1242)
2. Name of Salon or Shop _____
3. Trade Name of Salon or Shop _____
4. Federal Employer Identification Number -
5. Street Address (PO Box not accepted) _____
 City, State, Zip Code _____
6. Mailing Address (PO Box accepted) _____
 City, State, Zip Code _____
7. E-mail Address _____
Address where electronic communication from the Board can be sent (an owner/manager e-mail address is acceptable).
8. Telephone and Facsimile Numbers () - () -
Telephone Facsimile
9. Type of business (select only **one**)
 Sole Proprietorship General Partnership Corporation *
 Association Limited Partnership * Limited Liability Company *
* If your business is a Corporation, Limited Liability Company or Limited Partnership, your business/trade name(s) must be registered with the Virginia State Corporation Commission. For additional information, contact the SCC at (804) 371-9733.
10. Enter the name, address, birth date, and social security number of each owner or manager of the salon, shop or parlor (i.e., sole proprietor, general partners, association members). Corporate, Limited Partnership and Limited Liability Company names should be entered on line #2 above.

Last Name	First Name	MI	Address	Birth Date	Social Security No. *

OFFICE USE ONLY	DATE	FEE	CLASS OF FEE	LICENSE NUMBER	ISSUE DATE

1213SLSH (12/01/05)

Proposed Regulations

11. Has the salon/shop/parlor or any owner ever been subject to a disciplinary action taken by any (including Virginia) local, state or national regulatory body?
- No
- Yes If yes, please provide a certified copy of the final order, decree or case decision by a court or regulatory agency with lawful authority to issue such order, decree or case decision.
12. Has the salon/shop/parlor or any owner ever been convicted in any jurisdiction of a misdemeanor or felony? *Any plea of nolo contendere shall be considered a conviction.*
- No
- Yes If yes, list the misdemeanor and/or felony conviction(s). Attach your original criminal history record; a certified copy of the final order, decree or case decision by a court or regulatory agency with lawful authority to issue such order, decree or case decision; **and** any other information you wish to have considered with this application (i.e., information on the status of incarceration, parole or probation; reference letters; documentation of rehabilitation; etc.). If necessary, you may attach a separate sheet of paper.

Original criminal history records may be obtained by contacting the state police in the jurisdiction in which you were convicted. Virginia residents must complete a criminal history record request form in the presence of a notary public and mail it to the Department of State Police, Central Criminal Records Exchange, Post Office Box 27472, Midlothian, Virginia 23261-7472. Certified copies of court records may be obtained by writing to the Clerk of the Court in the jurisdiction in which you were convicted. The address is available from your local police department.

-
-
13. I, the undersigned, certify that the foregoing statements and answers are true, and I have not suppressed any information that might affect the Board's decision to approve this application. I will notify the Department if the salon/shop or any owner is subject to any disciplinary action or convicted of any felony or misdemeanor charges (in any jurisdiction) prior to receiving the requested license. I certify that the salon/shop has complied with all the laws of Virginia related to licensure under the provisions of Title 54.1, Chapter 7 of the *Code of Virginia* and the *Virginia Board for Barbers and Cosmetology Regulations, Wax Technician Regulations, Hair Braiding Regulations, Tattooing Regulations, or Body-Piercing Regulations.*

Signature _____

Date _____

* State law requires every applicant for a license, certificate, registration or other authorization to engage in a business, trade, profession or occupation issued by the Commonwealth to provide a social security number or a control number issued by the Virginia Department of Motor Vehicles.

Commonwealth of Virginia
Department of Professional and Occupational Regulation

Professional Credential Services, Inc.
Virginia Cosmetology Coordinator
Post Office Box 198689 (USPS)
Nashville, TN 37219-8689
150 Fourth Avenue North, Suite 800 (Courier Delivery)
Nashville, TN 37219
Toll Free: 888-822-3272
Fax: 615-846-0153
E-Mail: vacos@pcshq.com
Website: www.pcshq.com



Virginia Board for Barbers and Cosmetology
BODY-PIERCER EXAMINATION & LICENSE APPLICATION

EXAM FEE \$70.00

AFTER PASSING THE EXAMINATION, APPLICANTS MUST SUBMIT A SIGNED FEE CARD AND LICENSING FEE TO THE VIRGINIA BOARD FOR BARBERS AND COSMETOLOGY.

Mr.
Mrs.
Ms.
Miss

1. Name _____
First Middle Last Generation (SR, JR, etc.)

2. Social Security Number * --

3. Date of Birth _____

4. Maiden name or former surname(s) _____

5. Street Address (PO Box not accepted) _____
City, County, State, Zip Code

6. Mailing Address (PO Box accepted) _____
City, State, Zip Code

7. E-mail Address _____

8. Telephone & Facsimile Numbers
() - Telephone () - Facsimile () - Daytime Telephone

9. Have you ever taken the Body-Piercer Examination in Virginia?
 No Month(s)/Year(s) Taken _____
 Yes

10. Do you have a current or expired Virginia Body-Piercer License?
 No
 Yes Virginia License Number _____ Expiration Date _____

OFFICE USE ONLY	DATE	FEE	CLASS OF FEE	LICENSE NUMBER 1241	ISSUE DATE
-----------------------	------	-----	--------------	-------------------------------	------------

Proposed Regulations

11. Which method are you using to qualify for the examination? Select only one.

Completion of an approved Body-Piercing apprenticeship program in a Virginia licensed body-piercing salon.

Required Documentation: A completed *Apprenticeship Completion Form*.

Successful completion of a Body-Piercing training or apprenticeship program which is substantially equivalent to the Virginia program but is obtained outside of the Commonwealth of Virginia, but within the United States and its territories.

Required Documentation: Verification of successful completion of apprenticeship or training.

12. Are you applying for the Apprenticeship Sponsor designation?

No

Yes If yes, provide documentation of legally practicing body-piercing for at least 7 years.

13. Have you ever been subject to a disciplinary action taken by any (including Virginia) local, state or national regulatory body?

No

Yes If yes, provide a certified copy of the final order, decree, or case decision by a court or regulatory agency with lawful authority to issue such order, decree or case decision.

14. Have you ever been convicted in any jurisdiction of a misdemeanor or felony? *Any plea of nolo contendere shall be considered a conviction.*

No

Yes If yes, list the misdemeanor and/or felony conviction(s). Attach your original criminal history record; a certified copy of the final order, decree, or case decision by a court or regulatory agency with lawful authority to issue such order, decree or case decision; **and** any other information you wish to have considered with this application (i.e., information on the status of incarceration, parole or probation; reference letters; documentation of rehabilitation; etc.). If necessary, you may attach a separate sheet of paper.

Original criminal history records may be obtained by contacting the state police in the jurisdiction in which you were convicted. Virginia residents must complete a criminal history record request form in the presence of a notary public and mail it to the Department of State Police, Central Criminal Records Exchange, Post Office Box 27472, Midlothian, Virginia 23261-7472. Certified copies of court records may be obtained by writing to the Clerk of the Court in the jurisdiction in which you were convicted. The address is available from your local police department.

15. I, the undersigned, certify that the foregoing statements and answers are true, and I have not suppressed any information that might affect the decision to approve this application. I will notify the Department if I am subject to any disciplinary action or convicted of any felony or misdemeanor charges (in any jurisdiction) prior to receiving the requested license. I certify that I have read, understand, and complied with all the laws of Virginia related to Body-Piercing licensure under the provisions of Title 54.1, Chapter 7 of the *Code of Virginia* and the *Virginia Body-Piercing Regulations*.

Signature _____

Date _____

* State law requires every applicant for a license, certificate, registration or other authorization to engage in a business, trade, profession or occupation issued by the Commonwealth to provide a social security number or a control number issued by the Virginia Department of Motor Vehicles.

Professional Credential Services/Virginia Cosmetology
 150 Fourth Avenue North Suite 800 (for courier delivery)
 Nashville, TN 37219
 P.O. Box 198689 (U.S. Postal Service)
 Nashville, TN 37219-8689
 Toll free: 888-822-3272
 Fax: 615-846-0153
 Website: www.vacos@pcshq.org



Body- Piercer Apprenticeship Completion Form

Upon completion of the apprenticeship training, the sponsor shall review the apprentice’s progress record for the training period. If the results of this review indicate the apprentice is now a candidate for the Board’s examination, the sponsor shall sign the Apprenticeship Completion Form. The properly signed Apprenticeship Completion Form should be submitted with the Body-Piercer Examination and License Application.

Completion of the apprenticeship program shall qualify the apprentice to apply to the Board to take the Board for Barbers and Cosmetology Body-Piercer Licensing Examination.

Curriculum requirements specified in 18 VAC 41-60-170 shall be taught over a minimum of 1500 hours as follows:

1. 350 hours shall be devoted to theory pertaining to 18 VAC 41-60-160.1, 18 VAC 41-60-160.2, 18 VAC 41-60-160.4, 18 VAC 41-60-160.5, and 18 VAC 41-60-160.6;
2. 150 hours shall be devoted to theory pertaining to 18 VAC 41-60-160.3; and
3. The remaining 1000 hours shall be devoted to practical training and the following performances pertaining to 18 VAC 41-60-160.7.

HOURS OF INSTRUCTION AND PERFORMANCES

Initial under each subject of instruction/performance to verify completion.

A. 350 hours

1. Microbiology	
a. Microorganisms, viruses, bacteria, fungi	_____
b. Transmission cycle of infectious diseases	_____ Sponsor
c. Characteristics of antimicrobial agents	_____ Apprentice
2. Immunization	
a. Types of immunizations	
b. Hepatitis A – G transmission and immunization	
c. HIV/AIDS	
d. Tetanus, streptococcal, zoonotic, tuberculosis, pneumococcal, and influenza	_____
e. Measles, mumps, and rubella	_____ Sponsor
f. Vaccines and immunization	_____
g. General preventative measures to be taken to protect the body-piercer and client	_____ Apprentice
3. Safety	
a. Proper needle handling and disposal	
b. How to avoid overexposure to chemicals	
c. The use of Material Safety Data Sheets	
d. Blood spill procedures	_____
e. Equipment and instrument storage	_____ Sponsor
f. First aid and CPR	_____ Apprentice
4. Blood Borne Pathogen Standards	
a. OSHA and CDC blood borne pathogen standards	
b. Control Plan for blood borne pathogens	
c. Exposure Control Plan for Body-Piercers	_____
d. Overview of compliance requirements	_____ Sponsor
e. Disorders and when not to service a client	_____ Apprentice

Proposed Regulations

5. Professional Standards

- a. History of body-piercing
- b. Ethics
- c. Record keeping
 - (1) Client health history
 - (2) Consent forms
 - (3) HIPPA Standards
- d. Preparing station, making appointments, salon ethics
 - (1) Maintaining professional appearance, notifying clients of schedule changes
 - (2) Promoting services of the salon and establishing clientele
- e. Salon management
 - (1) Licensing requirements
 - (2) Taxes

____ Sponsor

____ Apprentice

B. 150 Hours**6. Sanitation and Disinfection**

- a. Definition of terms
 - (1) Sterilization
 - (2) Disinfection and disinfectant
 - (3) Sterilizer or sterilant
 - (4) Antiseptic
 - (5) Germicide
 - (6) Decontamination
 - (7) Sanitation
- b. The use of steam sterilization equipment and techniques
- c. The use of chemical agents, antiseptics, disinfectants, and fumigants
- d. The use of sanitation equipment
- e. Pre-service sanitation procedure
- f. Post-service sanitation procedure

____ Sponsor

____ Apprentice

C. 1000 hours practical training and 100 performances**7. Body-Piercing**

- a. Client consultation
- b. Client health form
- c. Client disclosure form
- d. Client preparation
- e. Sanitation and safety precautions
- f. Implement selection and use
- g. Proper use of equipment
- h. Material selection and use

____ Sponsor

____ Apprentice

By signing below, we acknowledge that the foregoing information and hours are true and have complied with the Virginia Body-Piercing Regulations and the Apprenticeship Standards.

Please Print Apprentice Name_____
Contact Phone Number_____
Signature of Apprentice_____
Date_____
Please Print Apprentice Sponsor Name_____
License Number_____
Salon Name & License Number_____
Signature of Apprentice Sponsor_____
Date_____
Contact Phone Number

1244BPAC (12/01/05)

Page 2 of 2

VA.R. Doc. No. R02-327; Filed December 15, 2005, 12:10 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

REGISTRAR'S NOTICE: The Department of Conservation and Recreation is claiming an exemption from the Administrative Process Act in accordance with § 2.2-4006 A 1 of the Code of Virginia, which excludes agency orders or regulations fixing rates or prices. The Department of Conservation and Recreation will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: 4 VAC 5-36. Standard Fees for Use of Department of Conservation and Recreation Facilities, Programs, and Services (amending 4 VAC 5-36-10, 4 VAC 5-36-20, 4 VAC 5-36-40 through 4 VAC 5-36-160, and 4 VAC 5-36-180 through 4 VAC 5-36-210).

Statutory Authority: § 10.1-104 of the Code of Virginia.

Effective Date: February 8, 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 david.dowling@dcr.virginia.gov.

Summary:

The increases and changes to the State Park System standard fees represent revisions to reflect (i) private concessionaires' new seasonal prices, (ii) fees that have become obsolete, (iii) changes to maintain fair market value, and (iv) updates to ensure consistency with the private sector. The fee amendments increase the 2003 cabin and camping rates across the board by approximately 5.0%. An additional 5.0% fee was added to those cabins built with 2002 General Obligation Bonds. From an administrative perspective, the amendments revise the definitions of "nonstandard fee" and "standard fee" and clarify that the director may establish, revise, or revoke standard or nonstandard fees for facility rentals, programs, festivals, special events, concerts, and services. The amendments also set forth revised seasons of operations for the cabins. Changes include the specification that the rental of conference and meeting facilities requires at least a 30% prepayment.

4 VAC 5-36-10. Definitions.

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

"Department" means the Department of Conservation and Recreation.

"Director" means the Director of the Department of Conservation and Recreation.

"Natural area" means all properties owned or operated by the Department of Conservation and Recreation as natural area preserves or natural areas.

"Nonstandard fee" means a one-time or temporary fee, pilot fee, etc., or fee established through a contract negotiation with a private contractor for marketing, promotions, pilot projects, etc., or for services or events of limited duration.

"Senior" means any individual 62 years of age or older.

"Standard fee" means a fee or price charged for facilities, services, or products as established on by the Department of Conservation and Recreation fees list. The term "standard" is also used in association with individual fees to designate the basic rate or fee for all state parks or natural areas unless a more specific fee is given.

"State park" means all properties owned or operated by the Department of Conservation and Recreation as parks or historic sites.

"Week" means a seven-day and seven-night period.

4 VAC 5-36-20. Applicability.

A. This chapter applies to all state parks, natural areas, facilities, programs, and services operated by the Department of Conservation and Recreation.

B. This chapter establishes all fees and prices by setting listing standard fees for facilities, programs, and services or otherwise establishing guidelines and provides procedures for setting fees for nonstandardized facilities, programs, and services establishing, revising, or revoking standard or nonstandard fees and for waiving or deviating from established fees.

4 VAC 5-36-40. General conditions and criteria concerning the establishment, revision, and revocation of new fees.

A. The director may establish or , revise , or revoke standard or nonstandard fees for new or nonstandardized facility rentals, programs, festivals, special events, concerts, and services as the need arises according to reasonable and accepted business practices, negotiation with third party providers, and local market conditions. Such fees and prices shall be in effect immediately upon the reasonable availability of information allowing the public to be aware of the most current fee or price. The agency shall publish new, revised or revoked standard fees in accordance with the Virginia Register Act (§ 2.2-4100 et seq. of the Code of Virginia).

B. In the event the newly established or nonstandardized facility rentals, programs, or services become a nonstandard

fee becomes a continuing offering, the director shall standardize them and publish them the fee in accordance with the Virginia Register Act (§ 2.2-4100 et seq. of the Code of Virginia).

4 VAC 5-36-50. Parking and launch fees.

PARKING FEES (NONTAXABLE)

	WEEKDAYS	WEEKENDS
Main Season Daily Parking for Passenger Vehicles: Applies to cars, trucks, vans (up to 15 passenger), motorcycles.		
All parks unless listed below.	\$2.00	\$3.00
Parks under construction and having only limited facilities and services.	\$2.00	\$2.00
First Landing, Fairy Stone, Raymond R. "Andy" Guest Jr. Shenandoah River, Smith Mountain Lake, Claytor Lake, Lake Anna, Leesylvania, Pocahontas, Kiptopeke, Westmoreland, Mason Neck, Sky Meadows	\$3.00	\$4.00
<i>York River Croaker Landing/Pier Area (also requires boat launch fee for all vehicles)</i>	\$3.00	\$3.00
<i>Horse Trailer Parking Fee (also requires vehicle parking fee.) All parks unless listed below.</i>	\$3.00 per trailer	\$3.00 per trailer
<i>Lake Anna</i>	\$4.00 per trailer	\$4.00 per trailer
<i>Surcharge for additional horse in same trailer.</i>	\$2.00 per horse	\$2.00 per horse
Other Trailer Parking Fee: Applies to horse trailers and other trailers not covered by camping, horse trailer and boat launch fee. (Add to daily parking fee.)	\$2.00 per trailer	\$2.00 per trailer
Off Season Daily Parking for Passenger Vehicles: Applies to cars, trucks, vans (up to 15 passenger), motorcycles at all parks.	\$2.00	\$2.00
Daily Bus Parking: All Seasons. Applies to vehicles with 16 or more passenger capacity.		
All parks unless listed below.	\$10	\$10
Claytor Lake, Hungry Mother, Leesylvania, Mason Neck, New River Trail	\$12	\$12
First Landing, Kiptopeke, Lake Anna, Pocahontas, Westmoreland	\$15	\$15
Natural Area Preserve Parking Fees for any Vehicle: The department may charge these fees at any Natural Area Preserve.	\$2.00	\$2.00
Boat Launch Fees: Required to use park boat ramps on bodies of water where motorboats are permitted. Required for all vehicles using York River Croaker Landing/Pier Area. May not apply to small "car-top" launch facilities (facilities at which boats may only be launched by hand carrying them to the water). The fee is normally added to the parking fee to create a combined park/launch payment.		
Daily Park/Launch Fees: All Seasons		
All parks unless listed below.	\$3.00	\$3.00
Claytor Lake	\$2.00	\$2.00
First Landing, Kiptopeke (with Marine Fishing License), Lake Anna	\$4.00	\$4.00
Leesylvania, Kiptopeke (without Marine Fishing License)	\$8.00	\$8.00
Leesylvania	\$7.00	\$6.00
Surcharge for second boat on same trailer: jet ski	\$2.00	\$2.00
Overnight parking at boat launch: where available	\$5.00	\$5.00
Camper's Boat Launch Fee Kiptopeke: Does not apply if camper parks trailer at campsite.	\$3.00	\$3.00

Annual and Lifetime Parking Fees:	FEE
Lifetime Naturally Yours Passport Plus: Lifetime admission and parking pass to all state parks, plus 10% discount on camping, all state park merchandise, equipment rentals, and shelter rentals.	\$275
Naturally Yours Passport Plus: 12-month from date of purchase admission and parking pass to all state parks, plus 10% discount on camping, all state park merchandise, equipment rentals, and shelter rentals.	\$55
Naturally Yours Parking Passport: 12-month from date of purchase admission and parking pass to park of purchase.	\$33
Senior Lifetime Naturally Yours Passport Plus: See Lifetime Naturally Yours Passport Plus above.	\$100
Senior Naturally Yours Passport Plus: See Naturally Yours Passport Plus above.	\$30
Senior Naturally Yours Parking Passport: See Naturally Yours Parking Passport above.	\$20
Golden Disability Pass: Available to persons with disabilities as verified by U.S. Social Security Administration's (SSA) "Benefit Verification Letter." Pass remains in effect unless SSA withdraws eligibility.	No Charge
Annual Horse Trailer-Vehicle Pass: 12-months from date of purchase admission and park pass, including horse trailer, good at all parks.	\$72
Annual Horse Trailer-Vehicle Pass: Occoneechee and Staunton River Only	\$33
Annual and Lifetime Park/Launch Fees:	
Lifetime Naturally Yours Passport Plus for Boaters: Lifetime admission, parking, and launch pass to all state parks, plus 10% discount on camping, all state park merchandise, equipment rentals, and shelter rentals.	\$385

Final Regulations

Naturally Yours Passport Plus for Boaters: 12-month from date of purchase admission, parking, and launch pass to all state parks, plus 10% discount on camping, all state park merchandise, equipment rentals, and shelter rentals.	\$138
Park/Launch Passport:	
12-month from date of purchase admission, parking, and launch pass to all state parks including Leesylvania.	\$116
12-month from date of purchase admission, parking, and launch pass to First Landing, Kiptopeke, or Lake Anna. Good only at park of purchase.	\$88
12-month from date of purchase admission, parking, and launch pass to park of purchase other than Leesylvania, First Landing, Kiptopeke, or Lake Anna.	\$72
Senior Lifetime Naturally Yours Passport Plus for Boaters: Good at all parks.	\$285
Senior Naturally Yours Passport Plus for Boaters: Annual permit for all parks including Leesylvania.	\$110
Senior Park/Launch Passport:	
12-month from date of purchase admission, parking, and launch pass to all state parks including Leesylvania.	\$99
12-month from date of purchase admission, parking, and launch pass to First Landing, Kiptopeke, or Lake Anna. Good only at park of purchase.	\$72
12-month from date of purchase admission, parking, and launch pass to park of purchase other than Leesylvania, First Landing, Kiptopeke, or Lake Anna.	\$60
Buggs Island Lake Special Annual Pass: Good only at Occoneechee, and Staunton, and Claytor Lake River State Parks.	\$33
Leesylvania Annual Overnight Boating/Parking Program Fee: Pass.	\$61
Handicapped Visitor Annual Boat Launch Pass (in addition to handicapped tags).	\$40
Parks and Trails Passport:	
<i>In conjunction with the purchase of an annual parking pass</i>	\$10
<i>Without the purchase of an annual parking pass</i>	\$15

Special Event Fees:	EVENT FEE
Standard Special Event Parking Fee: Applies to all parks and events that utilize parking fees unless noted below.	\$10 per vehicle
Community Event Fee: May be used by any park as a condition of a Special Use Permit for a community event provided by a nonprofit group or organization or government agency or entity.	\$1.00 per vehicle
<i>James River: James River Raft Race</i>	<i>\$5.00 per vehicle</i>
Sky Meadows: Strawberry Festival.	
<i>Advance payment</i>	\$15 per vehicle
<i>Day of Event</i>	\$20 per vehicle
New River Trail: Wythe County Heritage Day. Grayson Highlands Fall Festival. Hungry Mother Arts and Crafts Festival.	\$6.00 per vehicle
Claytor Lake Arts and Crafts Festival: Free parking with canned food donation on designated day.	\$6.00 \$5.00 per vehicle \$9.00 per two-day pass \$12 per three-day pass
Kiptopeke: Eastern Shore Birding Festival.	Parking Fee waived to registered festival guests; otherwise standard fees apply
Chippokes Plantation Pork, Peanut, and Pine Festival.	\$6.00 per vehicle
Smith Mountain Lake: special park/launch rate for boaters participating in fishing tournaments if the tournament sponsor has also rented the Tournament Headquarters Building.	\$4.00 per vehicle/boat combination
Standard Special Event Per Person Entrance Fee: Applies to all parks and events that utilize per person admission fees unless noted below.	\$4.00 per adult \$3.00 per child, 6 through 12 years Children under 6 free
Sailor's Creek Battlefield: Battle of Sailor's Creek Reenactment.	\$5.00 per person Children under 6 free \$10 maximum per vehicle \$50 per bus (16 passenger +)
Chippokes Plantation Steam and Gas Engine Show.	\$5.00 per person Children under 12 free
Chippokes Plantation Christmas.	\$5.00 per person
Grayson Highlands Wayne C. Henderson Music Festival.	\$8.00 \$10 per person Children under 12 free
York River Estuaries Day.	\$2.00 (Age 3 through 12) \$3.00 (Age 13 and over)
Natural Tunnel Special Event Parking Fee.	\$2.00 per person \$6.00 per vehicle

Final Regulations

<i>Occoneechee Pow Wow</i>	<i>\$5.00 per person Seniors (62 and over) free Children under 4 free</i>
<i>School Groups</i>	<i>\$3.00 per student Teachers and Chaperones free</i>
Pocahontas Amphitheater Events.	\$4.00 per person
Leesylvania Early Opening Fee.	\$50 per hour

Notes on Parking Fees:

1. Weekend rates apply on Memorial Day, Fourth of July, and Labor Day holidays.
- ~~2. Off season rates apply from November 1 through March 31 of each year. Main season rates apply at all other times.~~
- ~~3.~~ 2. No parking fee is required for up to two vehicles per campsite and per cabin. Vehicles in excess of two shall pay the prevailing daily parking fee for each day that the vehicle is parked in the park.
- ~~4.~~ 3. Except as otherwise noted, boat launching shall be free for up to one boat per vehicle per campsite *or cabin*.
- ~~5.~~ 4. Parking fees are waived for any vehicle displaying handicapped license plates or temporary handicapped parking identification issued by any state or the federal government.
- ~~6.~~ 5. Parking fees are waived for any vehicle occupied solely by students and/or teachers and/or assisting personnel participating in an official activity of a bona fide school or institution of higher learning. Parks may require that individuals in vehicles other than those marked as a school bus verify their official activity by letter from the school or approved field trip form.
- ~~7.~~ 6. Parking fees are waived for official vehicles of federal, state, and local governments while on official business; vehicles making deliveries to the park; contractor and business vehicles performing work in the park; and emergency vehicles while conducting official business, including training.
- ~~8.~~ 7. Parking fees are waived for park employees during time of employment, including family and household members of staff occupying staff residences; visitors to staff residences, and park volunteers entering the park to perform volunteer duties.
- ~~9.~~ 8. Parking fees may be waived for vehicles conducting research or collecting activities provided such waiver is included in the language of the Research and Collection Permit.
- ~~10.~~ 9. The period covered by a daily parking fee shall be midnight to midnight. Park guests utilizing overnight parking when and where available (e.g., backpackers, overnight fisherman, etc.) will be required to pay the applicable daily parking fee for each calendar day that their vehicle is in the parking lot (partial days included).
- ~~11.~~ 10. Annual permits shall be valid for 12 months from the date of purchase, unless otherwise noted.
- ~~12.~~ 11. Parking fees are waived for visitors entering the park for the sole purpose of dining at the park restaurant at Douthat and Hungry Mother State Parks.
- ~~13.~~ 12. Parking fees are waived at state parks for participants in Walk for Parks, Fall River Renaissance, Envirothons, March for Parks, Operation Spruce-Up Day, Stewardship Virginia, and National Trails Day and other park-sanctioned public service events as approved by the Director.
- ~~14.~~ 13. Daily parking fees are reduced to \$1.00 for vehicles occupied by participants in fund-raising events sponsored by nonprofit organizations (Walk-A-Thons, etc.) provided the sponsor has obtained a special use permit from the park that contains provisions for the identification of participants in the event.
- ~~15.~~ 14. Parking fees shall be waived for persons using park roads to gain legal access to their private residence and guests to such residences; and for vehicles passing through, but not stopping in, a park on a public roadway.
- ~~16.~~ 15. Revenue collected from special event parking and/or admission fees may be divided between the park and the event sponsor if so designated and approved in the special event permit following a determination made by the director that the revenue split is in the benefit of the Commonwealth.
- ~~17.~~ 16. Annual Park/Launch pass also covers the park entrance or parking fee for horse trailers or other allowable trailers. Annual and Lifetime parking-only passes do not include trailers.
- ~~18.~~ 17. Parking fees are waived for service vehicles such as tow trucks when entering the park to service a visitor vehicle.
- ~~19.~~ 18. Parking fees are waived for visitors entering the park to attend a performance by a U.S. military band if this is a required condition for the band's performance.

Final Regulations

20- 19. Parking fees are included in the rental fees for meeting facilities, up to the capacity of the facility and provided that this waiver of fee is included in the rental agreement for the facility.

24- 20. Parking fees are waived for a period of up to 15 minutes for persons entering the park to deposit materials in community recycling collection containers.

22- 21. Parking fees are waived for vehicles occupied entirely by persons attending fee interpretive programs.

22. Annual parking passes that do not include boat launch require payment of daily launch fee if launching boat at any park or for all vehicles using Croaker Landing/Pier Area at York River State Park.

4 VAC 5-36-60. Admission fees.

ADMISSION FEES (NONTAXABLE)

	DAILY ADMISSION PER PERSON (Weekdays and Weekends unless otherwise noted.)	ANNUAL PASS (Good for 12 months from date of purchase.)
Shot Tower	Free	NA
Southwest VA Museum	\$1.50 (Groups of 10 or more any age)	\$3.00 (age 6 through 12) per year
	\$2.00 (Ages 6 through 12)	\$5.00 (age 13 and over) per year
	\$3.00 (Age 13 and up)	\$15 (family: up to 2 adults and 2 children) per year
Chippokes Plantation: Chippokes Mansion	\$2.00 (Age 6 through 12) \$4.00 (Age 13 and over) \$2.00 group rate (10 or more)	NA
Chippokes Plantation: Farm and Forestry Museum	\$3.00 (Age 13 and over) \$2.00 (Age 6 through 12) \$2.00 group rate (10 or more)	NA
Chippokes Plantation: Combination Pass	\$6.00 (Age 13 and over) \$3.00 (Age 6 through 12)	NA
Kiptopeke Fishing Pier Fishing Fee	\$1.00 (Age 6 through 12) \$3.00 (Age 13 and over)	NA
Kiptopeke Fishing Pier Fishing Fee: Coupon book good for 10 visits	\$20 per 10 Passes	NA
<i>Annual Night Fishing: All parks where available (also requires parking fee)</i>	\$15 per person per year	
<i>Late Night Fishing: All parks where available (also requires parking fee)</i>	\$3.00 per person per night	

	ADMISSION
Natural Tunnel Chairlift:	
Children under age 6	Free
Round trip per person	\$3.00
One-way per person	\$2.00
Group Rate Round Trip per person (10 or more)	\$2.00
Season Pass	\$20
Daily Pass (Good for unlimited trips on date of issue, good for one person only)	\$6.00
Archery Range: All parks where available; per person user fee	\$2.00 per day (over 15) \$1.00 per day (under 15) \$15 per year (any age)
New River Challenge Registration Fees	
Early Registration Fee:	\$35 per person \$90 per team
Late Registration Fee:	\$45 per person \$110 per team
<i>James River: River Raft Race Registration</i>	\$15 per person
<i>Park Sponsored Special Event Vendor Fees. All parks where available unless otherwise noted.</i>	\$100 per merchandise vendor \$125 per food vendor \$50 late fee
<i>Mason Neck Harvest Festival Event.</i>	\$50 per vendor

Notes on Admission/Entrance Fees:

Final Regulations

1. Fees are waived at Natural Tunnel for use of the chairlift on one designated "Customer Appreciation Day" per year.
2. Museum entrance fees are waived at the Southwest Virginia Museum during the "Festival of Trees" event for members of groups who submitted trees for the display.
3. For park museums and historic features that charge an entrance fee, visitors participating in the Time Travelers program of the Virginia Association of Museums shall be charged the existing per person group rate for that facility.

4 VAC 5-36-70. Swimming fees.

SWIMMING (NONTAXABLE)

Daily Swimming Fees	WEEKDAYS	WEEKENDS
All parks with fee swimming areas unless noted.	Under age 3 Free \$2.00 (Age 3 through 12) \$3.00 (Age 13 and over)	Under age 3 Free \$2.00 (Age 3 through 12) \$3.00 (Age 13 and over)
Staunton River, Lake Anna, Westmoreland	Under age 3 Free \$2.00 (Age 3 through 12) \$3.00 (Age 13 and over)	Under age 3 Free \$3.00 (Age 3 through 12) \$4.00 (Age 13 and over)
Hungry Mother, Claytor Lake	Under age 3 Free \$3.00 (Age 3 through 12) \$3.00 (Age 13 and over)	Under age 3 Free \$3.00 (Age 3 through 12) \$3.00 (Age 13 and over)
Pocahontas	Under age 3 Free \$5.00 (Age 3 through 12) \$6.00 (Age 13 and over)	Under age 3 Free \$7.00 (Age 3 through 12) \$8.00 (Age 13 and over)
Group campers utilizing unimproved primitive group camps. All parks where available unless otherwise noted.	\$1.00 (all ages)	\$1.00 (all ages)
Pocahontas (<i>Group Cabin Guests</i>)	\$2.00 \$3.00 (all ages)	\$2.00 \$3.00 (all ages)
Chippokes Plantation: Recreation/Education Fun Package: Swimming, Mansion, and Farm & Forestry Museum (Memorial Day – Labor Day: Wed. – Sun.)	\$3.50 (Age 3 through 12) \$6.00 (Age 13 and over)	\$3.50 (Age 3 through 12) \$6.00 (Age 13 and over)
Deposit on all locker keys: Refunded when key is returned.	\$2.00 each	
Swimming Coupon Book: (Age 3 and over). All parks where available unless otherwise noted.	\$18 per 10 coupons \$35 per 20 coupons	
Pocahontas	\$35 per 10 coupons \$60 \$68 per 20 coupons	
Group Swimming: per person (10 persons or more). All parks where available unless otherwise noted, <i>except Pocahontas</i> .	\$1.50 (Age 3 through 12) \$2.50 (Age 13 and over)	
Pocahontas <i>Group Swimming (20 persons or more). Five-day advanced registration required.</i>	\$2.50 (Age 3 through 12) \$3.50 (Age 13 and over) \$3.00 (all ages)	
Season Swimming Permit: All parks where available unless otherwise noted.	\$40 (Age 3 through 12) \$50 (Age 13 and over)	
Pocahontas	\$60 (Age 3 through 12) \$70 (Age 13 and over)	
After-Hours Exclusive Use of Pool or Swimming Area: All parks where available. Requires prior reservation. Rental period of approximately 1-2 hours, depending upon operating schedule and amount of available daylight. Cancellation fee charged if reservation is cancelled less than 3 days before the date of event unless cancellation is for inclement weather or cancelled by the park.	\$100 (up to 25 persons) \$125 (26 to 50 persons) \$175 (51 to 75 persons) \$200 (76 to 100 persons) \$35 to open food concessions with rental \$50 cancellation fee	
Swimming lessons. All parks where available unless otherwise noted. Package of eight 45-minute lessons (includes parking)	\$30 per person \$25 per person if two or more from same family	

Notes on swimming fees:

1. Nonswimming adults in street clothes admitted to swimming areas free when supervising children age 12 and under.
2. Raincheck Policy for Swimming: All state parks will issue a raincheck, good for a period of 12 months from the date of issue, to any paying customer (does not apply to free swimming vouchers) if the swimming area is forced to close for 40 minutes or more due to inclement weather. Rainchecks may be issued only to patrons present at the swimming area at the time of closure.
3. A full refund is available for a group reservation only if the park or swimming area contractor is notified three days in advance of the time of the reservation. In the event that the group is unable to complete their reservation due to inclement weather, rainchecks will be issued to the individual members of the group in the same manner as other park patrons.

4. All Season Swimming Permits include parking during the swimming season only.

4 VAC 5-36-80. Commercial and nonprofit user fees.

COMMERCIAL AND NONPROFIT ORGANIZATIONAL USERS FEES (NONTAXABLE)		
PERMIT TYPE:	DAILY FEE	ANNUAL FEE
Commercial Parking and State Park Use Permit Fees: Required for for-profit companies and businesses that use the lands and/or facilities of a state park to deliver services to the public for a fee, and when such use is similar or the same as the general public use, unless permitted by other means. May not be used to establish exclusive or continuous concession-type services. Activities of this type include but are not limited to canoe, horse, bicycle, or hiking trip outfitters and rental agencies (if they deliver equipment or services on park property), caterers, and for-profit day care centers (note that some day care centers are government or nonprofit). The agency reserves the right to withhold this or any other permit or license for commercial use of parks when such use is deemed to be not in keeping with the mission or intended purpose of the park, conflicts or interferes with other use of the park, or creates an unreasonable burden on the management of the park. Licensed commercial fishermen are not required to pay this fee, but are required to pay the applicable public user fee for the use of state park boat launches.		
For 1 or 2 passenger vehicles (up to 15-passenger vans) or one bus and one passenger vehicle	\$10	NA
For 1 to 6 passenger vehicles (up to 15-passenger vans) or two buses and two passenger vehicles	NA	\$200
Commercial Parking/Launching/Horse Riding Fees: Required for for-profit companies and businesses that use the lands and/or facilities of a state park to deliver services to the public for a fee, and when such use is similar or the same as the general public use, unless permitted by other means. May not be used to establish exclusive or continuous concession-type services.		
For 1 or 2 passenger vehicles (up to 15-passenger vans) and/or passenger vehicle with trailer combinations; or one bus and one passenger vehicle and/or passenger vehicle with trailer combination	\$14	NA
For 1 to 6 passenger vehicles (up to 15-passenger vans) and/or passenger vehicle with trailer combinations; or two buses and two passenger vehicles and/or passenger vehicle with trailer combinations	NA	\$250
Nonprofit Organization Parking Fees: These fees may be utilized only by nonprofit organizations engaged in the activities or purposes of the organization.		
For 1 or 2 passenger vehicles (up to 15-passenger vans) or one bus and one passenger vehicle	\$4.00	\$30
For 1 to 6 passenger vehicles (up to 15-passenger vans) or two buses and two passenger vehicles	\$9.00	\$70
Nonprofit Organization Parking/Launching Fees: These fees may be utilized only by nonprofit organizations engaged in the activities or purposes of the organization.		
For 1 or 2 passenger vehicles (up to 15-passenger vans) and/or passenger vehicle with trailer combinations; or one bus and one passenger vehicle and/or passenger vehicle with trailer combination	\$6.00	\$65
For 1 to 6 passenger vehicles (up to 15-passenger vans) and/or passenger vehicle with trailer combinations; or two buses and two passenger vehicles and/or passenger vehicle with trailer combinations	\$10	\$130

4 VAC 5-36-90. Camping fees.

CAMPING FEES (TAXABLE, Price here does not include tax)

Camping fees include free use of dump station and free swimming and boat launching for members of the camping party during their stay at the property, when and where available, except that at Kiptopeke State Park guest is subject to applicable launch fee unless the trailer is returned to the campsite immediately after launching. The number of campers per campsite is limited to six individuals except when all campers are members of the same household.	ALL SEASONS (Per site fees)
Standard Sites: No hookup; access to bathhouse and restrooms.	
All parks with standard sites unless noted below.	\$14 \$15 per night
Chippokes Plantation, Hungry Mother, Grayson Highlands, Staunton River, Westmoreland, Occoneechee (<i>nonwaterfront</i>), Claytor Lake, Raymond R. "Andy" Guest, Jr. Shenandoah River, Smith Mountain Lake.	\$18 \$19 per night
<i>Occoneechee Waterfront Sites</i>	\$22 per night
Douthat, Kiptopeke, First Landing, <i>Lake Anna</i> .	\$22 \$23 per night
Water and Electric Sites: Access to water and electric hookups; access to bathhouse and restrooms.	
All parks where available unless noted below.	\$20 \$21 per night
Chippokes Plantation, Claytor Lake, Douthat, Fairy Stone, Grayson Highlands, Hungry Mother, Occoneechee (<i>nonwaterfront</i>), Staunton River, Westmoreland, Pocahontas, Smith Mountain Lake, <i>Belle Isle, James River</i> .	\$23 \$24 per night
<i>Occoneechee Waterfront Sites</i>	\$27 per night
Kiptopeke, First Landing, <i>Lake Anna</i> .	\$28 \$29 per night
Water, Electric, and Sewage Sites: Access to water, electric, and sewage hookups; access to bathhouse and restrooms.	
<i>Kiptopeke</i>	\$31 per night
	\$33 per night

Final Regulations

<i>Hungry Mother</i>	\$27 per night
Primitive Camping Sites: primitive restrooms; no showers.	
All parks where available unless noted below.	\$9.00 \$10 per night
Grayson Highlands (November, March, and April when bathhouses are closed), James River, <i>Sky Meadows</i> .	\$14 \$12 per night
<i>Grayson Highlands: Sites with electricity (November, March and April when bathhouses are closed)</i>	\$14 per night
New River Trail Primitive camping sites at Foster Falls and Cliffview	\$13 \$14 per night
New River Trail Water Trail Camping (no potable water)	\$10 \$11 per night
Horse Camping	
Horse Stall Fee: All horses must be in stalls.	\$7.00 per night (Outside Stalls) \$9.00 per night (Inside Stall)
Standard Group Camping: Unless otherwise noted, groups camping in the regular park campground pay the existing rate for sites in that campground.	Standard Rates
Primitive Group Camp Rental (camping in special primitive group areas) All parks where available.	
Up to 20 campers.	\$55 \$58 for entire area per night
Up to 30 campers.	\$83 \$87 for entire area per night
31 or more campers, up to maximum capacity of group camp area.	\$110 \$116 for entire area per night
Grayson Highlands: Primitive camping is available in the stable area November, March, and April.	\$14 \$14 per site per night
Special Group Camping Areas:	
Fairy Stone Group Campsites.	\$18 \$19 per site per night
Twin Lakes, Cedar Crest Group Camping Area.	\$14 per site \$200 for entire area per night
Chippokes Plantation: All 4 Sites; Group Rate; 24 persons maximum. Natural Tunnel Group Area: Only available as entire group area. Grayson Highlands Group Area. James River Group Area. Shenandoah Group Area.	\$64 \$64 per night (only available as entire group area)
Westmoreland Group Area.	\$110 \$116 per night
Standard Buddy Sites: All parks where available unless noted below.	\$70 \$74 per night
Douthat Buddy Sites.	\$88 \$92 per night
James River Equestrian Group Area.	\$83 \$87 per night
Camping – Other Fees	
Pet Fees	\$3.00 per pet per night
Dump Station Fee: Free to state park campers during stay.	\$6.00 \$5.00 per use
Camping Reservation Cancellation Fee <i>Individual Site</i> .	\$10 per reservation
<i>Camping Reservation Cancellation Fee Group Sites</i>	\$30 per reservation
Hiker or noncamper Shower Fee at Virginia State Parks.	\$5.00 per person

Notes on camping:

1. Check-out time is 3 p.m. and check-in time is 4 p.m.
2. Camping Transfer/Cancellation/Early Departure Policy.
 - a. Any fees to be refunded are calculated less the applicable cancellation fee(s).
 - b. Fees paid to the reservation center by credit card will be refunded to the original credit card charged.
 - c. Fees paid by check or money order to the reservation center, or by any method at the park, will be refunded by state check.
 - d. A customer may move a camping reservation to another date or park, referred to as a transfer, through the reservation center only, and prior to 4 p.m. on the scheduled date of arrival. If the reservation center will not be open again prior to the start date of the reservation, transferring is not an option. There is no fee to transfer.
 - e. A camping reservation may be canceled until 4 p.m. on the scheduled date of arrival but campers will be charged the cancellation fee. This cancellation fee applies to each separate reservation made.
 - f. Once the 4 p.m. check-in time is reached on the scheduled day of arrival, any adjustment to a reservation is considered an early departure.

Final Regulations

- g. After the check-in time is reached, the first night is considered used whether the site is occupied or not.
 - h. There is a one-night penalty, deducted from any amount available for refund, for early departure.
3. Campers are allowed two vehicles per campsite per day without charge of parking fee. Additional vehicles, beyond two, must pay the prevailing parking fee in effect at the park for each day that the vehicle(s) is parked in the park. The number of vehicles allowed to park on the campsite varies according to site design and size of other camping equipment. No vehicles shall park on a campsite in other than the designated area for this purpose. Camper vehicles that do not fit on the site, whether or not they require the special camper vehicle fee, must park in the designated overflow parking area.
4. Each member of the camping party, *except in primitive group areas*, up to the maximum allowable per site, may receive an entrance pass to the park's swimming facility on the basis of one pass per night of camping. Passes only issued during days and seasons of operation of the swimming facility and only good during the members registered stay.
5. Damage to campsites, not considered normal wear and tear, will be billed to the person registered for the campsite on an itemized cost basis.
6. At honor collection sites, the stated camping fees on this list shall be considered as having tax included. Honor collection is defined as the payment of the camping fee on-site at the park at a nonelectronic collection point at which the payment is placed in a box or safe provided for that purpose.

4 VAC 5-36-100. Cabin fees.

CABIN RENTALS (TAXABLE, Price here does not include tax)

	BASE RATE		VIRGINIA RESIDENTS	
PRIME SEASON CABIN AND LODGE RATES				
Cabin/Lodge Type	Per-Night Rental Fee	Per-Week Rental Fee	Per-Night Rental Fee	Per-Week Rental Fee
Efficiency	\$76 \$80	\$455 \$478	\$68 \$71	\$409 \$429
One Bedroom, Standard	\$89 \$93	\$534 \$561	\$80 \$84	\$480 \$504
One Bedroom, Waterfront or Water View	\$98 \$103	\$594 \$621	\$88 \$92	\$528 \$554
One Bedroom, Chippokes Plantation	\$403 \$108	\$622 \$653	\$94 \$99	\$560 \$588
Two Bedroom, Standard, <i>all parks where available unless noted below</i>	\$402 \$107	\$647 \$648	\$92 \$97	\$556 \$584
<i>Two Bedroom, Claytor Lake, Bear Creek Lake, James River, Occoneechee, Lake Anna</i>	\$112	\$679	\$101	\$612
<i>Two Bedroom, Waterfront or Water View, all parks where available unless noted below</i>	\$413 \$119	\$679 \$713	\$102 \$107	\$644 \$642
<i>Two Bedroom, Waterfront or Water View, Claytor Lake, Bear Creek Lake, James River, Occoneechee, Lake Anna</i>	\$124	\$747	\$112	\$672
Two Bedroom, First Landing, Chippokes Plantation	\$120 \$126	\$717 \$753	\$108 \$113	\$646 \$678
Three Bedroom, Standard, <i>all parks where available unless noted below</i>	\$417 \$123	\$699 \$734	\$105 \$110	\$628 \$659
Three Bedroom, Chippokes Plantation, Bel Air Guest House	\$435 \$142	\$814 \$855	\$122 \$128	\$733 \$770
<i>Three Bedroom, Waterfront or Water View, Claytor Lake, Bear Creek Lake, James River, Occoneechee, Lake Anna, Southwest Virginia Museum Poplar Hill Cottage</i>	\$142	\$846	\$124	\$760
Hill Lodge (Twin Lakes)	\$454 \$159	\$909 \$954	\$136 \$143	\$818 \$859
Fairy Stone Lodge (Fairy Stone), Creasy Lodge (Douthat), Bel Air Mansion (Belle Isle)	\$273 \$287	\$1,634 \$1,716	\$245 \$257	\$1,474 \$1,545
Douthat Lodge (Douthat), Hungry Mother Lodge (Hungry Mother), Potomac River Retreat (Westmoreland)	\$324 \$337	\$1,927 \$2,023	\$289 \$303	\$1,735 \$1,822
<i>6-Bedroom Lodge, Water View: Kiptopeke, James River, Claytor Lake, Occoneechee, Bear Creek Lake, Lake Anna.</i>	\$353	\$2,120	\$318	\$1,909
MID-SEASON CABIN AND LODGE RATES				
Cabin/Lodge Type	Per-Night Rental Fee	Per-Week Rental Fee	Per-Night Rental Fee	Per-Week Rental Fee
Efficiency	\$67 \$70	\$405 \$425	\$64 \$64	\$364 \$382
One Bedroom, Standard	\$79 \$83	\$474 \$498	\$72 \$76	\$427 \$448
One Bedroom, Waterfront or Water View	\$87 \$91	\$524 \$547	\$78 \$82	\$470 \$494
One Bedroom, Chippokes Plantation	\$83 \$87	\$497 \$522	\$75 \$79	\$448 \$470
Two Bedroom, Standard, <i>all parks where available unless noted below</i>	\$94 \$96	\$549 \$576	\$83 \$87	\$494 \$519
<i>Two Bedroom, Claytor Lake, Bear Creek Lake, James River, Occoneechee, Lake Anna</i>	\$100	\$604	\$91	\$543

Final Regulations

<i>Two Bedroom, Claytor Lake, Bear Creek Lake, James River, Occoneechee, Lake Anna</i>	\$100	\$604	\$91	\$543
<i>Two Bedroom, Waterfront or Water View, all parks where available unless noted below</i>	\$104 \$106	\$604 \$634	\$90 \$95	\$543 \$570
<i>Two Bedroom, Waterfront or Water View, Claytor Lake, Bear Creek Lake, James River, Occoneechee, Lake Anna</i>	\$111	\$664	\$99	\$597
Two Bedroom, First Landing, Chippokes Plantation	\$96 \$101	\$574 \$603	\$86 \$90	\$516 \$542
Three Bedroom, Standard, <i>all parks where available unless noted below</i>	\$103 \$108	\$622 \$653	\$94 \$99	\$560 \$588
Three Bedroom, Chippokes Plantation, Bel Air Guest House	\$109 \$114	\$654 \$684	\$98 \$103	\$586 \$615
<i>Three Bedroom, Waterfront or Water View, Claytor Lake, Bear Creek Lake, James River, Occoneechee, Lake Anna, Southwest Virginia Museum Poplar Hill Cottage</i>	\$120	\$716	\$108	\$645
Hill Lodge (Twin Lakes)	\$135 \$142	\$800 \$849	\$124 \$127	\$728 \$764
Fairy Stone Lodge (Fairy Stone), Creasy Lodge (Douthat), Bel Air Mansion (Belle Isle)	\$242 \$254	\$1,454 \$1,527	\$218 \$229	\$1,308 \$1,373
Douthat Lodge (Douthat), Hungry Mother Lodge (Hungry Mother), Potomac River Retreat (Westmoreland)	\$286 \$300	\$1,716 \$1,802	\$257 \$270	\$1,544 \$1,621
<i>6-Bedroom Lodge, Water View: Kiptopeke, James River, Claytor Lake, Occoneechee, Bear Creek Lake, Lake Anna</i>	\$315	\$1,888	\$283	\$1,698
OFF-SEASON CABIN AND LODGE RATES				
Cabin/Lodge Type	<i>Per-Night Rental Fee</i>	<i>Per-Week Rental Fee</i>	<i>Per-Night Rental Fee</i>	<i>Per-Week Rental Fee</i>
Efficiency	\$56 \$59	\$337 \$354	\$54 \$54	\$304 \$319
One Bedroom, Standard	\$66 \$69	\$395 \$415	\$59 \$62	\$355 \$373
One Bedroom, Waterfront or Water View	\$73 \$77	\$433 \$455	\$65 \$68	\$394 \$411
One Bedroom, Chippokes Plantation	\$63 \$66	\$373 \$392	\$56 \$59	\$336 \$353
Two Bedroom, Standard, <i>all parks where available unless noted below</i>	\$76 \$80	\$457 \$480	\$68 \$71	\$411 \$432
<i>Two Bedroom, Claytor Lake, Bear Creek Lake, James River, Occoneechee, Lake Anna</i>	\$84	\$503	\$75	\$452
Two Bedroom, Waterfront or Water View, <i>all parks where available unless noted below</i>	\$84 \$88	\$503 \$528	\$75 \$79	\$452 \$475
<i>Two Bedroom, Waterfront or Water View, Claytor Lake, Bear Creek Lake, James River, Occoneechee, Lake Anna</i>	\$92	\$553	\$83	\$497
Two Bedroom, First Landing, Chippokes Plantation	\$72 \$76	\$430 \$452	\$65 \$68	\$387 \$406
Three Bedroom, Standard, <i>all parks where available unless noted below</i>	\$86 \$90	\$547 \$543	\$77 \$81	\$465 \$488
Three Bedroom, Chippokes Plantation, Bel Air Guest House	\$84 \$85	\$488 \$512	\$74 \$78	\$440 \$462
<i>Three Bedroom, Waterfront or Water View, Claytor Lake, Bear Creek Lake, James River, Occoneechee, Lake Anna, Southwest Virginia Museum Poplar Hill Cottage</i>	\$89	\$537	\$81	\$484
Hill Lodge (Twin Lakes)	\$112 \$118	\$672 \$706	\$104 \$106	\$605 \$635
Fairy Stone Lodge (Fairy Stone), Creasy Lodge (Douthat), Bel Air Mansion (Belle Isle)	\$204 \$211	\$1,209 \$1,269	\$182 \$191	\$1,088 \$1,142
Douthat Lodge (Douthat), Hungry Mother Lodge (Hungry Mother), Potomac River Retreat (Westmoreland))	\$238 \$250	\$1,427 \$1,498	\$215 \$226	\$1,284 \$1,348
<i>6-Bedroom Lodge, Water View: Kiptopeke, James River, Claytor Lake, Occoneechee, Bear Creek Lake, Lake Anna</i>	\$262	\$1,570	\$237	\$1,412
CAMPING CABINS, CAMPING LODGES, YURTS, AND TRAVEL TRAILERS (<i>camping cabins, camping lodges, yurts, and travel trailers located in campgrounds and operated in conjunction with the campground</i>)	<i>Per-Night Rental Fee</i>	<i>Per-Week Rental Fee</i>	<i>Per-Night Rental Fee</i>	<i>Per-Week Rental Fee</i>
Camping Cabin rental rate: (2-night minimum rental required)	\$50 \$53	NA	\$44 \$46	NA
Yurt rental: Standard fee	\$89 \$93	\$534 \$561	\$89 \$84	\$480 \$504
Travel Trailers: 25-30' Standard fee	\$89 \$93	\$534 \$561	\$89 \$84	\$480 \$504
<i>Camping Lodges: Standard fee</i>	\$93	\$561	\$84	\$504
Additional Cabin Fees:				
Additional Bed Rentals	\$3.00 per rental night			
Additional linens	\$6.00 per bed set			
Cabin Cancellation Fee	\$20 per cancellation period: See note 6 and 7 in the Cabin Transfer/Cancellation/Early Departure Policy Note.			
Pet Fee	\$5.00 per night			
Pocahontas Group Cabins	DAY		WEEK	

Final Regulations

Dining Hall: When rented alone; 8 a.m. to 10 p.m.	\$200 \$225	NA \$1,125
Dining Hall: When rented with a minimum of two cabins.	\$100	\$500
Cabin Units: per night – two units minimum in ecology camp.		
One Unit – Capacity: 28	\$88 \$92	\$440 \$462
Two Units – Capacity: 56	\$143 \$150	\$715 \$751
Three Units – Capacity: 84	\$187 \$196	\$935 \$982
Four Units – Capacity: 112	\$220 \$231	\$1,100 \$1,155
Complete Camp (Ecology Camp)	\$330 \$347	\$1,650 \$1,733
Complete Camp (Group Camp #3)	\$253 \$266	\$1,265 \$1,328
Refundable security deposit charged for all reservations	\$100 per reservation	

Notes on Pocahontas Group Cabins:

Pocahontas Group Cabins: Reservations of more than \$200 require a 25% prepayment, due within 14 days of making the reservation, to hold a reservation. Balance of fees is due 60 days prior to the reservation start date. Reservations of less than \$200 require payment in full to confirm the reservation.

Notes on cabins:

1. Seasonal cabin rates shall be in effect according to the following schedule, except for camping cabins, *camping lodges*, yurts, and travel trailers, which operate on the same schedule and season as the campground at that particular park. ~~Any weekly rental that includes a day that falls within the prime season shall be charged at the prime season weekly rate. Any weekly rental that includes a day that falls within the mid-season shall be charged at the mid-season weekly rate~~ *In the event that a weekly rental period includes two seasonal rates, the higher rate will apply for the entire weekly rental period.*

PARK	PRIME SEASON	MID-SEASON	OFF-SEASON
Chippokes Plantation	Friday night prior to Memorial Day through Sunday night prior to Labor Day	March 1 through the Thursday night prior to Memorial Day, and October 1 through December 31	January 1 through the last day of February, and Labor Day night through September 30
Claytor Lake, Fairy Stone, First Landing, Hungry Mother, Smith Mountain Lake, Westmoreland	Friday night prior to Memorial Day through the Sunday night prior to Labor Day	April 1 through the Thursday night prior to Memorial Day, and Labor Day through November 30	December 1 through March 31
Douthat	Friday night prior to Memorial Day through the Sunday night prior to Labor Day, and October 1 through October 31	April 1 through the Thursday night prior to Memorial Day, and Labor Day through September 30, and November 1 through December 31	January 1 through March 31
Staunton River, Twin Lakes	Friday night prior to Memorial Day through the Sunday night prior to Labor Day	April 1 through the Thursday night prior to Memorial Day, and October 1 through October 31	November 1 through March 31, and Labor Day night through September 30
Belle Isle	June 1 through July 31	April 1 through May 31 and August 1 through October 31	November 1 through March 31
Bear Creek Lake*** Belle Isle Chippokes Plantation First Landing Kiptopeke*** Lake Anna*** Occoneechee*** Southwest Virginia Museum Staunton River Twin Lakes Westmoreland	Friday night prior to Memorial Day through the Sunday night prior to Labor Day	April 1 through the Thursday night prior to Memorial Day, and Labor Day through November 30	December 1 through March 31
Claytor Lake Douthat Fairy Stone Hungry Mother James River*** Smith Mountain Lake	Friday night prior to Memorial Day through the Sunday night prior to Labor Day, and October 1 through October 31	April 1 through the Thursday night prior to Memorial Day, and Labor Day through September 30, and November 1 through November 30	December 1 through March 31

***Cabin or lodge facilities will be added; exact dates of completion unknown.

2. All dates refer to the night of the stay; check-out time is 10 a.m. and check-in time is 3 p.m.

3. The following holiday periods are charged prime season weekend rates: the Wednesday, Thursday, Friday, and Saturday period that includes Thanksgiving Day; and Christmas Eve and Christmas Day; and New Year's Eve and New Year's Day.

Final Regulations

4. Cabin guests are allowed two vehicles per cabin per day without charge of parking fee. Additional vehicles must pay the prevailing parking fee for each day that the vehicle is parked in the park. The number of vehicles allowed to park at the cabin varies according to site design and other factors. All vehicles must park in designated parking areas, either at the cabin or in the designated overflow parking area.

5. Lodge guests are allowed six vehicles per lodge per day without charge of parking fee. Additional vehicles must pay the prevailing vehicle parking fee for each day the vehicle is parked in the park. The number of vehicles allowed to park at the lodge varies according to site design and other factors. All vehicles must park in designated parking areas, either at the lodge or in the designated overflow parking area.

6. Damage to cabins, not considered normal wear and tear, may be billed to the person registered for the cabin on an itemized cost basis.

7. Each member of the cabin rental party, up to the maximum allowable for the rented unit, may receive an entrance pass to the park's swimming facility on the basis of one pass per night of rental. Passes are only issued during days and seasons of operation of the swimming facility and are only good during the member's registered stay.

NOTES ON CABIN TRANSFER/CANCELLATION/EARLY DEPARTURE POLICY:

1. Any fees to be refunded are calculated less the applicable cancellation fees listed below.
2. Fees paid to the reservation center by credit card will be refunded to the original credit card charged.
3. Fees paid by check or money order to the reservation center, or by any method at the park, will be refunded by state check.
4. A customer may move a cabin reservation to another date or park, referred to as a transfer, through the reservation center only, and prior to the official check-in time on the scheduled date of arrival.
5. If the reservation center will not be open again prior to the start of the reservation, transferring is not an option. If the transfer is not for the same number of nights, the cancellation policy may apply. Otherwise, there is no fee to transfer.
6. Once the reservation is paid for, a customer may cancel in full with payment of the required \$20 cancellation fee if there are more than 30 days before the scheduled arrival date. As long as the reservation is not during the one-week minimum stay requirement period, the length of stay may be reduced without a fee as long as there are more than 30 days before the scheduled arrival. However, the length of stay cannot be less than two nights. During the 30 days prior to the scheduled arrival date, the \$20 cancellation fee is charged for each night cancelled or reduced from the stay. Once the official check-in time on the scheduled arrival date is reached, the cancellation policy is no longer in effect and the early departure policy applies.
7. Once the 3 p.m. check-in time is reached on the scheduled day of arrival, any adjustment to a reservation is considered an early departure. There is a two night minimum charge associated with all cabin stays. Reducing the total nights stayed will incur a \$20 per night fee. If the original reservation was for a week, the weekly discount will no longer be valid and the fee will be adjusted to the nightly rate before any refunds are calculated.

4 VAC 5-36-110. Picnic shelters fees.

PICNIC SHELTERS (TAXABLE)

Two reservation periods are available per day, per shelter.	HALF-DAY	FULL-DAY
Standard Small Picnic Shelter Rental Fee: Bear Creek Lake, Belle Isle, Caledon, Chippokes Plantation, Claytor Lake (including gazebo), Douthat, Holliday Lake, Hungry Mother (half shelter), Lake Anna, Natural Tunnel, New River Trail, Occoneechee, Pocahontas, Smith Mountain Lake, Twin Lakes, Westmoreland, York River, and all other small park picnic shelters.	\$30	\$50
Standard Large Picnic Shelter Rental Fee: Belle Isle, Chippokes Plantation, Claytor Lake, Douthat Fairy Stone, First Landing, Grayson Highlands, Hungry Mother (full shelter), James River, Kiptopeke, Lake Anna, Natural Tunnel, Occoneechee, Pocahontas, Shenandoah, Smith Mountain Lake (Pavilion), Staunton River, Staunton River Battlefield, Twin Lakes, Mason Neck (tent shelter) , York River, and all other large park picnic shelters.	\$45	\$80
Shenandoah Large Group Shelter	\$50	\$90
York River: Plus Package: Fee for use of concession rental equipment and picnic shelter.		
Small Shelter: Up to 25 people	\$90	\$105
Large Shelter: Up to 40 people	\$135	\$160
Each additional person over 25 people for the small shelter and over 40 people for the large shelter.	\$3.25	\$3.25
Leesylvania Shelter Rental	\$60	\$120
Leesylvania: Lee's Landing Picnic Area Rental	\$30	\$55
<i>Leesylvania: Lee's Landing Picnic Shelter</i>	<i>\$200</i>	<i>\$300</i>
<i>With 15 tables and 100 chairs</i>	<i>\$600</i>	<i>\$700</i>
Mason Neck Picnic Area Rental		

Final Regulations

Without tent shelter	\$30	\$55
With tent shelter (seasonably available)	\$60	\$120
Chippokes Plantation Conference Shelter (with kitchen)	\$100 per function	\$100 per function
Chippokes Plantation Conference Shelter (without kitchen)	\$60 per function	\$60 per function
Event Tent Rental: Full day in-park rental only. Price includes set up and take down.		
Standard fee: All parks where available unless otherwise noted.	NA	\$0.38 per square foot
Chippokes Plantation, Douthat, Kiptopeke, Lake Anna, Pocahontas, Shenandoah River, Sky Meadows, Smith Mountain Lake, York River.	NA	\$0.45 per square foot
False Cape, First Landing, Leesylvania, Mason Neck.	NA	\$0.50 per square foot
<i>White String Lights for Tent</i>	NA	<i>\$0.80 per foot</i>
<i>Side Panels for Tent</i>	NA	<i>\$1.50 per foot</i>
Standard Shelter Cancellation Fee: Cancellation fee deducted from refund if refund is made more than 14 days prior to the reservation date. No refunds if cancellation made within 14 days prior to date. Shelter reservation may be transferred without penalty if the change is made through the reservations center prior to scheduled use.	\$10	\$10

Notes on shelters:

1. Full-day shelter rental period shall be from park opening until park closing, for day use, unless otherwise specified.
2. Morning half-day shelter rental period shall be from park opening until 2 p.m., unless otherwise specified.
3. Afternoon half-day shelter rental period shall be from 3 p.m. until park closing unless otherwise specified.
4. Half-day shelter rentals may not be made more than 30 days prior to the date of reservation.

4 VAC 5-36-120. Amphitheater and gazebo fees.

AMPHITHEATERS AND GAZEBOS (TAXABLE, Price here does not include tax)

Amphitheater or Gazebo Rental Fee:	HALF-DAY	FULL-DAY
Leesylvania, Fairy Stone, Staunton River, <i>Kiptopeke</i> and all other amphitheatres and gazebos unless noted below.	\$15	\$30
Claytor Lake (gazebo), Hungry Mother, Occoneechee, Westmoreland, New River Trail, Shenandoah River (overlook).	\$30	\$50
Smith Mountain Lake, Natural Tunnel (gazebo at Cove Ridge), James River, First Landing (gazebo at Chesapeake Bay Center).	\$40	\$70
York River and Douthat	N/A	\$100
Natural Tunnel and First Landing Amphitheatres: Private group or company rate:	\$150	\$300
Natural Tunnel and First Landing Amphitheatres: Educational group.	\$75	\$150
First Landing: Courtyard at Chesapeake Bay Center; includes amphitheater and gazebo.	\$400	\$750
First Landing: Additional hourly charge for hours beyond 10 p.m. for gazebo.	\$10 per hour	\$10 per hour
First Landing: Additional hourly charge for hours beyond 10 p.m. for Courtyard.	\$50 per hour	\$50 per hour
Smith Mountain Lake: Fishing Tournament Headquarters Staging. All parks where available.	\$25	\$25
Pocahontas Amphitheater Area: Does not include Without Heritage Center. Includes Amphitheater, Exhibit Area, Restrooms (full area) and use of sound system.	NA	\$900 \$600
<i>Pocahontas Amphitheater Area Plus Heritage Center</i>	NA	\$800
Exhibit Area only.	NA	\$200
Use of Sound System: (4 hour minimum).	NA	\$30 per hour
Parking Attendant (per attendant).	NA	\$10 per hour
Law Enforcement Officer (per officer).	NA	\$25 per hour
<i>Natural Tunnel: Rental of Observation Deck at mouth of tunnel for dinner parties. Includes use of chairlift for transportation of guests and supplies and set-up/take-down of tables and chairs.</i>	\$300 per 4 hours	
Stage Cover Rental:		
<i>Occoneechee</i>	\$25	\$25
Standard Amphitheater/Gazebo Cancellation Fee: Cancellation fee deducted from refund if refund is made more than 14 days prior to the reservation date. No refunds if cancellation made within fourteen days prior to date.	\$10	\$10
All parks unless listed below.	\$10	\$10

Final Regulations

Pocahontas Amphitheater or First Landing Courtyard	\$100	\$100
--	-------	-------

4 VAC 5-36-130. Boat storage fees.

BOAT STORAGE (TAXABLE, Price here does not include tax)

Boat Storage Fees		FEE
Standard Annual Boat Storage Fee: Bear Creek Lake, Douthat, Hungry Mother, and all other parks where available unless noted below.		\$35
Leesylvania Boat Storage Fees: Annual Fee (Dec. 1 – Nov. 30). Fee prorated for partial year on a months-remaining basis. Fee includes one park/launch pass per storage rental space to coincide with the rental period.		
Boat Length Up To 16'		\$685
Boat Length Up To 17'		\$728
Boat Length Up To 18'		\$771
Boat Length Up To 19'		\$814
Boat Length Up To 20'		\$857
Boat Length Up To 21'		\$900
Boat Length Up To 22'		\$942
Boat Length Up To 23'		\$985
<i>Boat Length Up To 24'</i>		<i>\$1,050</i>
<i>Boat Length Up To 25'</i>		<i>\$1,100</i>
Leesylvania Canoe/Kayak Storage: Renter must possess an annual park admission parking pass		\$10 per month
Staunton River Boat Shed Fees: Does not include parking or launching fee, if applicable		
Nightly Storage		\$4.00
Monthly Storage		\$15
Six-Month Storage		\$70
One-year boat storage		\$120 without annual park/launch pass \$150 with Buggs Island Special pass
Claytor Lake: Boat Dock Slips:	FEE PER RENTAL SEASON	FEE PER RENTAL NIGHT
7' wide and under	\$325	\$8.00
9' wide and under	\$506	\$16
14' wide and under	\$650	\$16
<i>Extended length slips</i>	<i>\$550</i>	

4 VAC 5-36-140. Interpretive canoe, boat, and paddleboat fees.

INTERPRETIVE CANOE, BOAT, AND PADDLEBOAT PROGRAMS (NONTAXABLE)

Interpretive Canoe, Boat, and Paddleboat Tours:	FEE
Environmental Education Group Canoe Tour: Available only to bona fide educational groups. Requires previous reservation and arrangements. Minimum 4 persons. Mason Neck and all other parks where available unless otherwise noted.	\$3.00 per person
Standard Canoe Interpretive Tour Fee for Individuals: Applies to canoe, rowboat, or paddleboat tours. Child riding as third passenger, where allowed, is free.	
Individuals at all parks unless noted below.	\$5.00 per person
Individuals at Leesylvania, York River, and Pocahontas, <i>Kiptopeke</i> .	\$9.00 per person
Individuals at Mason Neck.	\$10 per person
Individuals at Natural Tunnel.	\$12 per person
Individuals at False Cape: Back Bay Interpretive Tour.	\$16 per person
Family Groups at all parks unless noted below. Minimum 4 paying customers.	\$4.00 per person
Family Groups at Leesylvania, Pocahontas, and York River, <i>Kiptopeke</i> . Minimum 4 paying customers.	\$6.00 per person
Family Groups at Mason Neck.	\$7.00 per person
Group rate at Natural Tunnel (minimum 8 paying customers).	\$10 per person
Sunset, Moonlight, Dawn, or Extended Canoe Interpretive Tour Fee for Individuals: Applies to canoe, rowboat, or paddleboat tours.	
All parks where offered unless noted below.	\$6.00 per person
Sunset, Dawn, Extended Canoe Interpretive Tour Fee for Individuals: Leesylvania, York River, and New River Trail, <i>Pocahontas</i> . Mason Neck.	\$11 per person \$12 per person

Final Regulations

Moonlight/Night Canoe Interpretive Tour Fee for Individuals: Leesylvania, and York River, <i>Pocahontas</i> . Mason Neck.	\$13 per person \$15 per person
Sunset, Moonlight, Dawn, or Extended Canoe Interpretive Tour Fee for Family Groups: Applies to canoe, rowboat, or paddleboat tours. Minimum four paying customers.	
All parks where offered unless otherwise noted.	\$5.00 per person
Sunset, Dawn, or Extended Canoe Interpretive Tour Fee for Family Groups: Leesylvania, Pocahontas, New River Trail, and York River. Requires 4 or more paying customers. Mason Neck.	\$7.00 per person \$9.00 per person
Moonlight/Night Canoe Interpretive Tour Fee for Family Groups: Leesylvania, Pocahontas, and York River. Requires 4 or more paying customers.	\$8.00 per person
Overnight Canoe Tour: Mason Neck (includes tents and dinner).	\$50 per person
Bear Creek Lake: Willis River Interpretive Canoe Tour	
Short Trip.	\$8.00 per person
Long Trip.	\$10 per person
Natural Tunnel Clinch River:	
Half-Day Trip Group Rate. Requires 8 or more paying customers.	\$40 \$12 per person
Full-Day Trip. Group Rate. Requires 8 or more paying customers.	\$47 \$20 per person
Half-Day Trip. Individuals.	\$42 \$15 per person
Full-Day Trip. Individuals.	\$24 \$25 per person
Overnight Trip. Individuals.	\$45 per person
<i>Short Trip. Clinchport to Copper Creek</i>	<i>\$7.00 per person</i>
Interpretive Kayak Tour, Solo Kayak: Westmoreland and other parks where available.	\$16 per person
Interpretive Kayak Tour, Tandem Kayak: Westmoreland and other parks where available unless otherwise noted.	\$22 per kayak
First Landing: 2-hour tour:	\$40 per person
Mason Neck Interpretive Kayak Tours (solo or tandem kayaks):	
Standard 2-hour tour	\$20 per person
Extended 4-hour tour	\$30 per person
All day kayak adventure	\$50 per person
Interpretive Pontoon Boat Tour: All parks where available.	\$2.00 (Age 3 through 12) \$3.00 (Age 13 and over)
Lake Anna Sightseeing Tour, Weekdays Only by Request	\$25 per tour
Lake Excursion and Ecology Tour: All parks where available <i>unless otherwise noted</i> (limit 6 people per tour)	\$10 per person
<i>Claytor Lake</i>	<i>\$15 (Age 13 and over)</i> <i>\$10 (Age 3 through 12)</i>
<i>Rental of Entire Boat (Exclusive Use) Claytor Lake and other parks where available</i>	<i>\$60 per tour</i>

Note on Interpretive Canoe, Boat, and Paddleboat Programs:

Cancellation Policy for group reservations: Guest must cancel four days prior to the tour date in order to receive a refund. Any guest canceling less than four days before the start of the reservation will not be eligible for a refund. A one-time \$10 cancellation fee will apply per reservation regardless of number of boats reserved. In the event of inclement weather where the park must cancel, the guest will be offered either a complete refund or reservation transfer to another date.

4 VAC 5-36-150. Interpretive and educational tours and program fees.

INTERPRETIVE AND EDUCATIONAL TOURS AND PROGRAMS (NONTAXABLE)

Interpretive and Educational Tours and Programs		
PARK	PROGRAM	FEE
All parks unless otherwise noted:	Standard Interpretive Program: (Fee does not apply to informational programs such as campfire programs or roving interpretation).	\$2.00 per person \$6.00 per family
	Standard Night Hike or Evening Program	\$3.00 per person \$8.00 per family
	Standard Wagon Ride Program	\$3.00 per person \$8.00 per family \$25 exclusive group
	Extended or Special Event Wagon Ride Program	\$4.00 per person \$10 per family
	Park Outreach Program	\$10 for under 2 hours \$25 for 2 to 3 hours \$50 for 4 hours plus

Final Regulations

	Standard Junior Ranger Program: 4-day program. All parks unless noted below.	\$10 full program \$3.00 per day
	Haunted Hike	\$1.00 (Age 3 through 12) \$3.00 (Age 13 and over)
Pocahontas	Nature Camps	\$50 per 3-hour day for one week \$100 per 6-hour day for one week
	Curious Kids	\$3.00 per program
	Nature and Discovery Programs (School/Groups Outreach)	\$40 per hour at park \$60 per 1 and one-half hours at park \$80 per 2 hours at park \$50 per hour at school \$70 per 1 and one-half hours at school \$90 per 2 hours at school \$15 additional if over 30 miles from park
Sky Meadows	Music Program	\$5.00 per person
	A Day in Wildflower Woods	\$8.00 per person
Southwest Virginia Museum	How Our Ancestors Lived (9-Week Children's Series)	\$10 per person for entire series \$2.00 per person for individual program
	Workshop (Adult)	\$10 per person
	Workshop (Children)	\$5.00 per person
Caledon	Caledon Eagle Tours	\$6.00 per person \$50 Flat Rate (minimum: 10; maximum: 20)
	All Group Programs up to 2 hours long	\$5.00 per person
	Haunted Hay Ride	\$12 per person
	Caledon Junior Ranger Program	\$15 per person
	Special Program Bus Fee: Programs involving transportation within the natural area.	\$3.00 per person
Natural Tunnel: Cove Ridge	Guided Programs	\$25 per program (Maximum 30 participants) \$25 facility fee (If applicable)
	Environmental Education (Children's Activities)	\$25 per program (Maximum 30 participants) \$25 facility fee (If applicable)
	3 or More Activities	\$15 per program \$25 facility fee (If applicable)
	Environmental Education (Adult Facilitation)	\$15 per person
	Field Trips	Per program charge with use of center; chairlift passes, if required for program, included in cost
Hungry Mother/Hemlock Haven	Junior Naturalist Program	\$4.00 per person per week \$12 unlimited participation in interpretive season
Kiptopeke	Birding Program (Hawk observatory/bird banding station)	\$4.00 per person
	Birding Program (Group Rates)	\$35 (Corporate) \$25 (Nonprofit)
York River	Guided Adventure Programs	\$4.00 per person \$40 per group (Minimum 12 persons)
	York River Children's Programs	\$2.00 per person, single program \$10 unlimited participation throughout Interpretive Season
Westmoreland	Guided Program Fee	\$25 per person
Mason Neck, <i>Natural Tunnel</i>	Junior Ranger Program (Includes T-Shirt)	\$35 per person
	Standard Wagon Ride Program	\$50 Exclusive Group Reservation
	Ranger Led Programs – Groups	\$3.00 per person
	Hay Wagon and Hot Dog Roast	\$10 per person
	Bike Tours - 2 hours	\$10 per person
	Extended Bike Tours - 4 hours	\$15 per person
	Canoe and Bike Tour - 4 hours	\$20 per person
	Halloween Haunted House/Hay Wagon Ride	\$5.00 per person
Canoe/Hay Wagon Ride	\$12 (Age 3 through 12) \$15 (Age 13 and over)	
Holliday Lake	Field Archaeology Workshop	\$25 per person

Final Regulations

	Junior Ranger Program (3 half-day workshop) (Ages 6 to 13)	\$25 per child
False Cape	Wildlife Watch Tour – Per Person	\$5.00 \$6.00 per person
Staunton River	Junior Ranger Program	\$4.00 per session
	Interpretive Craft	\$2.00 per person
	Down A Lazy River Guided Canoe Trip	\$6.00 per child \$8.00 per adult
	Hayride	\$1.00 per person
First Landing	Fall Friends	\$5.00 per person per class \$25 per person for all classes
	Junior Ranger Program	\$25 per person
	Kritter Kids	\$25 per person
Bear Creek Lake	Interpretive bike tours	\$3.00 per person
Leesylvania	Junior Ranger Program	\$25 per person
	Halloween Haunted Hike	\$2.00 per person \$5.00 per group (4 person maximum)
	Interpretive Programs	\$2.00 per person
	Kids Fishing Tournament	\$2.00 per child
Natural Tunnel	Wild Cave Tours Pannel Cave Tour	\$10 per person \$5.00 \$7.00 per person (Family-Group; 8-person minimum)
	Bolling Cave Tours	\$20 \$15 per person \$10 \$12 per person (Family-Group; 8-person minimum)
	Stock Creek Tunnel Tour	\$5.00 per person
Westmoreland	Orienteering Program	\$3.00 per person \$25 per group (20 maximum)
New River Trail	New River Trail Seniors Van Tour <i>Full Day</i>	\$25 per person
	New River Trail Seniors Van Tour <i>Half Day</i>	\$15 per person
James River	Haunted Wagon Ride	\$5.00 per person (Age 7 and over) Children 6 and under free

Notes on Interpretive and Educational Tours and Programs:

Additional costs for supplies and materials may apply.

4 VAC 5-36-160. Outdoor skill program fees.

OUTDOOR SKILL PROGRAMS (NONTAXABLE)

Outdoor Skill Programs		FEE
Grayson Highlands	Outdoor Survival Skills and Backpacking	\$95 per person
	Basic Map and Compass	\$25 per person
	Beginning Rock Climbing and Backpacking	\$95 per person
	Advanced Map and Compass Skills	\$25 per person
Holiday Lake	Mountain Bike Workshop	\$10 per person (In advance) \$15 per person (Day of event)
Westmoreland, Douthat, Hungry Mother, False Cape	Photography Workshop, with meals and lodging	\$325 per person
	Photography Workshop, with meals, no lodging	\$295 per person
	Photography Workshop, no meals, no lodging	\$225 per person
	Nonparticipant Lodging and Food	\$235 per person
	Nonparticipant Meals only	\$125 per person
Sky Meadows	Getting Started in Nature Photography	\$60 per person
All District I Parks (Chippokes Plantation Farm and Forest Museum, First Landing, York River, Kiptopeke, False Cape)	VA State Parks Naturally Yours Tour	\$230 per person
Lake Anna	Prospecting for Gold Workshop	\$50 per person
Hungry Mother	Mountain Empire Fly Fishing School	\$225 per person
Grayson Highlands	Guided Fly Fishing Trip: Half-day	\$50 per person
	Guided Fly Fishing Trip: Full-day	\$75 per person

Final Regulations

4 VAC 5-36-180. State park performing arts events fees.

STATE PARK PERFORMING ARTS EVENTS (NONTAXABLE)

State Parks Performing Arts Events:	FEE
<i>All parks unless otherwise noted below:</i>	<i>Under age 3 is free \$3.00 (Age 3 through 12) \$5.00 (Age 13 and over)</i>
Natural Tunnel Gospel Singing Festival	\$5.00 per vehicle
Douthat Shakespeare Performing Arts in the Park	Under age 3 is free \$3.00 \$4.00 (Age 3 through 12) \$5.00 \$9.00 (Age 13 and over)
First Landing Arts in the Park Series (4 concerts): Price per concert	Under age 3 is free \$3.00 (Age 3 through 12) \$5.00 (Age 13 and over)
First Landing: Arts in the Park Series: Season Pass	Under age 3 is free \$10 (Age 3 through 12) \$16 (Age 13 and over)
First Landing: Music in the Park (9 concerts): Price per concert	Under age 3 is free \$3.00 per person (Age 3 and over)
First Landing: Music in the Park: Season Pass	Under age 3 is free \$22.50 (Age 3 and over)
Smith Mountain Lake: Music in the Park (per event)	Under age 12 is free \$3.00 (Age 13 and over)
Pass for 10 events	\$20
Pass for 15 events	\$28

Note on Performing Arts Event Fees:

Cancellation Policy for Performing Arts Programs:

1. Generally, all events ~~to~~ go on rain or shine and no refunds will be given. If an event is canceled by management, a full refund will be provided to ticket holders if rescheduling is not an option. No refunds will be given for any reason other than event cancellation.
2. "Ticket as Voucher" policy for Performing Arts Series: Generally, all events go on rain or shine. Should a specific event/program in the series be canceled by management, the cancellation policy regarding refunds (see 1 above) applies. However, unused tickets, including tickets not used due to purchaser's own decision, retain face value that may be applied to entry to subsequent events, including events in future seasons. No refunds will be given for any reason other than event cancellation.

4 VAC 5-36-190. Environmental education center fees.

ENVIRONMENTAL EDUCATION SERVICES AND FACILITIES FEES (TAXABLE unless otherwise noted)

PARK	SERVICE OR FACILITY	FEE
Caledon	Rental of Environmental Education Center	\$60 per day \$40 per half-day
Claytor Lake	Rental of Discovery Center, Small Conference Room	\$15 per hour \$50 per 4 hours \$75 per 8 hours
First Landing	Chesapeake Bay Center Exhibit Area. Fee required after 5 p.m. or after regular operating hours	\$25 per hour
False Cape State Park	Wash Woods Environmental Education Center - Use by educational group	\$200 per night \$60 day use
	Wash Woods Environmental Education Center - Use by noneducational group	\$300 per night \$100 day use
	Deposit to accompany reservation application	\$40
	Environmental Education Programs (Nontaxable)	\$75
	Bus transportation for educational group (Nontaxable)	\$36 round trip \$18 one way
	Bus transportation for noneducational group (Nontaxable)	\$48 round trip \$24 one way
	Bus transportation within the park (Nontaxable)	\$18 per hour

Final Regulations

	Beach vehicle transportation for educational group (10 person minimum)	\$100 round trip
	Beach vehicle transportation for noneducational group (10 person minimum)	\$160 round trip
	Beach vehicle transportation, individual rate on regularly scheduled dates	\$8.00 round trip per person
	Transportation, Additional Park Vehicle (Nontaxable)	\$36 round trip
	<i>Transportation for nonemergency but unplanned trips out of park:</i>	
	<i>Transportation for Camper</i>	<i>\$18 per trip</i>
	<i>Transportation for Camper with Canoe or Kayak</i>	<i>\$24 per trip</i>
	<i>Kayak/Canoe Trailer Transportation for Campers</i>	<i>\$100 per trip</i>
	<i>After hours transportation surcharge</i>	<i>\$8.00 per trip</i>
	Equipment Rental	\$20 \$25
Mason Neck	Hartwell Environmental Education Center (Includes wet lab and equipment)	\$50 per half-day \$80 per full-day
	Environmental Education Equipment only: Excludes center and wet lab – outdoor activity only	\$25 per half-day \$40 per full-day
Leesylvania	Discovery Room	
	Teacher-Led Programs Up to 4 hours (Nontaxable)	\$50
	Ranger-Led Programs Up to 4 hours (Nontaxable)	\$85
	Menu Programs: Picked by instructor – led by ranger; 1-hour 15-minute minimum (Nontaxable)	\$30
	Equipment Rental: For use outside of Visitor Center; 4 hour maximum	\$20

Note on Environmental Education Center Fees:

Environmental Education Center Cancellation Policy: For day-use E.E.C. cancellation policy, Picnic Shelter cancellation policy shall apply. For overnight-use E.E.C. cancellation policy, cabin cancellation policy shall apply.

4 VAC 5-36-200. Miscellaneous rental fees.

RENTALS (TAXABLE; Price here does not include tax)

	FEE
Bike Rentals (includes helmet)	
All parks where available unless otherwise noted	\$3.00 per hour \$8.00 per half-day \$15 per full-day
Fairy Stone	\$5.00 per hour \$30 per full-day
Claytor Lake	\$4.00 per hour \$25 per day
New River Trail, <i>James River</i>	\$5.00 per hour \$12 per half-day \$18 per day
Staunton River: Family Bicycle Package. Includes 4 bicycles.	\$9.00 per hour \$25 per half-day \$38 per full-day
First Landing	\$5.00 per hour \$16 per day
Bike Helmet without bike rental	\$1.00
Child Cart for bike	\$5.00
Boat Rentals	
Standard Paddle Boat Rental:	
All parks where available unless otherwise noted	\$4.00 per half-hour \$6.00 per hour
Ooconeechee: Paddleboat	\$12 for one hour \$18 for two hours \$24 for half-day \$39 for full-day \$44 for 24 hours \$75 for 48 hours

Final Regulations

Smith Mountain Lake: Paddleboat	\$10 per half-hour \$15 per one hour \$60 for 24 hours \$90 for 2 days \$120 for 3 days \$150 for 4 days \$170 for 5 days \$30 additional for each day after first day
Lake Anna: Paddleboat	\$15 per hour \$30 per half-day \$50 per full-day
Standard Canoe Rental:	
All parks where available unless otherwise noted.	\$6.00 \$8.00 per hour \$12 \$15 per half-day \$22 \$25 per full-day \$40 for 24 hours \$80 \$100 per week
Oceonoechee: Includes Personal Flotation Devices, paddles, and car-top carrier	\$8.00 per hour \$12 for two hours \$15 for half-day \$25 for full-day \$30 for 24 hours \$50 for 48 hours
Smith Mountain Lake	\$8.00 per half-hour \$12 per one hour \$60 for 24 hours \$90 for 2 days \$120 for 3 days \$150 for 4 days \$170 for 5 days \$30 additional for each day after first day
Claytor Lake, Mason Neck	\$12 per hour \$35 per half-day \$50 per day \$60 per 24 hours
Lake Anna	\$15 per hour \$30 per half-day \$50 per full-day
James River	\$10 per hour (does not include shuttle) \$40 per day (does not include shuttle) \$120 per week (does not include shuttle) \$12 per half hour past return time
Standard Float Trips:	
Shenandoah River	\$5.00 per person
James River	
Bent Creek to Canoe Landing:	
Canoe	\$45 Max 3 people
Single Kayak	\$35 per kayak
Double Kayak	\$45 per kayak
Canoe Landing to Dixon Landing:	
Tubes	\$10 per tube
Group of four or more	\$8.00 per tube
Canoe	\$15 per canoe
Single Kayak	\$15 per kayak
Double Kayak	\$15 per kayak
Bent Creek to Dixon Landing:	
Canoe	\$50 per canoe
Single Kayak	\$40 per kayak
Double Kayak	\$50 per kayak
Shuttle Service Only:	
Bent Creek Shuttle	\$5.00 per boat (canoe/kayak) \$5.00 per person

Final Regulations

<i>Tubes</i>	\$5.00 per person/ <i>Bent Creek Shuttle</i> \$2.00 between landings in park
<i>Late Fee</i>	\$12 per half hour past return time
New River Trail	\$7.00 per hour \$20 per half-day \$30 per day \$35 per half-day, includes canoe rental and shuttle \$50 per full day, includes canoe rental and shuttle
Canoe Rental (includes shuttle)	
Trip A: Austinville to Foster Falls	\$35 per canoe
Trip B: Ivanhoe to Austinville	\$45 per canoe
Trip C: Ivanhoe to Foster Falls	\$50 per canoe
Trip D: Foster Falls to Route 100	\$45 per canoe
Trip E: Route 100 to Allisonia	\$50 per canoe
Trip F: Foster Falls to Allisonia	\$55 per canoe
Kayak Rental (includes shuttle)	
Trip A: Austinville to Foster Falls	\$25 per kayak
Trip B: Ivanhoe to Austinville	\$35 per kayak
Trip C: Ivanhoe to Foster Falls	\$40 per kayak
Trip D: Foster Falls to Route 100	\$35 per kayak
Trip E: Route 100 to Allisonia	\$40 per kayak
Trip F: Foster Falls to Allisonia	\$45 per kayak
Standard Rowboat Rental, without motor:	
All parks where available unless otherwise noted	\$6.00 per hour \$12 per half-day \$22 per full-day \$36 per 24 hours \$80 per week
Hungry Mother: Rowboats	\$4.00 per hour \$15 per day \$40 per week
New River Trail, Clayton Lake : Rafts and flat-bottom boats	\$7.00 per hour \$20 per half-day \$30 per day
Standard Rowboat Rental with electric motor and battery: All parks where available unless otherwise noted	\$10 per hour \$20 per 4 hours \$36 per day \$100 per 4 days \$150 per week
Standard Motorboat Rental, 16-foot console steering, 25-45 horsepower outboard. All parks where available.	\$18 per hour \$90 per day
Standard Fishing Boat Rental with gasoline motor and one tank of fuel: All parks where available.	\$10 per hour (2-hour minimum) \$50 per day
Pedal Craft Rental: (Hydro-Bike, Surf-Bike, etc.) All parks where available unless otherwise noted.	
One person.	\$5.00 \$6.00 per hour
Two person.	\$8.00 per hour
Smith Mountain Lake: Hydro Bike	\$8.00 per half hour \$12 per hour \$4.00 additional per hour after first hour \$60 per 24 hours \$90 two days with 1 night \$120 three days with 2 nights \$150 four days with 3 nights \$170 five days with 4 nights \$190 six days with 5 nights \$210 seven days with 6 nights \$30 additional per day after first day
Barracuda Boat. All parks where available	\$10 per hour
Solo Kayak Rental:	

Final Regulations

All parks where available unless otherwise noted	\$8.00 per hour \$15 per half-day \$25 per full-day \$40 for 24 hours \$100 per week
Occoneechee: Includes Personal Flotation Devices, paddles, and car-top carrier.	\$10 per hour \$15 for two hours \$20 for half-day \$35 for full-day \$40 for 24 hours \$70 for 48 hours
Smith Mountain Lake	\$8.00 per half hour \$12 per hour \$60 per 24 hours \$90 two days with 1 night \$120 three days with 2 nights \$150 four days with 3 nights \$170 five days with 4 nights \$30 additional per day after first day
Claytor Lake, Mason Neck	\$10 per hour \$35 per half-day \$50 per day \$60 per 24 hours
New River Trail	\$7.00 per hour \$20 per half-day \$30 per day
First Landing	\$20 per half-day \$35 per day
Lake Anna	\$15 per hour \$30 per half-day \$50 per full-day
James River	\$7.00 per hour (does not include shuttle) \$20 per day (does not include shuttle) \$80 per week (does not include shuttle) \$12 per half hour past return time
Tandem Kayak Rental:	
All parks where available unless otherwise noted.	\$10 per hour \$20 per half-day \$30 per full-day \$45 for 24 hours \$120 per week
Occoneechee: Includes Personal Flotation Devices, paddles, and car-top carrier.	\$12 per hour \$18 for two hours \$24 for half-day \$39 for full-day \$44 for 24 hours \$75 for 48 hours
Claytor Lake	\$15 per hour \$45 per half-day \$60 per day
First Landing	\$25 per half-day \$40 per day
Smith Mountain Lake: 14-foot fishing boat with 5 hp (3 person capacity). Rental does not include fuel and oil. Damage deposit of \$200 required.	\$50 for 3-hours \$10 additional per hour after first 3 hours \$75 for 6 hours \$140 \$150 for 24 hours \$160 for 2 days with 1 night \$210 for 3 days with 2 nights \$250 for 4 days with 3 nights \$290 for 5 days with 4 nights \$330 for 6 days with 5 nights \$360 for 7 days with 6 nights \$30 additional per day after first day

Final Regulations

Claytor Lake: 14-foot Jon boat with 6 8 hp motor Damage deposit of \$40 required	\$12 \$15 per hour \$30 \$45 per half-day \$55 \$65 per day \$78 per 24 hours
Claytor Lake: 14- 14.5-foot fishing boat with 8 9.9 hp motor Damage deposit of \$40 required	\$14 \$17 per hour \$38 \$50 per half-day \$60 75 per day \$90 per 24 hours
Claytor Lake: 14-foot v-hull boat with 45 25 hp motor Damage deposit of \$75 required	\$17 \$25 per hour \$50 65 per half-day \$85 \$100 per day \$120 per 24 hours
Claytor Lake: 16- 17-foot v-hull with 45 140 hp motor Damage deposit of \$150 required	\$18 \$45 per hour \$55 \$110 per half-day \$90 \$175 per day \$210 per 24 hours
Claytor Lake: 21" pontoon boat with 50 hp motor. Damage deposit of \$150 required	\$45 per hour \$110 per half-day \$175 per day \$210 per 24 hours
Claytor Lake: 20" bowrider. Damage deposit of \$150 required	\$60 per hour \$135 per half day \$210 per day
Claytor Lake: Water Sports Package	\$45 (Age 16 and over) \$35 (Age 15 and under)
Lake Anna: 16-foot v-hull with 15 hp motor. Price excludes fuel costs. Five percent discount with Virginia Basic Boating Certificate, 10% weekday discount. \$200 damage deposit required.	\$60 per half-day \$90 per day
Lake Anna: Runabout with 50 hp motor (6-person): Price excludes fuel costs. Five percent discount with Virginia Basic Boating Certificate, 10% weekday discount. \$200 damage deposit required.	\$140 per half-day \$190 per day
Lake Anna: 12-foot jon boat with electric motor and oars.	\$15 per hour \$30 per half-day \$50 per full day
Occoneechee: Powerboats, 3-person	\$38 per hour \$12 each extra hour \$70 per half-day \$115 per day \$135 per 24 hours \$250 per 48 hours
Occoneechee: Pontoon boat	\$85 per hour \$100 per two hours \$120 per half-day \$150 per full-day \$200 per 24 hours \$350 per 48 hours \$50 additional per day after 48 hours
Occoneechee: Ski Boat (six passenger)	\$85 per hour \$100 per two hours \$120 per half-day \$150 per full day \$200 per 24 hours \$350 per 48 hours \$50 additional per day after 48 hours
Ski Boat (eight passenger)	\$85 per hour \$100 per two hours \$150 per half-day \$190 per full day \$240 per 24 hours \$390 per 48 hours \$50 additional per day after 48 hours
Occoneechee: 17-1/2' fishing boat. Rental includes 30 gallons of fuel. Damage deposit of \$200 required	\$85 per hour \$20 additional per hour after first hour \$175 per 8 hours \$875 per 7 day week

Final Regulations

Occoneehee: 20' pontoon boat with motor (8 person capacity) Rental includes 30 gallons of fuel. Damage deposit of \$200 required.	\$85 per hour \$20 additional per hour after first hour \$175 per 8 hours \$875 per 7 day week
Occoneehee: 22' pontoon boat with motor (10 person capacity) Rental includes 30 gallons of fuel. Damage deposit of \$200 required.	\$95 per hour \$20 additional per hour after first hour \$185 per 8 hours \$925 per 7 day week
Smith Mountain Lake: 17-foot runabout with 75 hp. (6 person capacity) Rental does not include fuel and oil. Damage deposit of \$200 required.	\$90 for 3 hours \$130 for 6 hours \$200 for 24 hours \$280 for 2 days with 1 night \$70 additional each day after 2 days
Smith Mountain Lake: 18-20-foot Sea Ray Runabout with 190 hp (8 person capacity). Rental does not include fuel and oil. Damage deposit of \$200 required.	\$140 \$150 for 3 hours \$20 additional per hour after first 3 hours \$170 for 6 hours \$240 per 8 hours \$250 \$305 for 24 hours \$350 for 2 days with 1 night \$90 additional each day after 2 days \$100 additional per day after first day
Claytor Lake: 18-foot pontoon boat (5-7 person capacity) Damage deposit of \$100 required	\$35 per hour \$90 per 4 hours \$150 per 8 hours \$180 per 24 hours
Claytor Lake: 22-foot pontoon boat (10-11 person capacity) Damage deposit of \$150 required	\$55 per hour \$160 \$125 per 4 hours \$250 \$200 per 8 hours \$240 per 24 hours
Lake Anna: Pontoon boat, 6 person: Price excludes fuel costs. Five percent discount with Virginia Basic Boating Certificate, 10% weekday discount. \$300 damage deposit required.	\$50 per hour \$149 per half-day \$199 per day
Lake Anna: Pontoon boat, 15 person: Price excludes fuel costs. Five percent discount with Virginia Basic Boating Certificate, 10% weekday discount. \$300 damage deposit required.	\$50 per hour \$189 per half-day \$249 per day
Smith Mountain Lake: 24-foot pontoon boat with 40 hp (10-12 person capacity).	\$80 for 3 hours \$20 additional per hour after first 3 hours \$120 for 6 hours \$160 per 8 hours \$165 \$200 for 24 hours \$235 for 2 days with 1 night \$80 additional each day after 2 days first day
Smith Mountain Lake: Personal Watercraft (Waverunner 700). Rental does not include fuel and oil. Damage deposit of \$500 required.	\$140 \$150 for 3 hours \$20 additional per hour after first 3 hours \$240 per 8 hours \$170 for 6 hours \$305 for 24 hours \$390 for 2 days with 1 night \$100 additional per day after 2 days first day
Belle Isle: Motorboat less than 25 horsepower (6 gallons of fuel included, 2 hour minimum)	\$15 per hour \$90 per day
Belle Isle: Motorboat 25-49 horsepower (11 gallons of fuel included, 2 hour minimum)	\$22 per hour \$110 per day
Standard Damage/Replacement Fees: All parks where available unless otherwise noted. Not required for damage due to normal wear and tear.	
Paddle	\$20
Anchor/Rope	\$40
Fuel Tank/Hose	\$60
Fire Extinguisher	\$25
Throw Cushion	\$10
Propeller (small)	\$60 \$100
Propeller (large)	\$100 \$135
Other Rentals:	
Personal Flotation Device (PFD): When separate from boat rental.	\$1.00 per day

Final Regulations

Smith Mountain Lake, <i>James River</i> : Personal Floatation Device, type II.	\$5.00 for first day \$1.00 additional days
Smith Mountain Lake: Personal Floatation Device, type III	\$7.00 for first day \$2.00 additional days
<i>Canoe/Kayak Paddles: All parks where available unless otherwise noted.</i>	\$5.00 per day
Ocooneechee: Ski Tubes; Wake boards; Combo Skis	\$8.00 per hour \$12 for two hours \$15 for half-day \$25 for full-day \$30 for 24 hours \$50 for 48 hours
Ocooneechee: Additional Ski Vest	\$5.00 each
Ocooneechee: Ski Rope	\$5.00 per day
New River Trail: Float Tubes	\$10 per day
<i>James River:</i>	
Cooler Tubes	\$3.00 per day
Seat Backs (kayaks)	\$3.00 per day
Tubes	\$8.00 per hour (does not include shuttle) \$20 per day (does not include shuttle) \$12 per half hour past return time
Smith Mountain Lake: Tow tube; Water Skis; Knee Board	\$15 per day with boat rental \$25 per day without boat rental
Smith Mountain Lake: Wake Board	\$25 per day with boat rental \$30 per day without boat rental
Mobile Pig Cooker: All parks where available unless otherwise noted.	\$40 per day
Volleyball Net and Ball Rental: All parks where available.	\$10
Binocular Rentals (2 hours): All parks where available.	\$2.00
Beach Floats: All parks where available.	\$1.00 per hour \$3.00 for 4-hours \$5.00 for full-day
Surf Lounge Floating Chair Rental. All parks where available.	\$2.00 per hour, single chair \$5.00 per half-day, single chair \$7.00 per full day, single chair \$3.00 per hour, double chair \$7.00 per half-day, double chair \$10 per full day, double chair
Body Board: First Landing	\$5.00 \$6.00 per day
Beach Umbrella: All parks where available unless otherwise noted.	\$3.00 per hour \$8.00 for 4 hours \$15 for full-day
First Landing	\$5.00 \$6.00 per day
Kiptopeke	\$5.00 per 4 hours \$8.00 per 8 hours
Beach Chair: All parks where available	\$5.00 per day
First Landing	\$6.00 per day
Fishing Rods: All parks where available unless otherwise noted.	\$5.00 per half-day
First Landing	\$6.00 per day \$3.00 per rod per fishing program
Tents with a group camp reservation. All parks where available.	
2-person tent	\$12 per day
3-person tent	\$20 per day
4-person tent	\$25 per day
5-person tent	\$30 per day
Coin-Operated Washing Machine: All parks where available unless otherwise noted.	\$1.00 per load, tax included
First Landing	\$1.25 per load, tax included
Coin Operated Dryer: All parks where available unless otherwise noted.	\$0.75 per load, tax included
First Landing	\$0.25 per 15 minutes (large), tax included \$1.25 per 45 minutes (small), tax included
6-Foot Table (Includes 6 chairs) Additional chairs:	\$10 per rental period \$2.50 each per rental period

Final Regulations

<i>Pump Out: All parks where available unless otherwise noted.</i>	\$5.00
Horse Rentals:	
All parks where available unless otherwise noted.	\$20 per one-hour ride \$40 per two-hour ride \$100 per full day ride
Shenandoah , Sky Meadows	\$20 per half-hour ride \$25 per one-hour ride \$30 per one-hour ride, weekends \$55 per two-hour ride \$45 per 1.5-hour theme ride \$10 pony rides, includes photo \$250 per week, day camp (10% family discount)
Pony Rides: All parks where available unless otherwise noted.	\$5.00 per 15 minutes
Horseback Riding Lessons: All parks where available unless otherwise noted.	\$25 per lesson on group basis \$30 per lesson for individual
<i>Horseback Summer Day Camp: All parks where available unless otherwise noted.</i>	\$180 per person per week
Horseshoe or Croquet Rental for Campers. All parks where available.	\$1.00 per hour \$5.00 per day \$20 deposit

4 VAC 5-36-210. Conference center fees.

CONFERENCE CENTERS (TAXABLE)

Prices may be discounted and/or waived by the director when necessary to create competitive bids for group sales.	FEE
Hemlock Haven Conference Center at Hungry Mother	
Main Hall (Capacity: 375)	\$250 per day
Upper Level (Capacity: 50)	\$150 per day
Redbud Room: (Capacity 35)	\$50 per day
Laurel Room (Capacity: 20)	\$35 per day
Entire Meeting Room Complex	\$400 per day
Day Use Recreational Package (Includes all outside recreational facilities)	
0 – 250 Persons	\$250 per half-day \$500 per full-day
250 – 500 Persons	\$375 per half-day \$750 per full-day
500 + persons	\$500 per half-day \$1,000 per full-day
Cedar Crest Conference Center at Twin Lakes	
Complex: Doswell Hall with deck, grounds, volleyball, horseshoes; Kitchen, Latham and Hurt Rooms NOT included.	\$218 per 4 hours \$437 per day \$50 each extra hour
Doswell Meeting Room: Meeting Room Only; no kitchen or dining room.	\$156 per room per 4 hours \$312 per room per day \$35 each extra hour
Small break-out rooms with main room: Latham and Hurt.	\$62 per room per 4 hours \$125 per room per day \$20 each extra hour
Small break-out rooms without main room.	\$93 per room per 4 hours \$187 per room per day \$35 each extra hour
Picnic Shelter or Gazebo at Cedar Crest.	\$65 per 4 hours \$125 per day \$10 each extra hour
Kitchen rental Only available with complex rental.	\$100 per event
Kitchen Cleaning Fee: Deposit.	\$150 per event
Chippokes Plantation Meeting, Conference, and Special Use Facilities	
Mansion Conference Room.	\$25 per hour
Mansion or Historic Area Grounds (Includes parking for party rental).	\$300 \$500 per 4 hours
Mansion Board Room	\$100 per 4 hours
Program Options: Wagon Tour (24 Maximum).	\$48

Final Regulations

Program Options: Canoe Tour: Approx. 2 hours (12-person minimum; 22-person maximum).	\$48	
Chippokes Plantation Conference Shelter (Available on reservation basis only).	\$100 per 4 hours	
Wedding Package (includes historic area grounds, gardens, tent set up and take down, Wedding Coordinator, changing room for bride and groom, Mansion kitchen area, boardroom, no fee for wedding rehearsal).	\$720 \$995 per 4 hours \$1,170 \$1,625 per 8 hours \$50 nonrefundable reservation fee	
Southwest Virginia Museum – Victorian Parlor Room Rental (Based on 4-hour rental)	DAY	EVENING
Option #1: Victorian Parlor – Basic Room Package (Includes tables with linen and chairs)		
Up to 22 People (6 tables – 22 chairs)	\$30	\$55
23 to 30 People (8 tables – 30 chairs) OR Up to 50 people (50 chairs and head table)	\$40	\$65
Option #2: Victorian Parlor – Executive Room Package (Includes tables with linen and chairs, water pitcher with glasses, coffeepot with cups (coffee not included), AV equipment, and presentation aids)		
Up to 22 People (6 tables – 22 chairs)	\$50	\$75
23 to 30 People (8 tables – 30 chairs) OR Up to 50 people (50 chairs and head table)	\$65	\$90
Option #3: Additional meeting rooms: Victorian Parlor must be rented in order to rent additional rooms.		
Hallway (downstairs) (Includes two existing tables with linens)	\$10	\$10
Each Additional Table with Linens	\$10	\$10
Small Parlor: AV room or Big Stone Gap Photo room (Includes 1 table with linens and 6-8 chairs)	\$30	\$30
Big Stone Gap Development Room (Includes 1 table with linens and 6-8 chairs)	\$40	\$40
Surcharge for exceeding approved hours	\$20	\$20
Additional Hours	\$5.00 per hour	\$5.00 per hour
Wedding Portraits	\$50 per 2 hours	\$75 per 2 hours
Surcharge for exceeding approved hours	\$25 per hour	\$25 per hour
Additional hours	\$10 per hour	\$10 per hour
Sky Meadows		
“The Meeting House” at Sky Meadows: Accommodates 15 people maximum	\$25 per half day (Less than 4 hours) \$40 per full day (Greater than 4 hours)	
Karlan Wilderness Road (Mansion and Ground Rental)		
Mansion or Lawn: separately	\$60 for 4 hours	
Mansion and Lawn: combined	\$100 for 4 hours	
Additional hours beyond scheduled operating hours	\$10 per hour	
Exceeding Approved Hours	\$20 per hour	
Cove Ridge Center at Natural Tunnel:	PRIVATE FEE	EDUCATIONAL FEE
Cove Ridge Center Annual Membership: Membership entitles organization to a 25% discount on facility rental fees and group rates on all programming offered through the center.	\$1,000 per year	\$500 per year
Exclusive Overnight Use of one dorm: Entire center auditorium, classrooms, catering kitchen, resource library, deck, great room with stone fireplace, dorm, swimming (in-season), use of conference AV equipment, guest information and hospitality packet, parking passes.	\$600 per night	\$400 per night
Exclusive Overnight Use of both dorms: Entire center auditorium, classrooms, catering kitchen, resource library, deck, great room with stone fireplace, dorms, swimming (in-season), use of conference AV equipment, guest information and hospitality packet, parking passes.	\$800 per night	\$600 per night
Exclusive Day Use: Same as above excluding dorm(s)	\$300 per day	\$200 per day
Wedding Package Day Use: Includes exclusive use of the center for three consecutive rental periods.	\$400 \$450	NA
Wedding Package Overnight: Includes Day Use Package plus one dorm for one night	\$755 \$850	NA
Wedding Package Overnight: Includes Day Use Package plus both dorms for one night	\$855 \$950	NA
Auditorium (half-day)	\$110	\$80
Classroom – Library (half-day)	\$60	\$30
Dorm (Only) nightly	\$400	\$300
Both Dorms (Only) Nightly	\$500	\$400
Per Person Student Rate for Overnight Dorm Use	\$12.50 per person	\$12.50 per person
Kitchen Use (when not included in package)	\$25 per event	\$25 per event
Rental of Observation Deck at mouth of tunnel for dinner parties. Includes use of chairlift for transportation of guests and supplies and set-up/take-down of tables and chairs.	\$300 per 4 hours	
Heritage Center at Pocahontas: All reservations require 50% down at time of reservation (Nonrefundable within 14 days of event)	PRIVATE FEE	EDUCATIONAL FEE

Final Regulations

Exclusive Use Package — Entire Complex (Capacity: 224; includes tables, chairs, deck area, and warming kitchen)	\$200 per 4 hours \$350 per full-day \$40 each extra hour	\$120 per 4 hours \$210 per full-day \$30 each extra hour
Large Room (Capacity: 150; includes tables and chairs seated at tables 50; reception style 125, auditorium 80: includes tables, chairs and warming kitchen)	\$125 per 4 hours \$225 per full-day \$25 each extra hour	\$75 per 4 hours \$135 per full-day \$15 each extra hour
Small Room (Capacity: 75; includes tables and chairs)	\$75 per 4 hours \$100 per full-day \$25 each extra hour	\$40 per 4 hours \$80 per full-day \$15 each extra hour
Board Room (Capacity: 30)	\$50 per 4 hours \$100 per full-day \$20 each extra hour	\$30 per 4 hours \$55 per full-day \$15 each extra hour
Refundable damage deposit in the form of a check made out to: Treasurer of Virginia prior to occupancy.	\$100	\$100
Westmoreland		
Meeting and Events Facility	FEE	
	\$125 (Up to 6 hours) \$225 (8 a.m. to 10 p.m.)	
Wedding Package - Includes half-day rental for wedding rehearsal, and a full-day rental for wedding/reception	\$300	
Potomac River Retreat: Table and Chair Set-up	\$40	
Fairy Stone		
Fayerdale Hall Meeting Facility	\$125 (Up to 6 hours) \$225 (8 a.m. to 10 p.m.)	
Wedding Package - Includes half full-day rental for wedding rehearsal, and a full-day rental for wedding/reception.	\$300	
Douthat		
Restaurant (includes table set-up)	\$225	
Allegheny Room: Up to 30 persons.	\$150 per day	
Wedding Package: Conference room and amphitheater (see "amphitheater section") on day of wedding, plus an extra half-day amphitheater for rehearsal.	\$275	
First Landing		
Trail Center Conference Room (Capacity: 45)	\$40 per half-day \$60 per full-day	
Lake Anna		
Visitor Center	\$30 per half-day \$50 per full day	
Leesylvania Wedding/Function Package: Includes Rental of: Lee's Landing Picnic Shelter, 100 Chairs, 15 Tables, and Parking for up to 50 vehicles	\$800 per half-day \$900 per full-day	
Mason Neck		
Wedding Package: 20 foot by 40 foot tent, 100 chairs, parking for up to 50 cars	\$750 per event	
Parking Attendant	\$50 per 4 hours	
Smith Mountain Lake		
Meeting room at Visitor Center	\$150 per day	
Exceeding approved hours. All parks unless otherwise noted below.	\$20 per hour	
Equipment and Services Associated with Meetings and Rentals:		
Microphone/Podium Rental	\$15 per day	
Linen Rentals:		
Table cloth only	\$3.00 per table	
Place settings	\$2.00 each	
Twin Lakes		
Overlay	\$1.25 per table	
Napkins	\$0.40 per napkin	
Fax	First 2 pages free \$2.00 each extra page	
Copies	Single copy free \$0.15 each extra copy	

Final Regulations

REGISTRAR'S NOTICE: The proposed regulation was adopted as published in 21:23 VA.R. 3207-3222 July 25, 2005, with changes to 9 VAC 25-193-40 and 9 VAC 25-193-70 as identified below. Therefore, pursuant to § 2.2-4031 A of the Code of Virginia, the adopted regulation is not published at length.

9 VAC 25-193-10. [No change from proposed.]

9 VAC 25-193-20. [No change from proposed.]

9 VAC 25-193-40. Effective date of the permit.

This general VPDES permit will become effective on October 1, 2003, and it will expire on September 30, 2008. The general permit was amended on [~~XXXXXX~~ December 7, 2005], to add coverage for SIC Codes 3271 and 3272. The amendment became effective on [~~XXXXXX~~ February 8, 2006]. With respect to a particular facility, this general permit shall become effective upon the facility owner's compliance with the provisions of 9 VAC 25-193-50 and the receipt of a copy of the general VPDES permit.

9 VAC 25-193-50. [No change from proposed.]

9 VAC 25-193-60. [No change from proposed.]

9 VAC 25-193-70. General permit.

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

General Permit No: VAG11

Effective Date: October 1, 2003

Expiration Date: September 30, 2008

Modification Date: [~~XXXXXX~~ February 8, 2006]

EDITOR'S NOTE: No further changes were made to 9 VAC 25-193-70 as proposed; therefore, the remaining text of this section is not set out here.

VA.R. Doc. No. R05-112; Filed December 16, 2005, 9:38 a.m.

* * * * *

Title of Regulation: 9 VAC 25-810. General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Coin-Operated Laundry (adding 9 VAC 25-810-10 through 9 VAC 25-810-70).

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

Effective Date: February 8, 2006.

Agency Contact: George E. Cosby, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4067, FAX (804) 698-4032 or e-mail gec Cosby@deq.virginia.gov.

Summary:

The amendments establish appropriate and necessary permitting requirements for discharge of wastewater from coin-operated laundries. The amendments set forth standard language for effluent limitations and monitoring

requirements necessary to regulate this category of dischargers.

CHAPTER 810.

GENERAL VIRGINIA POLLUTANT DISCHARGE ELIMINATION SYSTEM (VPDES) PERMIT FOR COIN-OPERATED LAUNDRY.

9 VAC 25-810-10. Definitions.

The words and terms used in this regulation shall have the meanings defined in the State Water Control Law and 9 VAC 25-31 (Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation) unless the context clearly indicates otherwise, except that for the purposes of this regulation:

"Coin-operated laundry" means any self-service facility where the washing of clothes is conducted as designated by SIC 7215. It does not mean facilities that engage in dry cleaning.

9 VAC 25-810-20. Purpose.

This general permit regulation governs the discharge of wastewater from coin-operated laundry to surface waters.

9 VAC 25-810-30. Delegation of authority.

The director, or an authorized representative, may perform any act of the board provided under this regulation, except as limited by § 62.1-44.14 of the Code of Virginia.

9 VAC 25-810-40. Effective date of the permit.

This general permit will become effective on [~~*****~~ February 8, 2006]. This general permit will expire five years after [~~the effective date~~ February 8, 2006]. This general permit is effective for any covered owner upon compliance with all the provisions of 9 VAC 25-810-50 and the receipt of this general permit.

9 VAC 25-810-50. Authorization to discharge.

A. Any owner governed by this general permit is hereby authorized to discharge to surface waters of the Commonwealth of Virginia provided that the owner files and receives acceptance by the board of the registration statement of 9 VAC 25-810-60, files the required permit fee, complies with the effluent limitations and other requirements of 9 VAC 25-810-70, and provided that:

1. Individual permit. The owner has not been required to obtain an individual permit according to 9 VAC 25-31-170 B 3.

2. Prohibited discharge locations. The owner shall not be authorized by this general permit to discharge to state waters specifically named in other board regulations or policies that prohibit such discharges.

B. Receipt of this general permit does not relieve any owner of the responsibility to comply with any other federal, state or local statute, ordinance or regulation.

9 VAC 25-810-60. Registration statement.

The owner shall file a complete VPDES general permit registration statement for a coin-operated laundry. Any owner proposing a new discharge shall file the registration statement

at least 30 days prior to the date planned for commencing operation of the new discharge. Any owner of an existing coin-operated laundry covered by an individual VPDES permit who is proposing to be covered by this general permit shall file the registration statement at least 180 days prior to the expiration date of the individual VPDES permit. Any owner of an existing coin-operated laundry not currently covered by a VPDES permit who is proposing to be covered by this general permit shall file the registration statement. The required registration statement shall contain the following information:

1. Facility name and address, owner name and mailing address and telephone number;
2. Facility location;
3. Facility operator name, address and telephone number if different than owner;
4. Does the facility discharge to surface waters? Name of receiving stream if yes;
5. Does the facility have a current VPDES Permit? Permit number if yes;
6. A USGS topographic map showing the facility location;
7. Provide a brief description of the type of coin-operated laundry;
8. Number of laundry machines and the flow rate (million gallons per day);
9. Facility line drawing;
10. Treatment information;
11. Information on use of chemicals at the facility;
12. The following certification:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment for knowing violations.

The registration statement shall be signed in accordance with 9 VAC 25-31-110.

9 VAC 25-810-70. General permit.

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

General Permit No.: VAG72
Effective Date:
Expiration Date:

**GENERAL PERMIT FOR COIN-OPERATED LAUNDRY
AUTHORIZATION TO DISCHARGE UNDER THE VIRGINIA
POLLUTANT DISCHARGE ELIMINATION SYSTEM AND
THE VIRGINIA STATE WATER CONTROL LAW**

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

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

**PART I
A. EFFLUENT LIMITATIONS AND MONITORING
REQUIREMENTS.**

1. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater originating from a coin-operated laundry taken at outfall(s):

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

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS		MONITORING REQUIREMENTS	
	Mini-mum	Maxi-mum	Frequency***	Sample Type
Flow (mgd)	NA	NL	1/Quarter	Estimate
pH (S.U.)	6.0*	9.0*	1/Quarter	Grab
TSS (mg/l)	NA	60	1/Quarter	Grab
BOD ₅ (mg/l)	NA	60*	1/Quarter	Grab
Dissolved Oxygen (mg/l)	6.0*	NA	1/Quarter	Grab
Temperature °C	NA	32**	1/6 Months	Immersion Stabilization
Total Residual Chlorine (ug/l)	NA	11*	1/Quarter	Grab
E. Coli	NA	235 n/ 100 ml	1/6 Months	Grab

NL - No Limitation, monitoring requirement only

NA - Not applicable

* Where the Water Quality Standards (9 VAC 25-260 et seq.) establish alternate standards for pH, BOD₅, DO, TRC and temperature in waters receiving the discharge, those standards shall be the maximum and minimum effluent limitations.

** The effluent temperature shall not exceed a maximum 32°C for discharges to nontidal coastal and piedmont waters, 31°C for mountain and upper piedmont waters, 21°C for put and take trout waters, or 20°C for natural trout waters. For estuarine waters, nontidal coastal and

Final Regulations

piedmont waters, mountain and upper piedmont waters, and put and take trout waters, the effluent shall not cause an increase in temperature of the receiving stream of more than 3°C above the natural water temperature. For natural trout waters, the temperature of the effluent shall not cause an increase of 1°C above natural water temperature. The effluent shall not cause the temperature in the receiving stream to change more than 2°C per hour, except in the case of natural trout waters where the hourly temperature change shall not exceed 0.5°C

*** Reports of quarterly monitoring shall be submitted to the DEQ regional office no later than the tenth day of April, July, October, and January. Reports of once per six months shall be submitted no later than the tenth day of January and the tenth day of July for samples collected by December 31 and June 30 of each year.

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

B. Special conditions.

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

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

- (1) One hundred micrograms per liter;
- (2) Two hundred micrograms per liter for acrolein and acrylonitrile; 500 micrograms per liter for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter for antimony;
- (3) Five times the maximum concentration value reported for that pollutant in the permit application; or
- (4) The level established by the board.

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

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

2. Operation and maintenance manual requirement. The permittee shall develop an Operations and Maintenance (O & M) Manual for the treatment works. This manual shall detail the practices and procedures that will be followed to ensure compliance with the requirements of this permit. The manual shall be submitted for staff approval within 90 days of [~~the effective date of this permit~~ February 8, 2006,] or completion of construction. The permittee shall operate the treatment works in accordance with the approved O & M

Manual. This manual shall include, but not necessarily be limited to, the following items, as appropriate:

- a. Techniques to be employed in the collection, preservation, and analysis of effluent samples;
- b. Discussion of best management practices, if applicable;
- c. Treatment system design, treatment system operation, routine preventive maintenance of units within the treatment system, critical spare parts inventory and recordkeeping; and
- d. A sludge/solids disposal plan.

3. The permit prohibits adding chemicals to the water or waste that may be discharged other than those listed on the owner's accepted registration statement, unless prior approval of the chemical(s) is granted by the Department of Environmental Quality.

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

5. Compliance Reporting under Part I A (use for permit with water quality-based limits for toxics or conventional pollutants in Part I A. Modify this example as needed for effluent parameters in the permit).

a. The quantification levels (QL) shall be as follows:

Effluent Characteristic	Quantification Level
BOD ₅	5 mg/l
TSS	1.0 mg/l
Chlorine	0.1 mg/l

b. Reporting. Daily Maximum -- Compliance with the daily maximum limitations and/or reporting requirements for the parameters listed in Part I A and B shall be determined as follows: All concentration data below the QL listed in subdivision a shall be treated as zero. All concentration data equal to or above the QL shall be treated as reported. An arithmetic average shall be calculated using all reported data, including the defined zeros, collected within each day during the reporting month. The maximum value of these daily averages thus determined shall be reported on the DMR as the Daily Maximum. If all data are below the QL, then the average shall be reported as "<QL". If reporting for quantity is required on the DMR and the calculated concentration is <QL, then report "<QL" for the quantity. Otherwise use the calculated concentration.

c. Any single datum required shall be reported as "<QL" if it is less than the QL in subdivision a. Otherwise the numerical value shall be reported.

d. Monitoring results shall be reported using the same number of significant digits as listed in the permit.

6. If the discharge is into a municipal separate storm sewer the permittee is required to notify the owner of the municipal separate storm sewer system of the existence of the discharge within 30 days of coverage under the general permit and provide the following information: the name of

the facility; a contact person and phone number; and the location of the discharge.

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

PART II

CONDITIONS APPLICABLE TO ALL VPDES PERMITS.

A. Monitoring.

1. Samples and measurements taken as required by this permit shall be representative of the monitored activity.

2. Monitoring shall be conducted according to procedures approved under 40 CFR Part 136 or alternative methods approved by the US Environmental Protection Agency, unless other procedures have been specified in this permit.

3. The permittee shall periodically calibrate and perform maintenance procedures on all monitoring and analytical instrumentation at intervals that will ensure accuracy of measurements.

B. Records.

1. Records of monitoring information shall include:

a. The date, exact place, and time of sampling or measurements;

b. The individual(s) who performed the sampling or measurements;

c. The date(s) and time(s) analyses were performed;

d. The individual(s) who performed the analyses;

e. The analytical techniques or methods used; and

f. The results of such analyses.

2. Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five years, the permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the registration statement for this permit, for a period of at least three years from the date of the sample, measurement, report or request for coverage. This period of retention shall be extended automatically during the course of any unresolved litigation regarding the regulated activity or regarding control standards applicable to the permittee, or as requested by the board.

C. Reporting monitoring results.

1. The permittee shall submit the results of the monitoring required by this permit not later than the tenth day of the month after monitoring takes place, unless another reporting schedule is specified elsewhere in this permit. Monitoring results shall be submitted to the department's regional office.

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

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

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

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

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

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

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

2. Otherwise alter the physical, chemical or biological properties of such state waters and make them detrimental to the public health, or to animal or aquatic life, or to the use of such waters for domestic or industrial consumption, or for recreation, or for other uses.

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

1. A description of the nature and location of the discharge;

Final Regulations

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

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

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

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

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

1. An oral report shall be provided within 24 hours from the time the permittee becomes aware of the circumstances. The following shall be included as information which shall be reported within 24 hours under this paragraph:
 - a. Any unanticipated bypass; and
 - b. Any upset which causes a discharge to surface waters.
2. A written report shall be submitted within five days and shall contain:
 - a. A description of the noncompliance and its cause;
 - b. The period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and

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

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

3. The permittee shall report all instances of noncompliance not reported under subdivisions 1 or 2 of this subsection, in writing, at the time the next monitoring reports are submitted. The reports shall contain the information listed in subdivision 2 of this subsection.

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

J. Notice of planned changes.

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

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

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

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

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

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

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

K. Signatory requirements.

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

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

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

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

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

a. The authorization is made in writing by a person described in subdivision 1 of this subsection;

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

c. The written authorization is submitted to the department.

3. *Changes to authorization.* If an authorization under Part II K 1 or 2 is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of Part II K 2 shall be submitted to the department prior to or

together with any reports, or information to be signed by an authorized representative.

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

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

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

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

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

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

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

P. *Oil and hazardous substance liability.* Nothing in this permit shall be construed to preclude the institution of any legal

Final Regulations

action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under §§ 62.1-44.34:14 through 62.1-44.34:23 of the State Water Control Law.

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

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

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

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

U. Bypass.

1. "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility. The permittee may allow any bypass to occur that does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of Part II U 2 and 3.

2. Notice.

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

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

3. Prohibition of bypass.

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

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

(2) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition

is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass that occurred during normal periods of equipment downtime or preventive maintenance; and

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

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

V. Upset.

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

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

a. An upset occurred and that the permittee can identify the cause(s) of the upset;

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

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

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

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

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

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

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

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

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

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

X. Permit actions. Permits may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

Y. Transfer of permits.

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

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

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

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

VA.R. Doc. No. R05-111; Filed December 16, 2005, 9:37 a.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 10-180. Rules and Regulations for the Allocation of Low-Income Housing Tax Credits (amending 13 VAC 10-180-10, 13 VAC 10-180-50, 13 VAC 10-180-60, and 13 VAC 10-180-90).

Statutory Authority: § 36-55.30:3 of the Code of Virginia.

Effective Date: January 1, 2006.

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 (i) remove the exemption for qualified census tracts from the documentation requirements to certify the existence of a revitalization area; (ii) require scattered site developments to serve only one primary market area; (iii) delete the point category for plans and specifications or a work write-up, which will now be required with each application; (iv) revise the point category for hard-to-develop areas; (v) provide a point category for developments located in low poverty census tracts; (vi) add a point category for dedicated Internet access; (vii) revise the point category for access to public transportation; (viii) add a point category for EarthCraft certification; (ix) require tenant relocation assistance without points; (x) revise the point category that penalizes developers that do not build a development as represented in the application; (xi) add a point category for training in universal design; (xii) provide a pool of credits for acquisition rehabilitation projects in Northern Virginia; and (xiii) make other miscellaneous administrative clarification changes.

13 VAC 10-180-10. Definitions.

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

"Applicant" means an applicant for credits under this chapter and also means the owner of the development to whom the credits are allocated.

"Credits" means the low-income housing tax credits as described in § 42 of the IRC.

"Elderly housing" means any development intended to provide housing for elderly persons as an exemption to the provisions regarding familial status under the United States Fair Housing Act (42 USC § 3601 et seq.).

"IRC" means the Internal Revenue Code of 1986, as amended, and the rules, regulations, notices and other official pronouncements promulgated thereunder.

"IRS" means the Internal Revenue Service.

"Low-income housing units" means those units which are defined as "low income units" under § 42 of the IRC.

"Low-income jurisdiction" means any city or county in the Commonwealth with an area median income at or below the Virginia nonmetro area median income established by the U.S. Department of Housing and Urban Development ("HUD").

"Principal" means any person (including any individual, joint venture, partnership, limited liability company, corporation, nonprofit organization, trust, or any other public or private entity) that (i) with respect to the proposed development will

Final Regulations

own or participate in the ownership of the proposed development or (ii) with respect to an existing multi-family rental project has owned or participated in the ownership of such project, all as more fully described hereinbelow. The person who is the owner of the proposed development or multifamily rental project is considered a principal. In determining whether any other person is a principal, the following guidelines shall govern: (i) in the case of a partnership that is a principal (whether as the owner or otherwise), all general partners are also considered principals, regardless of the percentage interest of the general partner; (ii) in the case of a public or private corporation or organization or governmental entity that is a principal (whether as the owner or otherwise), principals also include the president, vice president, secretary, and treasurer and other officers who are directly responsible to the board of directors or any equivalent governing body, as well as all directors or other members of the governing body and any stockholder having a 25% or more interest; (iii) in the case of a limited liability company that is a principal (whether as the owner or otherwise), all members are also considered principals, regardless of the percentage interest of the member; (iv) in the case of a trust that is a principal (whether as the owner or otherwise), all persons having a 25% or more beneficial ownership interest in the assets of such trust; (v) in the case of any other person that is a principal (whether as the owner or otherwise), all persons having a 25% or more ownership interest in such other person are also considered principals; and (vi) any person that directly or indirectly controls, or has the power to control, a principal shall also be considered a principal.

"Qualified application" means a written request for tax credits which is submitted on a form or forms prescribed or approved by the executive director together with all documents required by the authority for submission and meets all minimum scoring requirements.

"Qualified low-income buildings" or "qualified low-income development" means the buildings or development which meets the applicable requirements in § 42 of the IRC to qualify for an allocation of credits thereunder.

"Revitalization area" means any area for which the chief executive officer (or the equivalent) of the local jurisdiction in which the development is to be located certifies as follows: (i) either (a) the area is blighted, deteriorated, deteriorating or, if not rehabilitated, likely to deteriorate by reason that the buildings, improvements or other facilities in such area are subject to one or more of the following conditions-dilapidation, obsolescence, overcrowding, inadequate ventilation, light or sanitation, excessive land coverage, deleterious land use, or faulty or inadequate design, quality or condition or (b) the industrial, commercial or other economic development of such area will benefit the city or county but such area lacks the housing needed to induce manufacturing, industrial, commercial, governmental, educational, entertainment, community development, healthcare or nonprofit enterprises or undertakings to locate or remain in such area; and (ii) private enterprise and investment are not reasonably expected, without assistance, to produce the construction or rehabilitation of decent, safe and sanitary housing and supporting facilities that will meet the needs of low and

moderate income persons and families in such area and will induce other persons and families to live within such area and thereby create a desirable economic mix of residents in such area. The area within a redevelopment project, conservation project, or rehabilitation district established by the city or county pursuant to Chapter 1 (§ 36-1 et seq.) of Title 36 of the Code of Virginia ~~or within a qualified census tract as defined in § 42(d)(5)(c)(ii) of the IRC~~ shall be deemed a revitalization area without any such certification. Any such revitalization area must either (i) have established boundaries at least a year old at the time applications are submitted and include discussions from the locality of the type of developments that will be encouraged, the potential sources of funding, and services to be offered in the area; or (ii) be subject to a plan using Hope VI funds from HUD. A comprehensive plan does not qualify as certification of a revitalization area.

13 VAC 10-180-50. Application.

Prior to submitting an application for reservation, applicants shall submit on such form as required by the executive director, the letter for authority signature by which the authority shall notify the chief executive officers (or the equivalent) of the local jurisdictions in which the developments are to be located to provide such officers a reasonable opportunity to comment on the developments. When scoring the applications, the executive director will award points to those applications that submit the form within the deadlines established by the executive director and subtract points from those applications that fail to submit the form by such deadlines.

Application for a reservation of credits shall be commenced by filing with the authority an application, on such form or forms as the executive director may from time to time prescribe or approve, together with such documents and additional information (including, without limitation, a market study that shows adequate demand for the housing units to be produced by the applicant's proposed development) as may be requested by the authority in order to comply with the IRC and this chapter and to make the reservation and allocation of the credits in accordance with this chapter. The executive director may reject any application from consideration for a reservation or allocation of credits if in such application the applicant does not provide the proper documentation or information on the forms prescribed by the executive director.

All sites in an application for a scattered site development may only serve one primary market area. If the executive director determines that the sites subject to a scattered site development are served by different primary market areas, separate applications for credits must be filed for each primary market area in which scattered sites are located within the deadlines established by the executive director.

The application should include a breakdown of sources and uses of funds sufficiently detailed to enable the authority to ascertain what costs will be incurred and what will comprise the total financing package, including the various subsidies and the anticipated syndication or placement proceeds that will be raised. The following cost information, if applicable, needs to be included in the application to determine the feasible credit amount: site acquisition costs, site preparation costs, construction costs, construction contingency, general

contractor's overhead and profit, architect and engineer's fees, permit and survey fees, insurance premiums, real estate taxes during construction, title and recording fees, construction period interest, financing fees, organizational costs, rent-up and marketing costs, accounting and auditing costs, working capital and operating deficit reserves, syndication and legal fees, development fees, and other costs and fees. All applications seeking credits for rehabilitation of existing units must provide for contractor construction costs of at least \$7,500 per unit.

Each application shall include plans and specifications or, in the case of rehabilitation for which plans will not be used, a unit-by-unit work write-up for such rehabilitation with certification in such form and from such person satisfactory to the executive director as to the completion of such plans or specifications or work write-up.

Each application shall include evidence of (i) sole fee simple ownership of the site of the proposed development by the applicant, (ii) lease of such site by the applicant for a term exceeding the compliance period (as defined in the IRC) or for such longer period as the applicant represents in the application that the development will be held for occupancy by low-income persons or families or (iii) right to acquire or lease such site pursuant to a valid and binding written option or contract between the applicant and the fee simple owner of such site for a period extending at least four months beyond any application deadline established by the executive director, provided that such option or contract shall have no conditions within the discretion or control of such owner of such site. [*Any contract for the acquisition of a site with existing residential property may not require an empty building as a condition of such contract, unless relocation assistance is provided to displaced households, if any, at such level required by the authority.*] A contract that permits the owner to continue to market the property, even if the applicant has a right of first refusal, does not constitute the requisite site control required in clause (iii) above. No application shall be considered for a reservation or allocation of credits unless such evidence is submitted with the application and the authority determines that the applicant owns, leases or has the right to acquire or lease the site of the proposed development as described in the preceding sentence. In the case of acquisition and rehabilitation of developments funded by Rural Development of the U.S. Department of Agriculture (Rural Development), the site control document does not need to be approved by all partners of the seller if the general partner of the seller executing the site control document provides (i) an attorney's opinion that such general partner has the authority to enter into the site control document and such document is binding on the seller or (ii) a letter from the existing syndicator indicating a willingness to secure the necessary partner approvals upon the reservation of credits.

Each application shall include, in a form or forms required by the executive director, a certification of previous participation listing all developments receiving an allocation of tax credits under § 42 of the IRC in which the principal or principals have or had an ownership or participation interest, the location of such developments, the number of residential units and low-income housing units in such developments and such other information as more fully specified by the executive director.

Furthermore, for any such development, the applicant must indicate whether the appropriate state housing credit agency has ever filed a Form 8823 with the IRS reporting noncompliance with the requirements of the IRC and that such noncompliance had not been corrected at the time of the filing of such Form 8823. The executive director may reject any application from consideration for a reservation or allocation of credits unless the above information is submitted with the application. If, after reviewing the above information or any other information available to the authority, the executive director determines that the principal or principals do not have the experience, financial capacity and predisposition to regulatory compliance necessary to carry out the responsibilities for the acquisition, construction, ownership, operation, marketing, maintenance and management of the proposed development or the ability to fully perform all the duties and obligations relating to the proposed development under law, regulation and the reservation and allocation documents of the authority or if an applicant is in substantial noncompliance with the requirements of the IRC, the executive director may reject applications by the applicant. No application will be accepted from any applicant with a principal that has or had an ownership or participation interest in a development at the time the authority reported such development to the IRS as no longer in compliance and no longer participating in the federal low-income housing tax credit program.

Each application shall include, in a form or forms required by the executive director, a certification that the design of the proposed development meets all applicable amenity and design requirements required by the executive director for the type of housing to be provided by the proposed development.

The application should include pro forma financial statements setting forth the anticipated cash flows during the credit period as defined in the IRC. The application shall include a certification by the applicant as to the full extent of all federal, state and local subsidies which apply (or which the applicant expects to apply) with respect to each building or development. The executive director may also require the submission of a legal opinion or other assurances satisfactory to the executive director as to, among other things, compliance of the proposed development with the IRC and a certification, together with an opinion of an independent certified public accountant or other assurances satisfactory to the executive director, setting forth the calculation of the amount of credits requested by the application and certifying, among other things, that under the existing facts and circumstances the applicant will be eligible for the amount of credits requested.

Each applicant shall commit in the application to provide relocation assistance to displaced households, if any, at such level required by the director.

If an applicant submits an application for reservation or allocation of credits that contains a material misrepresentation or fails to include information regarding developments involving the applicant that have been determined to be out of compliance with the requirements of the IRC, the executive director may reject the application or stop processing such application upon discovery of such misrepresentation or

Final Regulations

noncompliance and may prohibit such applicant from submitting applications for credits to the authority in the future.

In any situation in which the executive director deems it appropriate, he may treat two or more applications as a single application.

The executive director may establish criteria and assumptions to be used by the applicant in the calculation of amounts in the application, and any such criteria and assumptions may be indicated on the application form, instructions or other communication available to the public.

The executive director may prescribe such deadlines for submission of applications for reservation and allocation of credits for any calendar year as he shall deem necessary or desirable to allow sufficient processing time for the authority to make such reservations and allocations. If the executive director determines that an applicant for a reservation of credits has failed to submit one or more mandatory attachments to the application by the reservation application deadline, he may allow such applicant an opportunity to submit such attachments within a certain time established by the executive director with a ten-point scoring penalty per item.

After receipt of the applications, if necessary, the authority shall notify the chief executive officers (or the equivalent) of the local jurisdictions in which the developments are to be located and shall provide such officers a reasonable opportunity to comment on the developments.

The development for which an application is submitted may be, but shall not be required to be, financed by the authority. If any such development is to be financed by the authority, the application for such financing shall be submitted to and received by the authority in accordance with its applicable rules and regulations.

The authority may consider and approve, in accordance herewith, both the reservation and the allocation of credits to buildings or developments which the authority may own or may intend to acquire, construct and/or rehabilitate.

13 VAC 10-180-60. Review and selection of applications; reservation of credits.

The executive director may divide the amount of credits into separate pools and each separate pool may be further divided into separate tiers. The division of such pools and tiers may be based upon one or more of the following factors: geographical areas of the state; types or characteristics of housing, construction, financing, owners, occupants, or source of credits; or any other factors deemed appropriate by him to best meet the housing needs of the Commonwealth.

An amount, as determined by the executive director, not less than 10% of the Commonwealth's annual state housing credit ceiling for credits, shall be available for reservation and allocation to buildings or developments with respect to which the following requirements are met:

1. A "qualified nonprofit organization" (as described in § 42(h)(5)(C) of the IRC) which is authorized to do business in Virginia and is determined by the executive director, on the basis of such relevant factors as he shall consider

appropriate, to be substantially based or active in the community of the development and is to materially participate (regular, continuous and substantial involvement as determined by the executive director) in the development and operation of the development throughout the "compliance period" (as defined in § 42(i)(1) of the IRC); and

2. (i) The "qualified nonprofit organization" described in the preceding subdivision 1 is to own (directly or through a partnership), prior to the reservation of credits to the buildings or development, all of the general partnership interests of the ownership entity thereof; (ii) the executive director of the authority shall have determined that such qualified nonprofit organization is not affiliated with or controlled by a for-profit organization; (iii) the executive director of the authority shall have determined that the qualified nonprofit organization was not formed by one or more individuals or for-profit entities for the principal purpose of being included in any nonprofit pools (as defined below) established by the executive director, and (iv) the executive director of the authority shall have determined that no staff member, officer or member of the board of directors of such qualified nonprofit organization will materially participate, directly or indirectly, in the proposed development as a for-profit entity.

In making the determinations required by the preceding subdivision 1 and clauses (ii), (iii) and (iv) of subdivision 2 of this section, the executive director may apply such factors as he deems relevant, including, without limitation, the past experience and anticipated future activities of the qualified nonprofit organization, the sources and manner of funding of the qualified nonprofit organization, the date of formation and expected life of the qualified nonprofit organization, the number of paid staff members and volunteers of the qualified nonprofit organization, the nature and extent of the qualified nonprofit organization's proposed involvement in the construction or rehabilitation and the operation of the proposed development, the relationship of the staff, directors or other principals involved in the formation or operation of the qualified nonprofit organization with any persons or entities to be involved in the proposed development on a for-profit basis, and the proposed involvement in the construction or rehabilitation and operation of the proposed development by any persons or entities involved in the proposed development on a for-profit basis. The executive director may include in the application of the foregoing factors any other nonprofit organizations which, in his determination, are related (by shared directors, staff or otherwise) to the qualified nonprofit organization for which such determination is to be made.

For purposes of the foregoing requirements, a qualified nonprofit organization shall be treated as satisfying such requirements if any qualified corporation (as defined in § 42(h)(5)(D)(ii) of the IRC) in which such organization (by itself or in combination with one or more qualified nonprofit organizations) holds 100% of the stock satisfies such requirements.

The applications shall include such representations and warranties and such information as the executive director may require in order to determine that the foregoing requirements

have been satisfied. In no event shall more than 90% of the Commonwealth's annual state housing credit ceiling for credits be available for developments other than those satisfying the preceding requirements. The executive director may establish such pools (nonprofit pools) of credits as he may deem appropriate to satisfy the foregoing requirement. If any such nonprofit pools are so established, the executive director may rank the applications therein and reserve credits to such applications before ranking applications and reserving credits in other pools, and any such applications in such nonprofit pools not receiving any reservations of credits or receiving such reservations in amounts less than the full amount permissible hereunder (because there are not enough credits then available in such nonprofit pools to make such reservations) shall be assigned to such other pool as shall be appropriate hereunder; provided, however, that if credits are later made available (pursuant to the IRC or as a result of either a termination or reduction of a reservation of credits made from any nonprofit pools or a rescission in whole or in part of an allocation of credits made from such nonprofit pools or otherwise) for reservation and allocation by the authority during the same calendar year as that in which applications in the nonprofit pools have been so assigned to other pools as described above, the executive director may, in such situations, designate all or any portion of such additional credits for the nonprofit pools (or for any other pools as he shall determine) and may, if additional credits have been so designated for the nonprofit pools, reassign such applications to such nonprofit pools, rank the applications therein and reserve credits to such applications in accordance with the IRC and this chapter. In the event that during any round (as authorized hereinbelow) of application review and ranking the amount of credits reserved within such nonprofit pools is less than the total amount of credits made available therein, the executive director may either (i) leave such unreserved credits in such nonprofit pools for reservation and allocation in any subsequent round or rounds or (ii) redistribute, to the extent permissible under the IRC, such unreserved credits to such other pool or pools as the executive director shall designate reservations therefore in the full amount permissible hereunder (which applications shall hereinafter be referred to as "excess qualified applications") or (iii) carry over such unreserved credits to the next succeeding calendar year for the inclusion in the state housing credit ceiling (as defined in § 42(h)(3)(C) of the IRC) for such year. Notwithstanding anything to the contrary herein, no reservation of credits shall be made from any nonprofit pools to any application with respect to which the qualified nonprofit organization has not yet been legally formed in accordance with the requirements of the IRC. In addition, no application for credits from any nonprofit pools or any combination of pools may receive a reservation or allocation of annual credits in an amount greater than \$650,000 unless credits remain available in such nonprofit pools after all eligible applications for credits from such nonprofit pools receive a reservation of credits.

Notwithstanding anything to the contrary herein, applicants relying on the experience of a local housing authority for developer experience points described hereinbelow and/or using Hope VI funds from HUD in connection with the proposed development shall not be eligible to receive a reservation of credits from any nonprofit pools.

The authority shall review each application, and, based on the application and other information available to the authority, shall assign points to each application as follows:

1. Readiness.

a. Written evidence satisfactory to the authority of unconditional approval by local authorities of the plan of development or site plan for the proposed development or that such approval is not required. (40 points; applicants receiving points under this subdivision 1 a are not eligible for points under subdivision 5 a below)

b. Written evidence satisfactory to the authority (i) of proper zoning or special use permit for such site or (ii) that no zoning requirements or special use permits are applicable. (40 points)

~~c. Submission of plans and specifications or, in the case of rehabilitation for which plans will not be used, a unit by-unit work write-up for such rehabilitation with certification in such form and from such person satisfactory to the executive director as to the completion of such plans or specifications or work write-up. (20 points multiplied by the quotient calculated by dividing the percentage of completion of such plans and specifications or such work write-up by 75% not to exceed 20 points.)~~

2. Housing needs characteristics.

a. Submission of the form prescribed by the authority with any required attachments, providing such information necessary for the authority to send a letter addressed to the current chief executive officer (or the equivalent) of the locality in which the proposed development is located, soliciting input on the proposed development from the locality within the deadlines established by the executive director. (10 points; failure to make timely submission, minus 50 points)

b. (1) A letter dated within three months prior to the application deadline addressed to the authority and signed by the chief executive officer of the locality in which the proposed development is to be located stating, without qualification or limitation, the following:

"The construction or rehabilitation of (name of development) and the allocation of federal housing tax credits available under IRC Section 42 for that development will help meet the housing needs and priorities of (name of locality). Accordingly, (name of locality) supports the allocation of federal housing tax credits requested by (name of applicant) for that development." (50 points)

(2) No letter from the chief executive officer of the locality in which the proposed development is to be located, or a letter addressed to the authority and signed by such chief executive officer stating neither support (as described in subdivision b (1) above) nor opposition (as described in subdivision b (3) below) as to the allocation of credits to the applicant for the development. (25 points)

(3) A letter in response to its notification to the chief executive officer of the locality in which the proposed

Final Regulations

development is to be located opposing the allocation of credits to the applicant for the development. In any such letter, the chief executive officer must certify that the proposed development is not consistent with current zoning or other applicable land use regulations. (0 points)

c. Documentation in a form approved by the authority from the chief executive officer (or the equivalent) of the local jurisdiction in which the development is to be located (including the certification described in the definition of revitalization area in 13 VAC 10-180-10) that the area in which the proposed development is to be located is a revitalization area and the proposed development is an integral part of the local government's plan for revitalization of the area. (25 points)

d. If the proposed development is located in a ~~Difficult Development Area as defined by HUD or is in an Enterprise Zone or a Housing Revitalization Zone designated by the state~~ *qualified census tract as defined in § 42(d)(5)(C)(ii) of the IRC and is in a revitalization area.* (5 points)

e. Commitment by the applicant to give leasing preference to individuals and families (i) on public housing waiting lists maintained by the local housing authority operating in the locality in which the proposed development is to be located and notification of the availability of such units to the local housing authority by the applicant or (ii) on section 8 (as defined in 13 VAC 10-180-90) waiting lists maintained by the local or nearest section 8 administrator for the locality in which the proposed development is to be located and notification of the availability of such units to the local section 8 administrator by the applicant. (10 points; Applicants receiving points under this subdivision may not require an annual minimum income requirement for prospective tenants that exceeds the greater of \$3,600 or 2.5 times the portion of rent to be paid by such tenants.)

f. Any of the following: (i) firm financing commitment(s) from the local government, local housing authority, Federal Home Loan Bank affordable housing funds, or the Rural Development for a below-market rate loan or grant; (ii) a resolution passed by the locality in which the proposed development is to be located committing such financial support to the development in a form approved by the authority; or (iii) a commitment to donate land, buildings or waive tap fee waivers from the local government. (The amount of such financing or dollar value of local support will be divided by the total development sources of funds and the proposed development receives two points for each percentage point up to a maximum of 40 points.)

g. Any development subject to (i) HUD's Section 8 or Section 236 programs or (ii) Rural Development's 515 program, at the time of application. (20 points)

h. Any development receiving (i) a real estate tax abatement on the increase in the value of the development or (ii) new project-based subsidy from HUD

or Rural Development for the greater of 5 units or 10% of the units of the proposed development. (10 points)

i. Any proposed development located in a census tract that has less than a 10% poverty rate (based upon Census Bureau data) with no other tax credit units in such census tract. (25 points)

3. Development characteristics.

a. The average unit size. (100 points multiplied by the sum of the products calculated by multiplying, for each unit type as defined by the number of bedrooms per unit, (i) the quotient of the number of units of a given unit type divided by the total number of units in the proposed development, times (ii) the quotient of the average actual gross square footage per unit for a given unit type minus the lowest gross square footage per unit for a given unit type established by the executive director divided by the highest gross square footage per unit for a given unit type established by the executive director minus the lowest gross square footage per unit for a given unit type established by the executive director. If the average actual gross square footage per unit for a given unit type is less than the lowest gross square footage per unit for a given unit type established by the executive director or greater than the highest gross square footage per unit for a given unit type established by the executive director, the lowest or highest, as the case may be, gross square footage per unit for a given unit type established by the executive director shall be used in the above calculation rather than the actual gross square footage per unit for a given unit type.)

b. Evidence satisfactory to the authority documenting the quality of the proposed development's amenities as determined by the following:

(1) The following points are available for any application:

(a) If 2-bedroom units have 1.5 bathrooms and 3-bedroom units have 2 bathrooms. (15 points multiplied by the percentage of units meeting these requirements)

(b) If a community/meeting room with a minimum of 800 square feet is provided. (5 points)

(c) Brick covering 30% or more of the exterior walls. (20 points times the percentage of exterior walls covered by brick)

(d) If all kitchen and laundry appliances meet the EPA's Energy Star qualified program requirements. (5 points)

(e) If all the windows meet the EPA's Energy Star qualified program requirements. (5 points)

(f) If every unit in the development is heated and air conditioned with either (i) heat pump units with both a SEER rating of 14.0 or more and a HSPF rating of 9.0 or more or thru-the-wall heat pump equipment that has an EER rating of 12.0 or more or (ii) air conditioning units with a SEER rating of 14.0 or

more, combined with a gas furnace with an AFUE rating of 90% or more. (10 points)

(g) If the development has a minimum STC (sound transmission class) rating of 52 for the floor construction between units. (3 points)

(h) If the water expense is submetered (the tenant will pay monthly or bimonthly bill). (5 points)

(i) If each bathroom contains only low-flow faucets and showerheads as defined by the authority. (3 points)

(j) If each unit [has a phone and cable hook-up adjacent to each other that are dedicated for Internet access is provided with the necessary infrastructure for high-speed cable, DSL or wireless Internet service]. (1 point)

(2) The following points are available to applications electing to serve elderly and/or physically disabled tenants as elected in subdivision 4 a of this section:

(a) If all cooking ranges have front controls. (1 point)

(b) If all units have an emergency call system. (3 points)

(c) If all bathrooms have an independent or supplemental heat source. (1 point)

(d) If all entrance doors to each unit have two eye viewers, one at 48 inches and the other at standard height. (1 point)

(3) The following points are available to proposed developments which rehabilitate or adaptively reuse an existing structure:

(a) If all existing, single-glazed windows in good condition have storm windows, and all windows in poor condition are replaced with new windows with integral storm sash or insulating glass. The insulating glass metal windows must have a thermal break. The insulated glass must have a 10-year warranty against breakage of the seal. (3 points)

(b) If the structure is historic, by virtue of being listed individually in the National Register of Historic Places, or due to its location in a registered historic district and certified by the Secretary of the Interior as being of historical significance to the district, and the rehabilitation will be completed in such a manner as to be eligible for historic rehabilitation tax credits. (5 points)

The maximum number of points that may be awarded under any combination of the scoring categories under subdivision 3 b of this section is 60 points.

c. Any nonelderly development in which the greater of 5 units or 10% of the units (i) provide federal project-based rent subsidies or equivalent assistance in order to ensure occupancy by extremely low-income persons; (ii) conform to HUD regulations interpreting the accessibility requirements of § 504 of the Rehabilitation Act; and (iii) are actively marketed to people with special needs in

accordance with a plan submitted as part of the application for credits (if special needs includes mobility impairments, the units described above must include roll-in showers and roll-under sinks and ranges). (50 points)

d. Any nonelderly development in which the greater of 5 units or 10% of the units (i) have rents within HUD's Housing Choice Voucher (HCV) payment standard; (ii) conform to HUD regulations interpreting the accessibility requirements of § 504 of the Rehabilitation Act; and (iii) are actively marketed to people with mobility impairments including HCV holders in accordance with a plan submitted as part of the application for credits. (30 points)

e. Any nonelderly development in which 4.0% of the units (i) conform to HUD regulations interpreting the accessibility requirements of § 504 of the Rehabilitation Act and (ii) are actively marketed to people with mobility impairments in accordance with a plan submitted as part of the application for credits. (15 points)

f. Any development located within one-half mile of ~~a~~ an existing commuter rail, light rail or subway station or one-quarter mile of one or more existing public bus lines ~~or other public transportation usable by development occupants~~. (10 points [, unless the development is located within the geographical area established by the executive director for a pool of credits for northern Virginia, in which case, the development will receive 20 points if the development is ranked against other developments in such northern Virginia pool, 10 points if the development is ranked against other developments in any other pool of credits established by the executive director])

g. Any development for which the applicant agrees to obtain EarthCraft certification prior to the issuance of an IRS Form 8609 with the proposed development's architect certifying in the application that the development's design will meet the criteria for such EarthCraft certification. (15 points)

4. Tenant population characteristics. a- Commitment by the applicant to give a leasing preference to individuals and families with children in developments that will have no more than 20% of its units with one bedroom or less. (15 points; plus 0.75 points for each percent of the low-income units in the development with three or more bedrooms up to an additional 15 points for a total of no more than 30 points under this subdivision a)

~~b. Commitment by the applicant to provide relocation assistance to displaced households at such level required by the authority. (30 points times the number of certified occupied units divided by the greater of (i) the number of certified occupied units or (ii) the number of units of the proposed development)~~

5. Sponsor characteristics.

a. Evidence that the principal or principals, as a group or individually, for the proposed development have developed [(i)] at least three tax credit developments that contain at least three times the number of housing units in the proposed development [or (ii) at least six tax

Final Regulations

credit developments that contain at least the number of housing units in the proposed development]. (50 points; applicants receiving points under this subdivision 5 a are not eligible for points under subdivision 1 a above)

b. Evidence that the principal or principals for the proposed development have developed at least one tax credit development that contains at least the number of housing units in the proposed development. (10 points)

c. Any applicant that includes a principal that was a principal in a development at the time the authority reported such development to the IRS for an uncorrected major violation of health, safety and building codes. (minus 50 points for a period of three years after the violation has been corrected)

d. Any applicant that includes a principal that was a principal in a development at the time the authority reported such development to the IRS for noncompliance that has not been corrected by the time a Form 8823 is filed by the authority. (minus 15 points for a period of three years after the time the authority filed Form 8823, unless the executive director determines that such principal's attempts to correct such noncompliance was prohibited by a court, local government or governmental agency, in which case, no negative points will be assessed to the applicant)

e. Any applicant that includes a principal that is or was a principal in a development that (i) did not build a development as represented in the application for credit (minus two times the number of points assigned to the item or items not built *or minus 20 points for failing to provide a minimum building requirement*, for a period of three years after the last Form 8609 is issued for the development, in addition to any other penalties the authority may seek under its agreements with the applicant), or (ii) has a reservation of credits terminated by the authority (minus 10 points a period of three years after the credits are returned to the authority).

f. Any applicant that includes a management company in its application that is rated unsatisfactory by the executive director or if the ownership of any applicant includes a principal that is or was a principal in a development that hired a management company to manage a tax credit development after such management company received a rating of unsatisfactory from the executive director during the extended use period of such development. (minus 25 points)

g. Evidence that a US Green Building Council LEED certified design professional participated in the design of the proposed development. (10 points)

h. Evidence that the proposed development's architect has completed the Fair Housing Accessibility First program offered by HUD or an equivalent organization and the certificate is attached with the architect's certification. (5 points)

i. Evidence that the proposed development's architect has attended the authority's Universal Design symposium and

the certificate of attendance is attached with the architect's certification. (5 points)

6. Efficient use of resources.

a. The percentage by which the total of the amount of credits per low-income housing unit (the "per unit credit amount") of the proposed development is less than the standard per unit credit amounts established by the executive director for a given unit type, based upon the number of such unit types in the proposed development. (180 points multiplied by the percentage by which the total amount of the per unit credit amount of the proposed development is less than the applicable standard per unit credit amount established by the executive director, negative points will be assessed using the percentage by which the total amount of the per unit credit amount of the proposed development exceeds the applicable standard per unit credit amount established by the executive director.)

b. The percentage by which the cost per low-income housing unit (the "per unit cost"), adjusted by the authority for location, of the proposed development is less than the standard per unit cost amounts established by the executive director for a given unit type, based upon the number of such unit types in the proposed development. (75 points multiplied by the percentage by which the total amount of the per unit cost of the proposed development is less than the applicable standard per unit cost amount established by the executive director.)

The executive director may use a standard per square foot credit amount and a standard per square foot cost amount in establishing the per unit credit amount and the per unit cost amount in subdivision 6 above. For the purpose of calculating the points to be assigned pursuant to such ~~subdivisions 3 b and subdivision 6~~ subdivisions 6 above, all credit amounts shall include any credits previously allocated to the development, ~~and the per unit credit amount for any building documented by the applicant to be located in a qualified census tract or difficult development area (such tract or area being as defined in the IRC) shall be determined based upon 100% of the eligible basis of such building, in the case of new construction, or 100% of the rehabilitation expenditures, in the case of rehabilitation of an existing building, notwithstanding any use by the applicant of 130% of such eligible basis or rehabilitation expenditures in determining the amount of credits as provided in the IRC.~~

7. Bonus points.

a. Commitment by the applicant to impose income limits on the low-income housing units throughout the extended use period (as defined in the IRC) below those required by the IRC in order for the development to be a qualified low-income development. Applicants receiving points under this subdivision a may not receive points under subdivision b below. (The product of (i) 50 points multiplied by (ii) the percentage of housing units in the proposed development both rent restricted to and occupied by households at or below 50% of the area median gross income; plus 1 point for each percentage point of such housing units in the proposed development

which are further restricted to rents at or below 30% of 40% of the area median gross income up to an additional 10 points.)

b. Commitment by the applicant to impose rent limits on the low-income housing units throughout the extended use period (as defined in the IRC) below those required by the IRC in order for the development to be a qualified low-income development. Applicants receiving points under this subdivision b may not receive points under subdivision a above. (The product of (i) 25 points (50 points for proposed developments in low-income jurisdictions) multiplied by (ii) the percentage of housing units in the proposed development rent restricted to households at or below 50% of the area median gross income; plus 1 point for each percentage point of such housing units in the proposed development which are further restricted to rents at or below 30% of 40% of the area median gross income up to an additional 10 points.)

c. Commitment by the applicant to maintain the low-income housing units in the development as a qualified low-income housing development beyond the 30-year extended use period (as defined in the IRC). Applicants receiving points under this subdivision c may not receive bonus points under subdivision d below. (40 points for a 10-year commitment beyond the 30-year extended use period or 50 points for a 20-year commitment beyond the 30-year extended use period.)

d. Participation by a local housing authority or qualified nonprofit organization (substantially based or active in the community with at least a 10% ownership interest in the general partnership interest of the partnership) and a commitment by the applicant to sell the proposed development pursuant to an executed, recordable option or right of first refusal to such local housing authority or qualified nonprofit organization or to a wholly owned subsidiary of such organization or authority, at the end of the 15-year compliance period, as defined by IRC, for a price not to exceed the outstanding debt and exit taxes of the for-profit entity. The applicant must record such option or right of first refusal immediately after the low-income housing commitment described in 13 VAC 10-180-70 and give the qualified nonprofit veto power over any refinancing of the development. Applicants receiving points under this subdivision d may not receive bonus points under subdivision c above. (60 points; plus 5 points if the local housing authority or qualified nonprofit organization submits a homeownership plan satisfactory to the authority in which the local housing authority or qualified nonprofit organization commits to sell the units in the development to tenants.)

In calculating the points for subdivisions 7 a and b above, any units in the proposed development required by the locality to exceed 60% of the area median gross income will not be considered when calculating the percentage of low-income units of the proposed development with incomes below those required by the IRC in order for the development to be a qualified low-income development, provided that the locality submits evidence satisfactory to the authority of such requirement.

After points have been assigned to each application in the manner described above, the executive director shall compute the total number of points assigned to each such application. Notwithstanding any other provisions herein, any application that is assigned a total number of points less than a threshold amount of [~~350~~ 300] points ([~~275~~ 250] points for developments financed with tax-exempt bonds) shall be rejected from further consideration hereunder and shall not be eligible for any reservation or allocation of credits.

The executive director may exclude and disregard any application which he determines is not submitted in good faith or which he determines would not be financially feasible.

Upon assignment of points to all of the applications, the executive director shall rank the applications based on the number of points so assigned. If any pools shall have been established, each application shall be assigned to a pool and, if any, to the appropriate tier within such pool and shall be ranked within such pool or tier, if any. The amount of credits made available to each pool will be determined by the executive director. Available credits will include unreserved per capita dollar amount credits from the current calendar year under § 42(h)(3)(C)(i) of the IRC, any unreserved per capita credits from previous calendar years, and credits returned to the authority prior to the final ranking of the applications and may include up to ~~45%~~ 10% of next calendar year's per capita credits as shall be determined by the executive director. Those applications assigned more points shall be ranked higher than those applications assigned fewer points. However, if any set-asides established by the executive director cannot be satisfied after ranking the applications based on the number of points, the executive director may rank as many applications as necessary to meet the requirements of such set-aside (selecting the highest ranked application, or applications, meeting the requirements of the set-aside) over applications with more points.

In the event of a tie in the number of points assigned to two or more applications within the same pool, or, if none, within the Commonwealth, and in the event that the amount of credits available for reservation to such applications is determined by the executive director to be insufficient for the financial feasibility of all of the developments described therein, the authority shall, to the extent necessary to fully utilize the amount of credits available for reservation within such pool or, if none, within the Commonwealth, select one or more of the applications with the highest combination of points from subdivision 7 above, and each application so selected shall receive (in order based upon the number of such points, beginning with the application with the highest number of such points) a reservation of credits. If two or more of the tied applications receive the same number of points from subdivision 7 above and if the amount of credits available for reservation to such tied applications is determined by the executive director to be insufficient for the financial feasibility of all the developments described therein, the executive director shall select one or more of such applications by lot, and each application so selected by lot shall receive (in order of such selection by lot) a reservation of credits.

For each application which may receive a reservation of credits, the executive director shall determine the amount, as

Final Regulations

of the date of the deadline for submission of applications for reservation of credits, to be necessary for the financial feasibility of the development and its viability as a qualified low-income development throughout the credit period under the IRC. In making this determination, the executive director shall consider the sources and uses of the funds, the available federal, state and local subsidies committed to the development, the total financing planned for the development as well as the investment proceeds or receipts expected by the authority to be generated with respect to the development, and the percentage of the credit dollar amount used for development costs other than the costs of intermediaries. He shall also examine the development's costs, including developer's fees and other amounts in the application, for reasonableness and, if he determines that such costs or other amounts are unreasonably high, he shall reduce them to amounts that he determines to be reasonable. The executive director shall review the applicant's projected rental income, operating expenses and debt service for the credit period. The executive director may establish such criteria and assumptions as he shall deem reasonable for the purpose of making such determination, including, without limitation, criteria as to the reasonableness of fees and profits and assumptions as to the amount of net syndication proceeds to be received (based upon such percentage of the credit dollar amount used for development costs, other than the costs of intermediaries, as the executive director shall determine to be reasonable for the proposed development), increases in the market value of the development, and increases in operating expenses, rental income and, in the case of applications without firm financing commitments (as defined hereinabove) at fixed interest rates, debt service on the proposed mortgage loan. The executive director may, if he deems it appropriate, consider the development to be a part of a larger development. In such a case, the executive director may consider, examine, review and establish any or all of the foregoing items as to the larger development in making such determination for the development.

At such time or times during each calendar year as the executive director shall designate, the executive director shall reserve credits to applications in descending order of ranking within each pool and tier, if applicable, until either substantially all credits therein are reserved or all qualified applications therein have received reservations. (For the purpose of the preceding sentence, if there is not more than a de minimis amount, as determined by the executive director, of credits remaining in a pool after reservations have been made, "substantially all" of the credits in such pool shall be deemed to have been reserved.) The executive director may rank the applications within pools at different times for different pools and may reserve credits, based on such rankings, one or more times with respect to each pool. The executive director may also establish more than one round of review and ranking of applications and reservation of credits based on such rankings, and he shall designate the amount of credits to be made available for reservation within each pool during each such round. The amount reserved to each such application shall be equal to the lesser of (i) the amount requested in the application or (ii) an amount determined by the executive director, as of the date of application, to be necessary for the financial feasibility of the development and its viability as a

qualified low-income development throughout the credit period under the IRC; provided, however, that in no event shall the amount of credits so reserved exceed the maximum amount permissible under the IRC.

Not more than 20% of the credits in any pool may be reserved to developments intended to provide elderly housing, unless the feasible credit amount, as determined by the executive director, of the highest ranked elderly housing development in any pool exceeds 20% of the credits in such pool, then such elderly housing development shall be the only elderly housing development eligible for a reservation of credits from such pool. However, if credits remain available for reservation after all eligible nonelderly housing developments receive a reservation of credits, such remaining credits may be made available to additional elderly housing developments. The above limitation of credits available for elderly housing shall not include elderly housing developments with project-based subsidy providing rental assistance for at least 20% of the units that are submitted as rehabilitation developments or assisted living facilities licensed under Chapter 17 of Title 63.2 of the Code of Virginia.

~~The above limitation of credits available for elderly housing shall not include assisted living facilities licensed under Chapter 17 (§ 63.2-1700 et seq.) of Title 63.2 of the Code of Virginia.~~

If the amount of credits available in any pool is determined by the executive director to be insufficient for the financial feasibility of the proposed development to which such available credits are to be reserved, the executive director may move the proposed development and the credits available to another pool. If any credits remain in any pool after moving proposed developments and credits to another pool, the executive director may for developments that meet the requirements of § 42(h)(1)(E) of the IRC only, reserve the remaining credits to any proposed development(s) scoring at or above the minimum point threshold established by this chapter without regard to the ranking of such application with additional credits from the Commonwealth's annual state housing credit ceiling for the following year in such an amount necessary for the financial feasibility of the proposed development, or developments. However, the reservation of credits from the Commonwealth's annual state housing credit ceiling for the following year shall be in the reasonable discretion of the executive director if he determines it to be in the best interest of the plan. In the event a reservation or an allocation of credits from the current year or a prior year is reduced, terminated or cancelled, the executive director may substitute such credits for any credits reserved from the following year's annual state housing credit ceiling.

In the event that during any round of application review and ranking the amount of credits reserved within any pools is less than the total amount of credits made available therein during such round, the executive director may either (i) leave such unreserved credits in such pools for reservation and allocation in any subsequent round or rounds or (ii) redistribute such unreserved credits to such other pool or pools as the executive director may designate or (iii) carry over such unreserved credits to the next succeeding calendar year for

inclusion in the state housing credit ceiling (as defined in § 42(h)(3)(C) of the IRC) for such year.

Notwithstanding anything contained herein, the total amount of credits that may be awarded in any credit year after credit year 2001 to any applicant or to any related applicants for one or more developments shall not exceed 15% of Virginia's per capita dollar amount of credits for such credit year (the "credit cap"). However, if the amount of credits to be reserved in any such credit year to all applications assigned a total number of points at or above the threshold amount set forth above shall be less than Virginia's dollar amount of credits available for such credit year, then the authority's board of commissioners may waive the credit cap to the extent it deems necessary to reserve credits in an amount at least equal to such dollar amount of credits. Applicants shall be deemed to be related if any principal in a proposed development or any person or entity related to the applicant or principal will be a principal in any other proposed development or developments. For purposes of this paragraph, a principal shall also include any person or entity who, in the determination of the executive director, has exercised or will exercise, directly or indirectly, substantial control over the applicant or has performed or will perform (or has assisted or will assist the applicant in the performance of), directly or indirectly, substantial responsibilities or functions customarily performed by applicants with respect to applications or developments. For the purpose of determining whether any person or entity is related to the applicant or principal, persons or entities shall be deemed to be related if the executive director determines that any substantial relationship existed, either directly between them or indirectly through a series of one or more substantial relationships (e.g., if party A has a substantial relationship with party B and if party B has a substantial relationship with party C, then A has a substantial relationship with both party B and party C), at any time within three years of the filing of the application for the credits. In determining in any credit year whether an applicant has a substantial relationship with another applicant with respect to any application for which credits were awarded in any prior credit year, the executive director shall determine whether the applicants were related as of the date of the filing of such prior credit year's application or within three years prior thereto and shall not consider any relationships or any changes in relationships subsequent to such date. Substantial relationships shall include, but not be limited to, the following relationships (in each of the following relationships, the persons or entities involved in the relationship are deemed to be related to each other): (i) the persons are in the same immediate family (including, without limitation, a spouse, children, parents, grandparents, grandchildren, brothers, sisters, uncles, aunts, nieces, and nephews) and are living in the same household; (ii) the entities have one or more common general partners or members (including related persons and entities), or the entities have one or more common owners that (by themselves or together with any other related persons and entities) have, in the aggregate, 5.0% or more ownership interest in each entity; (iii) the entities are under the common control (e.g., the same person or persons and any related persons serve as a majority of the voting members of the boards of such entities or as chief executive officers of such entities) of one or more persons or

entities (including related persons and entities); (iv) the person is a general partner, member or employee in the entity or is an owner (by himself or together with any other related persons and entities) of 5.0% or more ownership interest in the entity; (v) the entity is a general partner or member in the other entity or is an owner (by itself or together with any other related persons and entities) of 5.0% or more ownership interest in the other entity; or (vi) the person or entity is otherwise controlled, in whole or in part, by the other person or entity. In determining compliance with the credit cap with respect to any application, the executive director may exclude any person or entity related to the applicant or to any principal in such applicant if the executive director determines that (i) such person or entity will not participate, directly or indirectly, in matters relating to the applicant or the ownership of the development to be assisted by the credits for which the application is submitted, (ii) such person or entity has no agreement or understanding relating to such application or the tax credits requested therein, and (iii) such person or entity will not receive a financial benefit from the tax credits requested in the application. A limited partner or other similar investor shall not be determined to be a principal and shall be excluded from the determination of related persons or entities unless the executive director shall determine that such limited partner or investor will, directly or indirectly, exercise control over the applicant or participate in matters relating to the ownership of the development substantially beyond the degree of control or participation that is usual and customary for limited partners or other similar investors with respect to developments assisted by the credits. If the award of multiple applications of any applicant or related applicants in any credit year shall cause the credit cap to be exceeded, such applicant or applicants shall, upon notice from the authority, jointly designate those applications for which credits are not to be reserved so that such limitation shall not be exceeded. Such notice shall specify the date by which such designation shall be made. In the absence of any such designation by the date specified in such notice, the executive director shall make such designation as he shall determine to best serve the interests of the program. Each applicant and each principal therein shall make such certifications, shall disclose such facts and shall submit such documents to the authority as the executive director may require to determine compliance with credit cap. If an applicant or any principal therein makes any misrepresentation to the authority concerning such applicant's or principal's relationship with any other person or entity, the executive director may reject any or all of such applicant's pending applications for reservation or allocation of credits, may terminate any or all reservations of credits to the applicant, and may prohibit such applicant, the principals therein and any persons and entities then or thereafter having a substantial relationship (in the determination of the executive director as described above) with the applicant or any principal therein from submitting applications for credits for such period of time as the executive director shall determine.

Within a reasonable time after credits are reserved to any applicants' applications, the executive director shall notify each applicant for such reservations of credits either of the amount of credits reserved to such applicant's application (by issuing to such applicant a written binding commitment to

Final Regulations

allocate such reserved credits subject to such terms and conditions as may be imposed by the executive director therein, by the IRC and by this chapter) or, as applicable, that the applicant's application has been rejected or excluded or has otherwise not been reserved credits in accordance herewith. The written binding commitment shall prohibit any transfer, direct or indirect, of partnership interests (except those involving the admission of limited partners) prior to the placed-in-service date of the proposed development unless the transfer is consented to by the executive director. The written binding commitment shall further limit the developers' fees to the amounts established during the review of the applications for reservation of credits and such amounts shall not be increased unless consented to by the executive director. The executive director shall, as a condition to the binding commitment, require each applicant to obtain a market study, in form and substance satisfactory to the authority, that shows adequate demand for the housing units to be produced by each applicant's proposed development.

If credits are reserved to any applicants for developments which have also received an allocation of credits from prior years, the executive director may reserve additional credits from the current year equal to the amount of credits allocated to such developments from prior years, provided such previously allocated credits are returned to the authority. Any previously allocated credits returned to the authority under such circumstances shall be placed into the credit pools from which the current year's credits are reserved to such applicants.

The executive director shall make a written explanation available to the general public for any allocation of housing credit dollar amount which is not made in accordance with established priorities and selection criteria of the authority.

The authority's board shall review and consider the analysis and recommendation of the executive director for the reservation of credits to an applicant, and, if it concurs with such recommendation, it shall by resolution ratify the reservation by the executive director of the credits to the applicant, subject to such terms and conditions as it shall deem necessary or appropriate to assure compliance with the aforementioned binding commitment issued or to be issued to the applicant, the IRC and this chapter. If the board determines not to ratify a reservation of credits or to establish any such terms and conditions, the executive director shall so notify the applicant.

Subsequent to such ratification of the reservation of credits, the executive director may, in his discretion and without ratification or approval by the board, increase the amount of such reservation by an amount not to exceed 10% of the initial reservation amount.

The executive director may require the applicant to make a good faith deposit or to execute such contractual agreements providing for monetary or other remedies as it may require, or both, to assure that the applicant will comply with all requirements under the IRC, this chapter and the binding commitment (including, without limitation, any requirement to conform to all of the representations, commitments and information contained in the application for which points were assigned pursuant to this section). Upon satisfaction of all

such aforementioned requirements (including any post-allocation requirements), such deposit shall be refunded to the applicant or such contractual agreements shall terminate, or both, as applicable.

If, as of the date the application is approved by the executive director, the applicant is entitled to an allocation of the credits under the IRC, this chapter and the terms of any binding commitment that the authority would have otherwise issued to such applicant, the executive director may at that time allocate the credits to such qualified low-income buildings or development without first providing a reservation of such credits. This provision in no way limits the authority of the executive director to require a good faith deposit or contractual agreement, or both, as described in the preceding paragraph, nor to relieve the applicant from any other requirements hereunder for eligibility for an allocation of credits. Any such allocation shall be subject to ratification by the board in the same manner as provided above with respect to reservations.

The executive director may require that applicants to whom credits have been reserved shall submit from time to time or at such specified times as he shall require, written confirmation and documentation as to the status of the proposed development and its compliance with the application, the binding commitment and any contractual agreements between the applicant and the authority. If on the basis of such written confirmation and documentation as the executive director shall have received in response to such a request, or on the basis of such other available information, or both, the executive director determines any or all of the buildings in the development which were to become qualified low-income buildings will not do so within the time period required by the IRC or will not otherwise qualify for such credits under the IRC, this chapter or the binding commitment, then the executive director may terminate the reservation of such credits and draw on any good faith deposit. If, in lieu of or in addition to the foregoing determination, the executive director determines that any contractual agreements between the applicant and the authority have been breached by the applicant, whether before or after allocation of the credits, he may seek to enforce any and all remedies to which the authority may then be entitled under such contractual agreements.

The executive director may establish such deadlines for determining the ability of the applicant to qualify for an allocation of credits as he shall deem necessary or desirable to allow the authority sufficient time, in the event of a reduction or termination of the applicant's reservation, to reserve such credits to other eligible applications and to allocate such credits pursuant thereto.

Any material changes to the development, as proposed in the application, occurring subsequent to the submission of the application for the credits therefor shall be subject to the prior written approval of the executive director. As a condition to any such approval, the executive director may, as necessary to comply with this chapter, the IRC, the binding commitment and any other contractual agreement between the authority and the applicant, reduce the amount of credits applied for or reserved or impose additional terms and conditions with

respect thereto. If such changes are made without the prior written approval of the executive director, he may terminate or reduce the reservation of such credits, impose additional terms and conditions with respect thereto, seek to enforce any contractual remedies to which the authority may then be entitled, draw on any good faith deposit, or any combination of the foregoing.

In the event that any reservation of credits is terminated or reduced by the executive director under this section, he may reserve, allocate or carry over, as applicable, such credits in such manner as he shall determine consistent with the requirements of the IRC and this chapter.

Notwithstanding the provisions of this section, the executive director may make a reservation of credits to any applicant that proposes a nonelderly development intended to serve people with disabilities and (i) provides rent subsidies or equivalent assistance in order to ensure occupancy by extremely low-income persons; (ii) conforms to HUD regulations interpreting the accessibility requirements of § 504 of the Rehabilitation Act; and (iii) will be actively marketed to people with disabilities in accordance with a plan submitted as part of the application for credits and approved by the executive director. Any such reservations made in any calendar year may be up to 3.0% of the Commonwealth's annual state housing credit ceiling for the applicable credit year. However, such reservation will be for credits from the Commonwealth's annual state housing credit ceiling from the following calendar year.

Notwithstanding the provisions of this section, the executive director may make a reservation of credits, to any applicant that proposes to acquire and rehabilitate a nonelderly development within Arlington County, Fairfax County, Alexandria City, Fairfax City or Falls Church City that the executive director determines (i) cannot be acquired within the schedule for the competitive scoring process described in this section and (ii) cannot be financed with tax-exempt bonds using the authority's normal underwriting criteria for its multifamily tax-exempt bond program. Any proposed development subject to an application submitted under this paragraph must meet the following criteria: (i) [~~at least 80% of the units in the development must be low-income housing units, (ii)~~] at least 20% of the units in the development must be low-income housing units for residents at 50% of the area median income or less, [~~(iii)~~ (ii)] the development must be eligible for points under subdivision 3 b (1) (g) of this section or a combination of at least 20 points under subdivisions 3 b (1) (b) through 3 b (1) (j), excluding subdivision 3 b (1) (c), [~~and (iv)~~ (iii)] the executive director's review of the application must confirm that the portion of the developer's fee to be deferred is at least 5.0% of the total development costs [, and (iv) participation by the local government in the form of low-interest loan/grant moneys from such locality's affordable housing funds]. Any such reservations made in any calendar year may be up to 15% of the Commonwealth's annual state housing credit ceiling for the applicable credit year. However, such reservation will be for credits from the Commonwealth's annual state housing credit ceiling from the following calendar year. Applicants and the principals of such applicant applying for credits under this paragraph may not submit an application

for credits for the same development under the competitive scoring process in this section.

13 VAC 10-180-90. Monitoring for IRS compliance.

A. Federal law requires the authority to monitor developments receiving credits for compliance with the requirements of § 42 of the IRC and notify the IRS of any noncompliance of which it becomes aware. Compliance with the requirements of § 42 of the IRC is the responsibility of the owner of the building for which the credit is allowable. The monitoring requirements set forth hereinbelow are to qualify the authority's allocation plan of credits. The authority's obligation to monitor for compliance with the requirements of § 42 of the IRC does not make the authority liable for an owner's noncompliance, nor does the authority's failure to discover any noncompliance by an owner excuse such noncompliance.

B. The owner of a low-income housing development must keep records for each qualified low-income building in the development that show for each year in the compliance period:

1. The total number of residential rental units in the building (including the number of bedrooms and the size in square feet of each residential rental unit).
2. The percentage of residential rental units in the building that are low-income units.
3. The rent charged on each residential rental unit in the building (including any utility allowances).
4. The number of occupants in each low-income unit, but only if rent is determined by the number of occupants in each unit under § 42(g)(2) of the IRC (as in effect before the amendments made by the federal Revenue Reconciliation Act of 1989).
5. The low-income unit vacancies in the building and information that shows when, and to whom, the next available units were rented.
6. The annual income certification of each low-income tenant per unit.
7. Documentation to support each low-income tenant's income certification (for example, a copy of the tenant's federal income tax return, Forms W-2, or verifications of income from third parties such as employers or state agencies paying unemployment compensation). Tenant income is calculated in a manner consistent with the determination of annual income under section 8 of the United States Housing Act of 1937, 42 USC § 1401 et seq. ("section 8"), not in accordance with the determination of gross income for federal income tax liability. In the case of a tenant receiving housing assistance payments under section 8, the documentation requirement of this subdivision 7 is satisfied if the public housing authority provides a statement to the building owner declaring that the tenant's income does not exceed the applicable income limit under § 42(g) of the IRC.
8. The eligible basis and qualified basis of the building at the end of the first year of the credit period.

Final Regulations

9. The character and use of the nonresidential portion of the building included in the building's eligible basis under § 42(d) of the IRC (e.g., tenant facilities that are available on a comparable basis to all tenants and for which no separate fee is charged for use of the facilities, or facilities reasonably required by the development).

The owner of a low-income housing development must retain the records described in this subsection B for at least six years after the due date (with extensions) for filing the federal income tax return for that year. The records for the first year of the credit period, however, must be retained for at least six years beyond the due date (with extensions) for filing the federal income tax return for the last year of the compliance period of the building.

In addition, the owner of a low-income housing development must retain any original local health, safety, or building code violation reports or notices issued by the Commonwealth or local government (as described in subdivision C 6 of this section) for the authority's inspection. Retention of the original violation reports or notices is not required once the authority reviews the violation reports or notices and completes its inspection, unless the violation remains uncorrected.

C. The owner of a low-income housing development must certify annually to the authority, on the form prescribed by the authority, that, for the preceding 12-month period:

1. The development met the requirements of the 20-50 test under § 42(g)(1)(A) of the IRC or the 40-60 test under § 42(g)(2)(B) of the IRC, whichever minimum set-aside test was applicable to the development.

2. There was no change in the applicable fraction (as defined in § 42(c)(1)(B) of the IRC) of any building in the development, or that there was a change, and a description of the change.

3. The owner has received an annual income certification from each low-income tenant, and documentation to support that certification; or, in the case of a tenant receiving section 8 housing assistance payments, the statement from a public housing authority described in subdivision 7 of subsection B of this section (unless the owner has obtained a waiver from the IRS pursuant to § 42(g)(8)(B) of the IRC).

4. Each low-income unit in the development was rent-restricted under § 42(g)(2) of the IRC.

5. All units in the development were for use by the general public (as defined in IRS Regulation § 1.42-9) and that no finding of discrimination under the Fair Housing Act has occurred for the development. (A finding of discrimination includes an adverse final decision by the Secretary of HUD, 24 CFR 180.680, an adverse final decision by a substantially equivalent state or local fair housing agency, 42 USC § 3616(a)(1), or adverse judgment from federal court.)

6. Each building in the development was suitable for occupancy, taking into account local health, safety, and building codes (or other habitability standards), and that the Commonwealth or local government unit responsible for making local health, safety, and building code inspections did not issue a violation report for any building or low-

income unit in the development. (If a violation report or notice was issued by the governmental unit, the owner must attach a statement summarizing the violation report or notice or a copy of the violation report or notice to the annual certification. In addition the owner must state whether the violation has been corrected.)

7. There was no change in the eligible basis (as defined in § 42(d) of the IRC) of any building in the development, or if there was a change, the nature of the change (e.g., a common area has become commercial space or a fee is now charged for a tenant facility formerly provided without charge).

8. All tenant facilities included in the eligible basis under § 42(d) of the IRC of any building in the development, such as swimming pools, other recreational facilities, and parking areas, were provided on a comparable basis without charge to all tenants in the building.

9. If a low-income unit in the development became vacant during the year, that reasonable attempts were or are being made to rent that unit or the next available unit of comparable or smaller size to tenants having a qualifying income before any units in the development were or will be rented to tenants not having a qualifying income.

10. If the income of tenants of a low-income unit in the development increased above the limit allowed in § 42(g)(2)(D)(ii) of the IRC, the next available unit of comparable or smaller size in the development was or will be rented to tenants having a qualifying income.

11. An extended low income housing commitment as described in § 42(h)(6) of the IRC was in effect (for buildings subject to § 7108(c)(1) of the federal Omnibus Budget Reconciliation Act of 1989).

12. All units in the development were used on a nontransient basis (except for transitional housing for the homeless provided under § 42(i)(3)(B)(iii) of the IRC or single-room-occupancy units rented on a month-by-month basis under § 42(i)(3)(B)(iv) of the IRC).

Such certifications shall be made annually covering each year of the compliance period and must be made under the penalty of perjury.

In addition, each owner of a low-income housing development must provide to the authority, on a form prescribed by the authority, a certification containing such information necessary for the Commonwealth to determine the eligibility of tax credits for the first year of the development's compliance period.

D. The authority will review each certification set forth in subsection C of this section for compliance with the requirements of § 42 of the IRC. Also, the authority will conduct on-site inspections of all the buildings in the development by the end of the second calendar year following the year the last building in the development is placed in service and, for at least 20% of the development's low-income housing units, inspect the low-income certification, the documentation the owner has received to support that certification, and the rent record for the tenants in those units. In addition, at least once every three years, the authority will conduct on-site inspections of all the buildings in each

low-income housing development and, for at least 20% of the development's low-income units, inspect the units, the low-income certifications, the documentation the owner has received to support the certifications, and the rent record for the tenants in those units. The authority will determine which low-income housing developments will be reviewed in a particular year and which tenant's records are to be inspected.

In addition, the authority, at its option, may request an owner of a low-income housing development not selected for the review procedure set forth above in a particular year to submit to the authority for compliance review copies of the annual income certifications, the documentation such owner has received to support those certifications and the rent record for each low-income tenant of the low-income units in their development.

All low-income housing developments may be subject to review at any time during the compliance period.

E. The authority has the right to perform, and each owner of a development receiving credits shall permit the performance of, an on-site inspection of any low-income housing development through the end of the compliance period of the building. The inspection provision of this subsection E is separate from the review of low-income certifications, supporting documents and rent records under subsection D of this section.

The owner of a low-income housing development should notify the authority when the development is placed in service. The authority reserves the right to inspect the property prior to issuing IRS Form 8609 to verify that the development conforms to the representations made in the Application for Reservation and Application for Allocation.

F. The authority will provide written notice to the owner of a low-income housing development if the authority does not receive the certification described in subsection C of this section, or does not receive or is not permitted to inspect the tenant income certifications, supporting documentation, and rent records described in subsection D of this section or discovers by inspection, review, or in some other manner, that the development is not in compliance with the provisions of § 42 of the IRC.

Such written notice will set forth a correction period which shall be that period specified by the authority during which an owner must supply any missing certifications and bring the development into compliance with the provisions of § 42 of the IRC. The authority will set the correction period for a time not to exceed 90 days from the date of such notice to the owner. The authority may extend the correction period for up to 6 months, but only if the authority determines there is good cause for granting the extension.

The authority will file Form 8823, "Low-Income Housing Credit Agencies Report of Noncompliance," with the IRS no later than 45 days after the end of the correction period (as described above, including any permitted extensions) and no earlier than the end of the correction period, whether or not the noncompliance or failure to certify is corrected. The authority must explain on Form 8823 the nature of the noncompliance or failure to certify and indicate whether the owner has corrected the noncompliance or failure to certify. Any change in either the applicable fraction or eligible basis

under subdivisions 2 and 7 of subsection C of this section, respectively, that results in a decrease in the qualified basis of the development under § 42(c)(1)(A) of the IRC is noncompliance that must be reported to the IRS under this subsection F. If the authority reports on Form 8823 that a building is entirely out of compliance and will not be in compliance at any time in the future, the authority need not file Form 8823 in subsequent years to report that building's noncompliance.

The authority will retain records of noncompliance or failure to certify for six years beyond the authority's filing of the respective Form 8823. In all other cases, the authority must retain the certifications and records described in subsection C of this section for three years from the end of the calendar year the authority receives the certifications and records.

G. If the authority decides to enter into the agreements described below, the review requirements under subsection D of this section will not require owners to submit, and the authority is not required to review, the tenant income certifications, supporting documentation and rent records for buildings financed by Rural Development under the § 515 program, or buildings of which 50% or more of the aggregate basis (taking into account the building and the land) is financed with the proceeds of obligations the interest on which is exempt from tax under § 103 (tax-exempt bonds). In order for a monitoring procedure to except these buildings, the authority must enter into an agreement with Rural Development or tax-exempt bond issuer. Under the agreement, Rural Development or tax-exempt bond issuer must agree to provide information concerning the income and rent of the tenants in the building to the authority. The authority may assume the accuracy of the information provided by Rural Development or the tax-exempt bond issuer without verification. The authority will review the information and determine that the income limitation and rent restriction of § 42(g)(1) and (2) of the IRC are met. However, if the information provided by Rural Development or tax-exempt bond issuer is not sufficient for the authority to make this determination, the authority will request the necessary additional income or rent information from the owner of the buildings. For example, because Rural Development determines tenant eligibility based on its definition of "adjusted annual income," rather than "annual income" as defined under section 8, the authority may have to calculate the tenant's income for purposes of § 42 of the IRC and may need to request additional income information from the owner.

H. The owners of low-income housing developments must pay to the authority such fees in such amounts and at such times as the authority shall reasonably require the owners to pay in order to reimburse the authority for the costs of monitoring compliance with § 42 of the IRC.

I. The owners of low-income housing developments that have submitted IRS Forms 8821, Tax Information Authorization, naming the authority as the appointee to receive tax information on such owners shall submit from time to time renewals of such Forms 8821 as required by the authority throughout the extended use period.

J. The requirements of this section shall continue throughout the extended use period, notwithstanding the use of the term

Final Regulations

compliance period, ~~unless~~ *except to the extent* modified or waived by the ~~authority~~ *executive director*.

V.A.R. Doc. No. R06-55; Filed December 16, 2005, 10:30 a.m.

BOARD OF MEDICINE

REGISTRAR'S NOTICE: The Board of Medicine has claimed an exemption from the Administrative Process Act in accordance with § 2.2-4006 A 4 a of the Code of Virginia, which excludes regulations that are necessary to conform to changes in Virginia statutory law or the appropriation act where no agency discretion is involved. The Board of Medicine will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Titles of Regulations: **18 VAC 85-20. Regulations Governing the Practice of Medicine, Osteopathic Medicine, Podiatry, and Chiropractic (amend 18 VAC 85-20-22).**

18 VAC 85-40. Regulations Governing the Practice of Respiratory Care Practitioners (amending 18 VAC 85-40-35).

18 VAC 85-50. Regulations Governing the Practice of Physician Assistants (amending 18 VAC 85-50-35).

18 VAC 85-80. Regulations Governing the Licensure of Occupational Therapists (amending 18 VAC 85-80-26).

18 VAC 85-101. Regulations Governing the Licensure of Radiologic Technologists and Radiologic Technologists-Limited (amending 18 VAC 85-101-25).

18 VAC 85-110. Regulations Governing the Practice of Licensed Acupuncturists (amending 18 VAC 85-110-35).

18 VAC 85-120. Regulations Governing the Licensure of Athletic Trainers (amending 18 VAC 85-120-150).

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

Effective Date: February 8, 2006.

Agency Contact: Elaine J. Yeatts, Agency Regulatory Coordinator, Department of Health Professions, 6603 W. Broad St., Richmond, VA 23230-1712, telephone (804) 662-9918, FAX (804) 662-9114 or e-mail elaine.yeatts@dhp.virginia.gov.

Summary:

The amendments change the fee of \$25 for a check that is not paid by a financial institution on which it is drawn because of insufficient funds in the account to \$35 to conform to § 2.2-614.1 of the Code of Virginia. Section 2.2-614.1 specifies that the penalty shall be \$35 or the amount of any costs, whichever is greater.

18 VAC 85-20-22. Required fees.

A. Unless otherwise provided, fees established by the board shall not be refundable.

B. All examination fees shall be determined by and made payable as designated by the board.

C. The application fee for licensure in medicine, osteopathic medicine, and podiatry shall be \$302, and the fee for licensure in chiropractic shall be \$277.

D. The fee for a temporary authorization to practice medicine pursuant to § 54.1-2927 B (i) and (ii) of the Code of Virginia shall be \$25.

E. The application fee for a limited professorial or fellow license issued pursuant to 18 VAC 85-20-210 shall be \$55. The annual renewal fee shall be \$35. An additional fee for late renewal of licensure shall be \$15.

F. The application fee for a limited license to interns and residents pursuant to 18 VAC 85-20-220 shall be \$55. The annual renewal fee shall be \$35. An additional fee for late renewal of licensure shall be \$15.

G. The fee for a duplicate wall certificate shall be \$15; the fee for a duplicate license shall be \$5.

H. The fee for biennial renewal shall be \$337 for licensure in medicine, osteopathic medicine and podiatry and \$312 for licensure in chiropractic, due in each even-numbered year in the licensee's birth month. An additional fee for processing a late renewal application within one renewal cycle shall be \$115 for licensure in medicine, osteopathic medicine and podiatry and \$105 for licensure in chiropractic.

I. The fee for requesting reinstatement of licensure or certification pursuant to § 54.1-2408.2 of the Code of Virginia or for requesting reinstatement after any petition to reinstate the certificate or license of any person has been denied shall be \$2,000.

J. The fee for reinstatement of a license issued by the Board of Medicine pursuant to § 54.1-2904 of the Code of Virginia that has expired for a period of two years or more shall be \$382 for licensure in medicine, osteopathic medicine and podiatry and \$367 for licensure in chiropractic in addition to the late fee for each year in which the license has been lapsed, not to exceed a total of four years. The fee shall be submitted with an application for licensure reinstatement.

K. The fee for a letter of verification of licensure to another jurisdiction shall be \$10, and the fee for certification of grades to another jurisdiction by the board shall be \$25. Fees shall be due and payable upon submitting a request for verification or certification to the board.

L. The fee for biennial renewal of an inactive license shall be \$168, due in the licensee's birth month. An additional fee for late renewal of licensure shall be \$55 for each renewal cycle.

M. The fee for a returned check shall be ~~\$25~~ \$35.

18 VAC 85-40-35. Fees.

The following fees are required:

1. The application fee, payable at the time the application is filed, shall be \$130.
2. The biennial fee for renewal of active licensure shall be \$135 and for renewal of inactive licensure shall be \$70, payable in each odd-numbered year in the license holder's birth month.

3. The additional fee for late renewal of licensure within one renewal cycle shall be \$50.

4. The fee for reinstatement of a license issued by the Board of Medicine pursuant to § 54.1-2904 of the Code of Virginia, which has lapsed for a period of two years or more, shall be \$180 and must be submitted with an application for licensure reinstatement.

5. The fee for reinstatement of a license pursuant to § 54.1-2921 of the Code of Virginia shall be \$2,000.

6. The fee for a duplicate license shall be \$5, and the fee for a duplicate wall certificate shall be \$15.

7. The fee for a returned check shall be ~~\$25~~ \$35.

8. The fee for a letter of good standing/verification to another jurisdiction shall be \$10; the fee for certification of grades to another jurisdiction shall be \$25.

18 VAC 85-50-35. Fees.

Unless otherwise provided, the following fees shall not be refundable:

1. The initial application fee for a license, payable at the time application is filed, shall be \$130.

2. The biennial fee for renewal of an active license shall be \$135 and for renewal of an inactive license shall be \$70, payable in each odd-numbered year in the birth month of the licensee.

3. The additional fee for late renewal of licensure within one renewal cycle shall be \$50.

4. A restricted volunteer license shall expire 12 months from the date of issuance and may be renewed without charge by receipt of a renewal application that verifies that the physician assistant continues to comply with provisions of § 54.1-2951.3 of the Code of Virginia.

5. The fee for review and approval of a new protocol submitted following initial licensure shall be \$15.

6. The fee for reinstatement of a license pursuant to § 54.1-2921 of the Code of Virginia shall be \$2,000.

7. The fee for a duplicate license shall be \$5, and the fee for a duplicate wall certificate shall be \$15.

8. The fee for a returned check shall be ~~\$25~~ \$35.

9. The fee for a letter of good standing/verification to another jurisdiction shall be \$10.

18 VAC 85-80-26. Fees.

A. The following fees have been established by the board:

1. The initial fee for the occupational therapist license shall be \$130.

2. The fee for reinstatement of the occupational therapist license that has been lapsed for two years or more shall be \$180.

3. The fee for active license renewal shall be \$135 and for inactive license renewal shall be \$70 and shall be due in the

birth month of the licensed therapist in each even-numbered year.

4. The additional fee for processing a late renewal application within one renewal cycle shall be \$50.

5. The fee for a letter of good standing or verification to another state for a license shall be \$10.

6. The fee for reinstatement of licensure pursuant to § 54.1-2921 of the Code of Virginia shall be \$2,000.

7. The fee for a returned check shall be ~~\$25~~ \$35.

8. The fee for a duplicate license shall be \$5, and the fee for a duplicate wall certificate shall be \$15.

B. Unless otherwise provided, fees established by the board shall not be refundable.

18 VAC 85-101-25. Fees.

A. Unless otherwise provided, fees listed in this section shall not be refundable.

B. Initial licensure fees.

1. The application fee for radiologic technologist licensure shall be \$130.

2. The application fee for the radiologic technologist-limited licensure shall be \$90.

3. All examination fees shall be determined by and made payable as designated by the board.

C. Licensure renewal and reinstatement.

1. The fee for active license renewal for a radiologic technologist shall be \$135 and for a radiologic technologist-limited shall be \$70. The fee for inactive license renewal for a radiologic technologist shall be \$70 and for a radiologic technologist-limited shall be \$35.

2. An additional fee of \$50 for a radiologic technologist and \$25 for a radiologic technologist-limited to cover administrative costs for processing a late renewal application within one renewal cycle shall be imposed by the board.

3. The fee for reinstatement of a license that has lapsed for a period of two years or more shall be \$180 for a radiologic technologist and \$120 for a radiologic technologist-limited and shall be submitted with an application for licensure reinstatement.

4. The fee for reinstatement of a license pursuant to § 54.1-2921 of the Code of Virginia shall be \$2,000.

D. Other fees.

1. The application fee for a traineeship as a radiologic technologist shall be \$25.

2. The fee for a letter of good standing or verification to another state for licensure shall be \$10; the fee for certification of grades to another jurisdiction shall be \$25.

3. The fee for a returned check shall be ~~\$25~~ \$35.

Final Regulations

4. The fee for a duplicate license shall be \$5.00, and the fee for a duplicate wall certificate shall be \$15.

18 VAC 85-110-35. Fees.

Unless otherwise provided, the following fees shall not be refundable:

1. The application fee for a license to practice as an acupuncturist shall be \$130.
2. The fee for biennial active license renewal shall be \$135; the fee for biennial inactive license renewal shall be \$70.
3. The additional fee for processing a late renewal within one renewal cycle shall be \$50.
4. The fee for reinstatement of a license which has expired for two or more years shall be \$180.
5. The fee for a letter of good standing/verification of a license to another jurisdiction shall be \$10.
6. The fee for reinstatement of a license pursuant to § 54.1-2921 of the Code of Virginia shall be \$2,000.
7. The fee for a duplicate wall certificate shall be \$15.
8. The fee for a duplicate renewal license shall be \$5.
9. The fee for a returned check shall be ~~\$25~~ \$35.

18 VAC 85-120-150. Fees.

A. Unless otherwise provided, fees listed in this section shall not be refundable.

B. The following fees have been adopted by the board:

1. The application fee shall be \$130.
2. The fee for renewal of licensure shall be \$135 and shall be due in the licensee's birth month, in each odd-numbered year.
3. A fee of \$50 for processing a late renewal within one renewal cycle shall be paid in addition to the renewal fee.
4. The fee for reinstatement of a license that has expired for two or more years shall be \$180 and shall be submitted with an application for reinstatement.
5. The fee for reinstatement of a license pursuant to § 54.1-2921 of the Code of Virginia shall be \$2,000.
6. The fee for a duplicate renewal license shall be \$5, and the fee for a duplicate wall certificate shall be \$15.
7. The fee for a returned check shall be ~~\$25~~ \$35.
8. The fee for a letter of verification to another jurisdiction shall be \$10.

VA.R. Doc. No. R06-144; Filed December 20, 2005, 9:16 a.m.

BOARD OF SOCIAL WORK

REGISTRAR'S NOTICE: The Board of Social Work has claimed an exemption from the Administrative Process Act in accordance with (i) § 2.2-4006 A 3 of the Code of Virginia, which excludes regulations that consist only of changes in

style or form or corrections of technical errors and (ii) § 2.2-4006 A 4 a of the Code of Virginia, which excludes regulations that are necessary to conform to changes in Virginia statutory law or the appropriation act where no agency discretion is involved. The Board of Social Work will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: 18 VAC 140-20. Regulations Governing the Practice of Social Work (amending 18 VAC 140-20-30).

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

Effective Date: February 8, 2006.

Agency Contact: Evelyn B. Brown, Executive Director, Board of Social Work, 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9914, FAX (804) 662-9943 or e-mail evelyn.brown@dhp.virginia.gov.

Summary:

The amendment changes the fee of \$15 for a check that is not paid by a financial institution on which it is drawn because of insufficient funds in the account to \$35 to conform to § 2.2-614.1 of the Code of Virginia. Section 2.2-614.1 specifies that the penalty shall be \$35 or the amount of any costs, whichever is greater.

In addition, an amendment strikes obsolete language providing for a one-time reduction in the biennial renewal fee that expired on June 1, 2005.

18 VAC 140-20-30. Fees.

A. The board has established fees for the following:

- | | |
|---|-----------|
| 1. Registration of supervision | \$25 |
| 2. Application processing | \$100 |
| 3. Biennial license renewal | |
| a. Registered social worker | \$35 |
| b. Associate social worker | \$35 |
| c. Licensed social worker | \$110 |
| <i>(From June 1, 2003, to June 1, 2005, the biennial renewal shall be \$55)</i> | |
| d. Licensed clinical social worker | \$125 |
| <i>(From June 1, 2003, to June 1, 2005, the biennial renewal shall be \$65)</i> | |
| 4. Penalty for late renewal | \$10 |
| 5. Verification of license to another jurisdiction | \$10 |
| 6. Additional or replacement licenses | \$10 |
| 7. Additional or replacement wall certificates | \$15 |
| 8. Returned check | \$15-\$35 |
| 9. Reinstatement following disciplinary action | \$200 |

B. Fees shall be paid by check or money order made payable to the Treasurer of Virginia and forwarded to the board. All fees are nonrefundable.

C. Examination fees shall be paid directly to the examination service according to its requirements.

VA.R. Doc. No. R06-145; Filed December 20, 2005, 9:18 a.m.

◆ ————— ◆

STATE BOARD OF SOCIAL SERVICES

REGISTRAR'S NOTICE: The State Board of Social Services is claiming an exemption from the Administrative Process Act in accordance with (i) § 2.2-4006 A 3 of the Code of Virginia, which excludes regulations that consist only of changes in style or form or corrections of technical errors and (ii) § 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 Social Services will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: 22 VAC 40-730. Investigation of Child Abuse and Neglect in Out of Family Complaints (amending 22 VAC 40-730-115).

Statutory Authority: § 63.2-1511 of the Code of Virginia.

Effective Date: February 8, 2006.

Agency Contact: Rita Katzman, Child Protective Services Program Manager, Department of Social Services, 7 N. 8th St., Richmond, VA 23219, telephone (804) 726-7554, FAX (804) 726-7895 or e-mail rita.katzman@dss.virginia.gov.

Summary:

This regulatory action incorporates changes that are required by Chapters 767 and 806 of the 2005 Acts of Assembly. These changes clarify procedures for conducting a child protective services investigation of a teacher, principal, or other person employed by a local school board or employed in a school operated by the Commonwealth of Virginia.

This action clarifies an exempt final regulation that was published in The Virginia Register on October 3, 2005 (22:2 VA.R. 251-252 October 3, 2005). It provides that if, after an investigation of a child protective services complaint, the local department of social services first determines that the actions or omissions of a teacher, principal, or other person employed by a local school board or employed in a school operated by the Commonwealth were within such employee's scope of employment and were taken in good faith in the course of supervision, care, or discipline of students, then the standard in determining if a report of abuse or neglect is founded is whether such acts or omissions constituted gross negligence or willful misconduct.

22 VAC 40-730-115. Procedures for conducting an investigation of a teacher, principal or other person employed by a local school board or employed in a nonresidential school operated by the Commonwealth.

A. Each local department of social services and local school division shall adopt a written interagency agreement as a

protocol for investigating child abuse and neglect reports against school personnel. The interagency agreement shall be based on recommended procedures for conducting investigations developed by the Departments of Education and Social Services.

B. These procedures for investigating school personnel amplify or clarify other Child Protection Services (CPS) regulations.

1. In determining the validity of a report of suspected abuse or neglect pursuant to § 63.2-1511 of the Code of Virginia, the local department must consider whether the school employee used reasonable and necessary force. The use of reasonable and necessary force does not constitute a valid report.

2. The local department shall conduct a face-to-face interview with the person who is the subject of the complaint or report.

3. At the onset of the initial interview with the alleged abuser or neglecter, the local department shall notify him in writing of the general nature of the complaint and the identity of the alleged child victim regarding the purpose of the contacts.

4. The written notification shall include the information that the alleged abuser or neglecter has the right to have an attorney or other representative of his choice present during his interviews. However, the failure by a representative of the Department of Social Services to so advise the subject of the complaint shall not cause an otherwise voluntary statement to be inadmissible in a criminal proceeding.

5. ~~If the local department determines that the alleged abuser's actions were within the scope of his employment and were taken in good faith in the course of supervision, care or discipline of students, then the standard for determining a founded finding of abuse or neglect is whether such acts or omissions constituted gross negligence or willful misconduct, otherwise such acts should be considered within the employee's scope of employment and taken in good faith in the course of supervision, care, or discipline of students.~~

6. Written notification of the findings shall be submitted to the alleged abuser or neglecter. The notification shall include a summary of the investigation and an explanation of how the information gathered supports the disposition.

7. The written notification of the findings shall inform the alleged abuser or neglecter of his right to appeal.

8. The written notification of the findings shall inform the alleged abuser or neglecter of his right to review information about himself in the record with the following exceptions:

- a. The identity of the person making the report.
- b. Information provided by any law-enforcement official.
- c. Information that may endanger the well-being of the child.
- d. The identity of a witness or any other person if such release may endanger the life or safety of such witness or person.

Final Regulations

No information shall be released by the local department in cases that are being criminally investigated unless the release is authorized by the investigating law-enforcement officer or his supervisor or the local attorney for the Commonwealth.

VA.R. Doc. No. R06-143; Filed December 16, 2005, 1:47 p.m.

EMERGENCY REGULATIONS

TITLE 6. CRIMINAL JUSTICE AND CORRECTIONS

STATE BOARD OF JUVENILE JUSTICE

Title of Regulation: 6 VAC 35-190. Regulations Governing Juvenile Work Release Programs (adding 6 VAC 35-190-10 through 6 VAC 35-190-120).

Statutory Authority: § 66-10 of the Code of Virginia; Chapter 648 of the 2005 Acts of Assembly.

Effective Dates: December 14, 2005, through December 13, 2006.

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

Preamble:

Chapter 648 of the 2005 Acts of Assembly mandates this regulation and specifies that "the Board of Juvenile Justice shall promulgate regulations to implement the provisions of this act to be effective within 280 days of its enactment."

The regulation must be in place as soon as practicable since Chapter 648 also specifies that "the Board of Juvenile Justice is authorized to operate a pilot program in conformity with this act beginning July 1, 2005, and ending July 1, 2006, at one juvenile correctional center site."

Finally, Chapter 648 requires the Department of Juvenile Justice to submit a report on the implementation of the pilot program and this act to the House Committee on Militia, Police and Public Safety, and the Senate Committee on Rehabilitation and Social Services by November 15, 2005.

The goal of the career training and technical education programs authorized by § 66-25.1:2 of the Code of Virginia is "to assist juveniles in acquiring necessary work habits, developing marketable skills, and identifying career goals through a broad range of career opportunities and mentoring and apprenticeship programs."

The goals of the work release provisions of § 66-25.1:3 of the Code of Virginia are to (i) allow a juvenile who is proficient in any trade or occupation and who meets the work release criteria established by the director to be approved for employment by private individuals, corporations, or state agencies at places of business and (ii) permit a juvenile who meets the work release criteria and is capable of receiving substantial benefit from educational and other related community activity programs that are not available within a juvenile correctional center to attend such programs outside of the juvenile correctional facility.

The department may develop appropriate interagency linkages with state and local agencies, public and private institutions of education and of higher education, labor and industry councils, the business community, rehabilitative services providers, and employment and guidance services.

CHAPTER 190. REGULATIONS GOVERNING JUVENILE WORK RELEASE PROGRAMS.

6 VAC 35-190-10. Definitions.

Unless the context clearly requires a different understanding, the following terms shall have the meanings indicated when used in this regulation.

"Educational release program" or "rehabilitative release program" means a program whereby wards of the Department of Juvenile Justice who meet the minimum eligibility criteria for a work release program, and whom the Director judges may receive substantial benefit from the activity, may be approved to participate in education or other community activity programs not available within a juvenile correctional center.

"Furlough" means a temporary, short-term, authorized absence from a secure custody facility for a specific purpose. A furlough extends the physical limits of confinement to include the place or places in the community that the ward is given specific permission to visit.

"Work release program" means a program whereby wards of the Department of Juvenile Justice who meet specified eligibility criteria may be approved for employment by private individuals, corporations, or state agencies at places of business, as provided for in Code of Virginia § 66-25.1:3 or by local agencies at places of business or to improve, repair, work on, or cultivate public property or buildings as provided for in Virginia Code § 66-25.1:2.

6 VAC 35-190-20. Policy and purpose.

A. It is the policy of the Commonwealth of Virginia to provide juveniles committed to the Department of Juvenile Justice with job training opportunities, consistent with protection of the public safety, so as to facilitate their reintegration into their communities as productive citizens upon release from commitment.

B. The purpose of the career-related programs, training, and services governed by this regulation is to assist juveniles in acquiring necessary work habits, developing marketable skills, and identifying career goals through a broad range of career opportunities and mentoring and apprenticeship programs. Work training opportunities may include but need not be limited to, business, industrial, agricultural, highway maintenance and construction, and other arrangements whereby juveniles may be employed to improve, repair, work on, or cultivate public property or buildings.

6 VAC 35-190-30. Assessing a ward's suitability for program participation.

A. Department case management procedures shall provide a process for assessing the suitability of individual wards for work release, education release, and other programs authorized by this regulation, subject to eligibility criteria established by 6 VAC 35-190-40.

B. The assessment shall include:

- 1. A review of the ward's offense history and his behavior during commitment;*

Emergency Regulations

2. The completion of an objective risk assessment of the juvenile's likelihood to re-offend;

3. An assessment of the juvenile's suitability for the particular community release program, including, if applicable, the ward's proficiency in a trade or occupation related to a work release program.

6 VAC 35-190-40. Eligibility criteria.

A. In accordance with Department case management procedures, wards may be approved to participate in a work release, educational release, or other rehabilitative program in the community when they meet the following eligibility criteria.

1. The ward must be at least 16 years of age.
2. The ward must have been in direct care for a minimum of 90 days.
3. The ward must not have committed a moderate institutional offense during the previous 30 days, nor a major institutional offense within the previous 90 days.
4. A ward who previously escaped from a secure setting shall not be eligible for participation in a release program.
5. A ward who is determinately committed as a serious offender pursuant to § 16.1-285.1, may participate in a release program only with written authorization of the committing court.
6. A ward who is committed for murder or manslaughter may be recommended to participate, but must be approved by the Director of the Department or his designee, in accordance with case management procedures.
7. A ward in Classification Level IV, requiring the highest level of supervision, shall not be eligible to participate in a release program.
8. A ward whose scores on an objective risk assessment instrument indicate a high risk of re-offending may participate in a release program only with the approval of the Director upon recommendation by both the Deputy Director for Community Programs and the Deputy Director for Institutional Services.
9. A ward who is subject to compulsory education shall not be eligible except on a part-time basis consistent with applicable child labor laws and with the concurrence of the school authority.

B. Wards shall meet the established eligibility requirements prior to being released to participate in the program.

6 VAC 35-190-50. Written procedures for accountability of participants.

Written procedures shall ensure the accountability of participants and provide for supervision in the community. Such procedures shall include at a minimum:

1. Provisions for a daily count of participating wards;
2. Methods for determining and identifying wards who are authorized to leave the facility;
3. Provisions for a controlled sign-out and sign-in process;

4. Methods of verifying the ward's location within the community, which may include telephone contact, random field visits, or global positioning systems technology; and

5. Written procedure, approved by the facility's health authority, that either permits or prohibits self-medication by wards when they are away from the facility.

6 VAC 35-190-60. Conditions for offender participation in a work release program.

Ward participation in a work release program shall conform to the following specific conditions.

1. Participation by the ward shall be on a voluntary basis.
2. Wards may be required to apply and interview for a position with a participating entity, and to be accepted by the entity, as a condition of placement.

6 VAC 35-190-70. Conditions for employing, supervising, or training entity.

A public or private entity providing employment, supervision, or training as part of a work release program shall be responsible for ensuring that:

1. Employment of wards shall not result in the displacement of employed workers, or be applied in skills, crafts, or trades in which there is a surplus of available gainful labor in the locality, or impair existing contracts for services; and
2. Rates of pay and other conditions of employment shall not be less than those paid or provided for work of a similar nature in the locality in which the work is being performed.
3. The work, training, or supervision available through the release program is not available, and cannot reasonably be provided, at the juvenile correctional center where the ward resides.
4. Designated staff at the ward's facility will be promptly notified if the work release participant is subject to employee discipline; fails to report to work as scheduled; leaves the work area without permission; receives or places non-business telephone calls; or uses or appears to be under the influence of alcohol or other drugs.

6 VAC 35-90-80. Conditions for ward participation in educational release or rehabilitative release program.

Ward participation in an educational release or rehabilitative release program shall conform to the following specific conditions unless ordered otherwise by an appropriate court.

1. Participation by an indeterminately committed ward shall be voluntary and may be subject to an application, interview, and approval process by the entity conducting the program.
2. Participation of a determinately committed ward must be approved in writing by the committing court. The Department may recommend that the ward be approved for participation.
3. Classes, meetings, or training sessions shall be on a regularly scheduled basis.

4. Other conditions shall not be more restrictive on the ward than those required by other participants, unless specifically authorized by this regulation.

6 VAC 35-190-90. Furlough.

Participants in the work release, educational release, or rehabilitative release programs may be considered for furlough. Written procedures shall govern the granting of furloughs in accordance with the provisions of Virginia Code § 66-25.1:4.

6 VAC 35-190-100. Earnings.

Written procedures shall be developed to ensure the accountability of all earnings received, disbursed, to whom and reason on behalf of the participant. Procedures shall be in accordance with Code of Virginia § 66-25.1:3.

6 VAC 35-190-110. Removing participants from program.

Written procedures shall establish the criteria and process for removing a participant from the program.

1. Procedures shall include provisions for an impartial hearing for the participant.
2. Procedures shall include provisions for the appeal of the removal.
3. Documentation shall reflect that this information was explained to all participants when they were assigned to the program.

6 VAC 35-190-120. Annual evaluation and report.

A. The Department shall annually evaluate the range of work release, educational release, and other rehabilitative programs that are governed by this regulation

B. The Department shall annually report to the Board the results of its evaluation. The report to the Board shall include a summary description of each program including its goals; the number of wards participating in each program and the proportion who successfully complete the program; and of each program's effectiveness in accomplishing its goals.

/s/ Mark R. Warner
Governor
Date: December 13, 2005

VA.R. Doc. No. R06-140; Filed December 14, 2005, 11:42 a.m.

GENERAL NOTICES/ERRATA

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Referendum on the Levy of an Increase on the Assessment of Cotton

The Commissioner of Agriculture and Consumer Services hereby gives notice of a referendum on the levy of an increase on the assessment of cotton. This notice is given pursuant to § 3.1-1089 of the Code of Virginia (1950), as amended.

J. Carlton Courter, III
Commissioner of Agriculture and
Consumer Services

1. Date, Hours, Voting Places, and Method of Voting:

The Director of the Division of Marketing, Virginia Department of Agriculture and Consumer Services, will receive ballots from eligible voters until 5 pm on June 12, 2006, the date on which the referendum is deemed to be held. Completed ballots must be received in an official pre-addressed ballot envelope and mailed to be received at or hand delivered to the following address: Virginia Department of Agriculture and Consumer Services, 102 Governor Street, Room 323, Richmond, Virginia 23219.

2. Amount of Assessment to be Collected, Means by which the Assessment will be Collected, and General Purposes for How the Assessment will be Used:

The amount of the additional assessment will be a maximum of 15 cents per bale of cotton ginned in the Commonwealth. The handler shall collect any assessment from the owner of all cotton that the handler gins. In general, the purpose of the collected assessment will be to support research, education, and promotion of the growth and use of cotton.

3. Rules for Conducting Referendum on An Increase On the Assessment of Cotton:

Statutory Authority: Section 3.1-1084 of the Code of Virginia

Effective date: February 14, 2006

Section 1, Definitions: Unless the context indicates otherwise, the following terms have the following meanings:

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

"Bale" means a closely pressed package of cotton which has been ginned and weighs approximately 480 pounds.

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

"Cotton Board" means the Virginia Cotton Board.

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

"Director" means the Director of the Division of Marketing of the Virginia Department of Agriculture and Consumer Services.

"Fiscal Year" means July 1 through the following June 30.

"Farming Unit" means any sole proprietorship, corporation, or partnership and Includes land owned and leased by any such business entity.

"Rules" means "Rules for Conducting a Referendum Authorizing An Increase on the Assessment of Cotton."

Section 2, Purpose: The purpose of this referendum is to allow Virginia cotton producers in a referendum to decide the following question:

"Do you favor authorizing the Cotton Board to increase the assessment on cotton by a maximum of \$0.15 per bale of cotton ginned in the Commonwealth to support research, education, and promotion of the growth and use of cotton?"

Section 3, Eligibility: Eligibility requirements shall be those established by Section 3.1-1086 of the Code of Virginia, which states:

"Any person in the Commonwealth who produced at least one bale of cotton in the Commonwealth in the fiscal year preceding any referendum held pursuant to this chapter shall be eligible to vote in such referendum, provided that he so certifies on forms prepared by the Commissioner. Completed certification forms shall include the following information: (i) the full name, address, and, if applicable, title of producer if a partner or corporate officer; (ii) the name and locality of each handler of that producer's cotton in the fiscal year preceding the referendum; and (iii) any other information deemed necessary by the Commissioner to carry out the Commissioner's duties under this section. Any person who meets the requirements of this section shall be eligible to vote in the referendum, but no person shall be required to be a qualified voter in other respects. Natural persons, partnerships, or corporations may vote provided that such person is a resident of the Commonwealth or qualified to do business in the Commonwealth. The vote of a partnership shall be cast by one of the general partners. A corporation shall vote by its president, general manager, or such other person as may be authorized by the corporation to vote. Only one person per farming unit shall be eligible to vote in any referendum."

The Director must receive the completed Commissioner-prepared forms referred to above in this section no later than 5:00 pm on May 9, 2006.

Section 4, Public Notices: Section 3.1-1085 of the Code of Virginia provides (in part) the following:

"...The Commissioner shall, at least sixty days before the date on which a referendum is to be held, mail notice to the clerk of the circuit court in each locality where cotton is produced. The clerk of the court shall post the notice on the front door or public bulletin board of the courthouse and certify the posting to the Commissioner. The Commissioner shall, at least sixty days prior to the holding of any referendum under this chapter, publish notice of the

referendum in a newspaper of daily general circulation in Richmond, Virginia, and send a notice of the referendum to a newspaper of general circulation in each locality in which cotton is produced.

Such notice shall contain the date, hours, voting places, and method of voting in the referendum; the amount of assessment to be collected, the means by which the assessment will be collected, and the general purposes for which the assessment will be used; and the rules adopted by the Agriculture Board pursuant to § 3.1-1084."

In fulfillment of this statutory notice requirement, the Commissioner shall:

- 1) Mail notice to clerks of court no later than March 23, 2006;
- 2) Publish notice in a newspaper of daily general circulation in Richmond, Virginia no later than March 23, 2006; and
- 3) Mail notice to a newspaper of general circulation in each locality where cotton is produced no later than March 23, 2006.

Section 5, Ballot distribution and receipt; date of referendum: Section 3.1-1087 of the Code of Virginia requires the Commissioner to distribute ballots in advance of the referendum. The Commissioner shall include a ballot along with a pre-addressed ballot return envelope in the referendum mailing.

Each person who is eligible to vote who votes and who wishes his vote to be counted shall return the completed ballot, in the pre-addressed return envelope provided, to the Director.

For purposes of these Rules, the referendum shall be deemed to be held on the last date on which the Director will accept cast ballots, namely June 12, 2006. The deadline for receipt of cast ballots on that date is 5:00 pm.

Section 6, Judges: The Commissioner shall appoint three judges to count and certify the votes. The judges may not be financially interested in the production or sale of cotton.

Section 7, Canvassing and Declaring Referendum Results: The judges shall open the envelopes and count the completed ballots and shall certify the results to the Commissioner. According to Section 3.1-1087 of the Code of Virginia:

"...The Commissioner shall, within ten days after the referendum, canvass and publicly declare the results thereof and certify the same to the Governor and shall notify, by mail, each member of the Agriculture Board of the results."

With respect to those portions of this statutory requirement with specified deadlines, the Commissioner shall, no later than June 20, 2006:

1. Canvass and publicly declare the results of the referendum; and
2. Certify the same to the Governor, providing to the Governor through the Secretary of Agriculture and Forestry

the results of the referendum and proposed findings in a form that can be used by the Governor in fulfillment of Section 3.1-1090 of the Code, which states in part:

"If the Governor finds any separate referendum held pursuant to § 3.1-1089 in order, that at least 50 percent of those who have met the requirements of § 3.1-1086 have voted, and that a majority of those voting are in opposition...to allowing the Cotton Board to increase the assessment on cotton, then the Governor shall so proclaim and upon such proclamation...the assessment on cotton will not be increased. If the Governor finds that one-half or more of those voting are in favor of...allowing the Cotton Board to increase the assessment on cotton, then the Governor shall so proclaim, and...the Cotton Board shall be authorized to increase the assessment on cotton by a maximum of \$0.15 per bale."

Adopted by the Board of Agriculture and Consumer Services on December 8, 2005. These Rules are full, true, and correctly dated.

/s/ Roy E. Seward
Secretary
Date: December 16, 2005

DEPARTMENT OF CRIMINAL JUSTICE SERVICES

Edward Byrne Memorial Justice Assistance Grant (JAG) Program

The Department of Criminal Justice Services intends to submit an application to the Bureau of Justice Assistance of the U.S. Department of Justice to obtain federal fiscal year 2006 funding available through the Edward Byrne Memorial Justice Assistance Grant (JAG) Program. Although the Bureau has not yet determined the specific amount for which we are eligible to apply, we expect it to be approximately \$3.5 million. The application will be submitted no later than January 26, 2006.

The department will use these funds to make grants to support local and state agency law enforcement, prosecution and judicial programs; crime prevention and education programs; corrections and community corrections programs; drug treatment programs; and planning, evaluation and technology improvement programs. Specific guidelines and instructions for agencies interested in submitting grant proposals will be issued at a later date.

The application will be available for public review at the Department of Criminal Justice Services, 202 N. 9th Street, Richmond, VA 23219; and comments from the public are welcome. Inquiries should be directed to Joe Marshall, telephone (804) 786-1577, or e-mail joe.marshall@dcjs.virginia.gov.

Compulsory Minimum Training Standards for Entry Level Law Enforcement Officers

The Committee on Training of the Criminal Justice Services Board has approved changes to the training objectives,

General Notices/Errata

criteria, and lesson plan guides of the Compulsory Minimum Training Standards for Entry Level Law Enforcement Officers as part of its annual review under 6 VAC 20-20-25. Copies of the changes may be obtained by contacting Judith Kirkendall at Department of Criminal Justice Services, 202 North 9th Street, 10th Floor, Richmond, VA 23219, telephone (804) 786-8003, or e-mail judith.kirkendall@dcjs.virginia.gov.

DEPARTMENT OF ENVIRONMENTAL QUALITY

Notice of Availability of Data Concerning the Presence of Toxic Contaminants

Pursuant to § 62.1-44.19:6 A 3 of the Code of Virginia, the Virginia Department of Environmental Quality (DEQ) is giving notice that new data concerning the presence of toxic contaminants in fish tissue and sediments are available for the fish and sediment monitoring performed by DEQ in the calendar year 2004. The DEQ routine fish and sediment monitoring in 2004 was performed at selected sites in the New River drainage and the Potomac River Drainage, and at special sites in Beaver Creek, Knox Creek, Smith Mountain Lake, Dragon Swamp, the Great Dismal Swamp and Blackwater River as well as several smaller waterbodies. Data for the fish and sediment samples collected in 2004 are posted on the DEQ website at www.deq.virginia.gov/fishtissue/fishtissue.html. For additional information contact Alex Barron at (804) 698-4119, or e-mail ambarron@deq.virginia.gov, or call toll free 1-800-592-5482 and request Mr. Barron.

Notice of Periodic Review - Litter Receptable Regulations

The Department of Environmental Quality will conduct a periodic review of the Litter Receptacle Regulations, 9 VAC 20-190. The purpose of the review is to determine whether the regulations should be terminated, amended or retained in their current form. The review of the regulations will be guided by the principles listed in Executive Order Number Twenty-One (2002) and § 2.2-4007.1 of the Code of Virginia.

The department and the board are seeking public comments on the review of any issue relating to the regulations including whether (i) the regulations are effective in achieving their goals; (ii) the regulations are essential to protect the health, safety or welfare of citizens or for the economical performance of important governmental functions; (iii) there are available alternatives for achieving the purpose of the regulations; (iv) there are less burdensome and less intrusive alternatives for achieving the purpose of the regulations; and (v) the regulations are clearly written and easily understandable by the affected persons. In addition, the department and the board are seeking public comments on ways to minimize the economic impact on small businesses in a manner consistent with the purpose of the regulations.

The purpose of the regulations is to describe the responsibility of owners and operators of establishments and public places throughout the Commonwealth to place and maintain receptacles for receiving litter. The regulations establish

which places must be provided with litter receptacles, the standards for the receptacles, and the requirements for removal of the litter from the receptacles. Chapter 14 (§ 10.1-1419 et seq.) of Title 10.1 of the Code of Virginia requires that these regulations be promulgated. These regulations are designed to protect public health and/or welfare with the least possible costs and intrusiveness to the citizens and businesses of the Commonwealth and to provide the necessary procedures and rules by which the statute may be administered. To view the full text of the regulation, go to <http://leg1.state.va.us/cgi-bin/legp504.exe?000+reg+9VAC20-190>.

Comments on the above regulation are welcome and will be accepted until January 30, 2006. Comments should be sent to Robert G. Wickline, Post Office Box 10009, Richmond, VA 23240-0009 (deliveries can be made to 629 East Main Street, Richmond, VA), telephone (804) 698.4213, FAX (804) 698.4237, or e-mail rgwickline@deq.virginia.gov. Note: Please include your full name and mailing address when providing public comment.

Updates to the Enforceable Policies of the Virginia Coastal Resources Management Program

Notice of intended action: This public notice is to inform interested parties of the Virginia Coastal Resources Management Program's intention to update the enforceable policies incorporated into the program and to invite the public to comment on this change.

Purpose of the notice: The Coastal Zone Management Act (15 CFR 923.84) requires state Coastal Zone Management Programs to formally incorporate changes made to the laws and policies that are used for federal consistency. The changes discussed here have already been made to each statute and regulation, the purpose of this action is to incorporate these changes into the Virginia Coastal Resource Management Program. These changes are considered to be routine program changes, and therefore do not significantly affect the (i) uses subject to management; (ii) special management areas; (iii) boundaries; (iv) authorities and organization or (v) coordination, public involvement and national interest components of the Virginia Coastal Resources Management Program. Upon concurrence by the National Oceanic and Atmospheric Administration, the policies discussed below will be incorporated into the program.

A summary of the updates to the Virginia Coastal Resources Management Program is as follows: (1) Virginia Subaqueous Lands Management (Code of Virginia Title 28.2, Chapter 12) - The statutory provisions being submitted are primarily recodifications giving new section numbers to the statutory provisions already approved by NOAA as part of the original program in 1986. In addition to the renumbering, there have been other minor updates to the program, including the renaming of the fee and royalty fund, further clarification of what small noncommercial piers can be constructed without commission permits, inclusion of submerged aquatic vegetation among the factors considered in management of subaqueous lands, and provisions further supporting existing authority for removal of hazardous structures and sinking

vessels. This program change incorporates the revised subaqueous lands management statutes into the program. (2) Virginia Water Protection Permit Program (Code of Virginia Title 62.1, Chapter 3.1 and 9 VAC 25-210) - This change addresses the permitting of activities in wetlands under the Virginia Water Protection Permit Program, specifically providing separate authority from Federal Clean Water Act jurisdiction. The change preserves Virginia's authority over activities in state waters, including wetlands, regardless of federal authority. The VWPP authority both "provides a state regulatory framework for implementation of federal 401 authority [and] ... also emphasizes the interest of the General Assembly and the State Water Control Board that this authority be used to protect minimum instream flow levels and to regulate activities which may damage nontidal wetlands." With incorporation of the current submitted change, the VWPP continues to do both of these things. This program change incorporates the Virginia Water Protection Permit Program statutes and regulations into the Program.

Public comment period January 9, 2006, to February 10, 2006.

How to comment: Comments on these proposed changes should be submitted in writing directly to the National Oceanic and Atmospheric Administration by February 10, 2006, at the following address: Bill O'Beirne, Coastal Programs Division/OCRM, SSMC4, N/ORM3, Room 11110, 1305 East West Highway, Silver Spring, MD 20910, telephone (301) 713-3155 Ext. 160.

To review documents: The text of these changes as well as an analysis of their implication to the Virginia Coastal Resources Management Program is available on the Virginia Coastal Resources Management Program's website beginning January 9, 2006, at www.deq.virginia.gov/coastal.

If you require paper copies of any of these documents, please contact the Virginia Coastal Resources Management Program through Rachel Bullene at (804) 698-4122.

Total Maximum Daily Load (TMDL) for Chestnut Creek

Announcement of an effort to restore water quality in Chestnut Creek in Carroll County, Grayson County and Galax, Virginia.

Public meeting: Galax-Carroll Regional Library, at 610 W Stuart Drive in Galax, Virginia, on January 30, 2006, from 6 p.m. to 8 p.m.

Purpose of notice: To seek public comment and announce a public meeting on a water quality improvement study by the Virginia Department of Environmental Quality and the Department of Conservation and Recreation for Chestnut Creek in Galax and Carroll and Grayson counties.

Meeting description: Final public meeting on a study to restore water quality.

Description of study: DEQ is working to identify pollutants that impair aquatic organisms and sources of bacteria contamination in the waters of Chestnut Creek that flows through Galax, and parts of Grayson County and Carroll

County Virginia. The bacteria contamination exceeds water quality standards, which prohibits the recreational use.

The lower 14 miles of Chestnut Creek, from the Galax raw water intake near the city limits is impaired for both aquatic life use and for the recreational use due to bacteria violations. The upper 3.68 miles beginning at the confluence between Coal Creek and Chestnut Creek downstream to the raw water intake is "impaired" for bacteria violations. The stream is impaired for failing to meet the Aquatic Life Use based on violations of the general standard for aquatic organisms and failure to meet the Recreational Use because of fecal coliform and e.coli. bacteria violations.

The study reports the pollutants impairing the aquatic community and develops total maximum daily loads, or TMDLs, for the impaired waters. A TMDL is the total amount of a pollutant a water body can contain and still meet water quality standards. The study also reports the sources of bacteria contamination and develops a TMDL for bacteria. To restore water quality, contamination levels have to be reduced to the TMDL amount.

How a decision is made: The development of a TMDL includes a public comment period, including public meetings. After public comments have been considered and addressed, DEQ will submit the TMDL report to the U.S. Environmental Protection Agency for approval.

How to comment: DEQ accepts written comments by e-mail, fax or postal mail. Written comments should include the name, address and telephone number of the person commenting and be received by DEQ during the comment period, January 30, to February 28, 2006. DEQ also accepts written and oral comments at the public meeting announced in this notice.

To review draft TMDL report: The draft TMDL report on the impaired waters is available after January 9, 2006 from the contact below or on the DEQ website at www.deq.virginia.gov/tmdl.

Contact for additional information: Nancy T. Norton, P.E., Regional TMDL Coordinator, Virginia Department of Environmental Quality, Southwest Regional Office, 355 Deadmore Street, P.O. Box 1688, Abingdon, VA 24212-1688, telephone (276) 676-4807, FAX (276) 676-4899, or e-mail ntnorton@deq.virginia.gov.

Total Maximum Daily Load (TMDL) for Knox Creek and Pawpaw Creek

Announcement of an effort to restore water quality in Knox Creek and Pawpaw Creek in Hurley, Virginia.

Public meeting: Hurley Elementary and Middle School in Hurley, Virginia, on February 6, 2006, from 6 p.m. to 8 p.m. If schools are closed due to inclement weather check the DEQ website for a rescheduled date.

Purpose of notice: The Virginia Department of Environmental Quality and the Department of Conservation and Recreation are announcing the start of a study to restore water quality, a public comment opportunity, and public meeting.

General Notices/Errata

Meeting description: Final public meeting on a study to restore water quality.

Description of study: Virginia agencies are working to identify sources of pollutants affecting the aquatic organisms and sources of bacteria contamination in the waters of Knox Creek. DEQ is also working to identify the pollutant impacting aquatic organisms in Pawpaw Creek. These two streams flow through Buchanan County, Virginia, near Hurley.

The Knox Creek "impaired" stream segment includes the entire stream length in Virginia, from its headwaters to the Kentucky state line. This segment is approximately 16.9 miles long. The stream is impaired for failing to meet the Aquatic Life Use based on violations of the general standard for aquatic organisms and failure to meet the Recreational Use because of fecal coliform bacteria violations.

Pawpaw Creek is impaired from the Kentucky state line to its confluence with Knox Creek, about 4.5 miles of stream reach. This stream is impaired due to failing to meet the Aquatic Life Use based on violations of the general standard for aquatic organisms only.

The study reports the pollutants impairing the aquatic community and recommends total maximum daily loads, or TMDLs, for the impaired waters. A TMDL is the total amount of a pollutant a water body can contain and still meet water quality standards. The study also presents the sources of bacteria contamination and a TMDL for bacteria. To restore water quality, contamination levels have to be reduced to the TMDL amount.

How a decision is made: The development of a TMDL includes a public comment period, including public meetings. After public comments have been considered and addressed, DEQ will submit the TMDL report to the U.S. Environmental Protection Agency for approval.

How to comment: DEQ accepts written comments by e-mail, fax or postal mail. Written comments should include the name, address and telephone number of the person commenting and be received by DEQ during the comment period, February 6, 2006 to March 7, 2006. DEQ also accepts written and oral comments at the public meeting announced in this notice.

To review draft TMDL report: The draft TMDL report on the impaired waters is available after January 9, 2006 from the contact below or on the DEQ website at www.deq.virginia.gov/tmdl.

Contact for additional information: Nancy T. Norton, P.E., Regional TMDL Coordinator, Virginia Department of Environmental Quality, Southwest Regional Office, 355 Deadmore Street, P.O. Box 1688, Abingdon, VA 24212-1688, telephone (276) 676-4807, FAX (276) 676-4899, or e-mail ntnorton@deq.virginia.gov.

Total Maximum Daily Load (TMDL) for Laurel Fork

Announcement of an effort to restore water quality in Laurel Fork in Pocahontas, Virginia.

Public meeting: Pocahontas Presbyterian Church at 134 Moore Street in Pocahontas, Virginia, on February 13, 2006, from 6 p.m. to 8 p.m.

Purpose of notice: To seek public comment and announce a public meeting on a water quality improvement study by the Virginia Department of Environmental Quality and the Department of Conservation and Recreation for Laurel Fork in Pocahontas and Tazewell County.

Meeting description: Final public meeting on a study to restore water quality.

Description of study: Virginia agencies are working to identify pollutants that impair aquatic organisms and identify sources of bacteria contamination and causes of low levels of dissolved oxygen in the waters of Laurel Fork which flows through Pocahontas in Tazewell County, Virginia. The bacteria contamination exceeds water quality standards, which prohibits the recreational use. The stream is impaired for failing to meet the Aquatic Life Use based on violations of the general standard for aquatic organisms. The stream is impaired for violations of the dissolved oxygen standard as well. Low dissolved oxygen impairs or decreases the number and variety of aquatic organisms in the water.

Listed in 1998, the 2.9 mile long "impaired" stream segment on Laurel Fork begins at Route 644 and flows downstream through the Town of Pocahontas to Bluestone River. The stream is impaired for failing to meet the Aquatic Life Use based on dissolved oxygen violations, violations of the general standard for aquatic organisms and failure to meet the Recreational Use because of fecal coliform and E.coli bacteria violations. Bacteria sampling upstream of the segment in 2004 revealed bacteria contamination above the original segment so that the TMDL study includes Laurel Fork upstream to Bossevain at Route 644 and the confluence with Curran Branch.

The study reports the pollutants impairing the aquatic community and develops total maximum daily loads, or TMDLs, for the impaired waters. A TMDL is the total amount of a pollutant a water body can contain and still meet water quality standards. The study also presents the sources of bacteria contamination and a TMDL for bacteria. To restore water quality, contamination levels have to be reduced to the TMDL amount.

How a decision is made: The development of a TMDL includes a public comment period, including public meetings. After public comments have been considered and addressed, DEQ will submit the TMDL report to the U.S. Environmental Protection Agency for approval.

How to comment: DEQ accepts written comments by e-mail, fax or postal mail. Written comments should include the name, address and telephone number of the person commenting and be received by DEQ during the comment period, February 13, 2006 to March 7, 2006. DEQ also accepts written and oral comments at the public meeting announced in this notice.

To review draft TMDL report: The draft TMDL report on the impaired waters is available after January 9, 2006 from the contact below or on the DEQ website at www.deq.virginia.gov/tmdl.

Contact for additional information: Nancy T. Norton, P.E., Regional TMDL Coordinator, Virginia Department of Environmental Quality, Southwest Regional Office, 355 Deadmore Street, P.O. Box 1688, Abingdon, VA 24212-1688, telephone (276) 676-4807, FAX (276) 676-4899, or e-mail ntnorton@deq.virginia.gov.

Total Maximum Daily Load (TMDL) for North Fork Holston River

Announcement of an effort to restore water quality in North Fork Holston River in Saltville, Virginia.

Public meeting: Friends Community Church at 145 Palmer Avenue in Saltville, Virginia, on January 23, 2006, from 6 p.m. to 8 p.m.

Purpose of notice: To seek public comment and announce a public meeting on a water quality improvement study by the Virginia Department of Environmental Quality and the Department of Conservation and Recreation.

Meeting Description: Final public meeting on a study to restore water quality.

Description of Study: Virginia agencies are working to identify sources of pollutants that decrease the number and variety of aquatic organisms in the waters of the North Fork Holston River just downstream of Saltville in Smyth County and Washington County, Virginia.

The 4.8 mile long "impaired" stream segment of North Fork Holston River begins at the confluence with Robertson Branch in Saltville and extends downstream to Tumbling Creek. The stream is impaired for the Aquatic Life Use violations of the general standard for aquatic organisms.

The study reports the pollutants impairing the aquatic community and recommends total maximum daily loads, or TMDL's, for the impaired water. A TMDL is the total amount of a pollutant a water body can contain and still meet water quality standards. To restore water quality, contamination levels have to be reduced to the TMDL amount.

How a decision is made: The development of a TMDL includes a public comment period, including public meetings. After public comments have been considered and addressed, DEQ will submit the TMDL report to the U.S. Environmental Protection Agency for approval.

How to comment: DEQ accepts written comments by e-mail, fax or postal mail. Written comments should include the name, address and telephone number of the person commenting and be received by DEQ during the comment period, January 23, 2006 to February 21, 2006. DEQ also accepts written and oral comments at the public meeting announced in this notice.

To review draft tmdl report: The draft TMDL report for the impaired water is available after January 9, 2006 from the contact below or on the DEQ website at www.deq.virginia.gov/tmdl.

Contact for additional information: Nancy T. Norton, P.E., Regional TMDL Coordinator, Virginia Department of Environmental Quality, Southwest Regional Office, 355

Deadmore Street, P.O. Box 1688, Abingdon, VA 24212-1688, telephone (276) 676-4807, FAX (276) 676-4899, or e-mail ntnorton@deq.virginia.gov.

Total Maximum Daily Load (TMDL) for Pigg River Watershed

Technical Advisory Committee Meeting: Pittsylvania County Public Library – Gretna Branch in Gretna, Virginia, on January 18, 2006, from 2 p.m. to 4 p.m. Directions: From Rt. 40, turn right on Coffey Street. Library is on your left past Gretna High School. Address is 207 Coffey St., Gretna, VA 24557.

Purpose of notice: The Virginia Department of Environmental Quality announces a meeting to discuss technical aspects of a study to restore water quality in the Pigg River watershed.

Meeting description: Technical Advisory Committee meeting on a study to restore water quality in the Pigg River watershed.

Description of study: Virginia agencies are working to identify sources of bacterial pollution in the Pigg River watershed. This contamination exceeds water quality standards, which decreases the suitability of the water for swimming, kayaking and other recreational activities involving direct contact with the water.

The following is a list of the "impaired" waters, their location, the length of the impaired segment and the reason for the impairment: Pigg River, multiple counties, 63.98 miles, bacteria; Leesville Lake, Pittsylvania Co., 154 acres, bacteria; Storey Creek, Franklin Co., 11.60 miles, bacteria; Snow Creek, Pittsylvania Co., 10.98 miles, bacteria; Old Womans Creek, Campbell Co., 4.86 miles, bacteria; and Big Chestnut Creek, Franklin Co., 12.88 miles, bacteria.

During the study, the state agencies will develop a total maximum daily load, or a TMDL, for the impaired waters. A TMDL is the total amount of a pollutant a water body can contain and still meet water quality standards. To restore water quality, contamination levels have to be reduced to the TMDL amount.

How to comment: DEQ accepts written comments by e-mail, fax or postal mail. Written comments should include the name, address and telephone number of the person commenting and be received by February 18, 2006. DEQ also accepts written and oral comments at the public meeting announced in this notice.

Contact for additional information: Mary R. Dail, Department of Environmental Quality, West Central Regional Office, 3019 Peters Creek Road, Roanoke, VA 24019, telephone (540) 562-6715, FAX (540) 562-6860, or e-mail mrdail@deq.virginia.gov.

Total Maximum Daily Load (TMDL) for Staunton (Roanoke) River Watershed

Purpose of notice: To seek public comment and announce a public meeting on a water quality improvement study by the Department of Environmental Quality for the Staunton (Roanoke) River watershed in South Central Virginia.

General Notices/Errata

Public comment period: January 23, 2006, to February 22, 2006.

Public meeting: Brookneal Community Center dining room located at 261 Main Street in Brookneal, Virginia on Monday January 23, 2006, from 7 p.m. to 9 p.m. In the event of inclement weather, please use the contact information provided below or check your local newspaper for an alternative meeting date.

Meeting description: This is the second public meeting on a study to restore water quality in the Staunton (Roanoke) River watershed.

Description of study: Virginia agencies are working to identify sources of bacteria contamination in the Staunton (Roanoke) River watershed in South Central Virginia. This contamination exceeds water quality standards, which prohibits swimming. The contamination impairs or decreases the quality of water.

The following is a list of the "impaired" waters, their location, the length of the impaired segment and the reason for the impairment:

Staunton (Roanoke) River (39.16 miles), Campbell, Pittsylvania, Halifax, and Charlotte Counties, fecal coliform bacteria; Turnip Creek (2.7 miles), Charlotte County, fecal coliform bacteria; Cub Creek (14.21 miles), Charlotte County, fecal coliform bacteria; and an unnamed tributary of Buffalo Creek (2.88 miles), Charlotte County, fecal coliform bacteria.

During the study, DEQ will develop a total maximum daily load, or a TMDL, for the impaired waters. A TMDL is the total amount of a pollutant a water body can contain and still meet water quality standards. To restore water quality, contamination levels have to be reduced to the TMDL amount.

How to comment: DEQ accepts written comments by e-mail, fax or postal mail. Written comments should include the name, address and telephone number of the person commenting and be received by DEQ during the comment period. DEQ also accepts written and oral comments at the public meeting announced in this notice.

Contact for additional information Kelly J. Wills, Department of Environmental Quality, 7705 Timberlake Road, Lynchburg, VA 24502, telephone (434) 582-5120 ext. 6042, FAX (434) 582-5125, or e-mail kjwills@deq.virginia.gov.

Total Maximum Daily Load (TMDL) for Stock Creek

Announcement of an effort to restore water quality in Stock Creek in Scott County, Virginia.

Public meeting: Cove Ridge Center at Natural Tunnel State Park near Duffield, Virginia, on January 17, 2006, from 6 p.m. to 8 p.m.

Purpose of notice: To seek public comment and announce a public meeting on a water quality improvement study by the Virginia Department of Environmental Quality and the Department of Conservation and Recreation for Stock Creek in Scott County Virginia.

Meeting description: Final public meeting on a study to restore water quality.

Description of study: Virginia agencies are working to identify pollutants that impair aquatic organisms living in the waters of Stock Creek. Stock Creek flows through Mabe and near Sunbright along Routes 653 and 871 to the east of Duffield in Scott County. The TMDL segment is between Sunbright and Natural Tunnel State Park off of Route 871, beginning downstream of the impoundment near Cyprus Foote and Mineral.

The 0.6 miles of Stock is impaired for failing to meet the Aquatic Life Use based on violations of the general standard for aquatic organisms.

The study reports the pollutants impairing the aquatic community and develops total maximum daily loads, or TMDLs, for the impaired waters. A TMDL is the total amount of a pollutant a stream can contain and still meet water quality standards. To restore water quality, contamination levels have to be reduced to the TMDL amount.

How a decision is made: The development of a TMDL includes a public comment period, including public meetings. After public comments have been considered and addressed, DEQ will submit the TMDL report to the U.S. Environmental Protection Agency for approval.

How to comment: DEQ accepts written comments by e-mail, fax or postal mail. Written comments should include the name, address and telephone number of the person commenting and be received by DEQ during the comment period, January 17, 2006 to February 15, 2006. DEQ also accepts written and oral comments at the public meeting announced in this notice.

To review draft TMDL report: The draft TMDL report on the impaired waters is available after January 9, 2006 from the contact below or on the DEQ website at www.deq.virginia.gov/tmdl.

Contact for additional information: Nancy T. Norton, P.E., Regional TMDL Coordinator, Virginia Department of Environmental Quality, Southwest Regional Office, 355 Deadmore Street, P.O. Box 1688, Abingdon, VA 24212-1688 telephone (276) 676-4807, FAX (276) 676-4899, or e-mail ntnorton@deq.virginia.gov.

Lynnhaven Watershed No Discharge Zone

The Virginia Department of Environmental Quality is considering the submittal of a request to the U.S. Environmental Protection Agency to designate Lynnhaven Watershed in the City of Virginia Beach as a Boating No Discharge Zone.

The agency is seeking comments on this proposed designation and its costs, benefits and impacts.

Public comment period: January 9, 2006, to February 10, 2006.

Public meeting: A public meeting will be held at the Princess Anne High School cafeteria at 4400 Virginia Beach Boulevard in Virginia Beach, Virginia, on January 19, 2006, at 7 p.m., to discuss this regulation and to answer questions from the public.

Background information: In order to improve water quality in Lynnhaven Watershed, which is listed as an impaired waterway, the department proposes to request the No Discharge Zone designation from the Environmental Protection Agency. If the designation is received, Lynnhaven Watershed will be established as a No Discharge Zone, which means that all discharges of sewage from boats, whether treated or untreated, would be prohibited, and sewage wastes must be contained until removed at pump out facilities. Untreated discharges of sewage from boats are currently prohibited by state regulation, so the regulation amendment primarily impacts boats with waste treatment devices that discharge treated sewage. If the Environmental Protection Agency grants the designation, the Department of Environmental Quality and the State Water Control Board will amend state regulation 9 VAC 25-71, "Regulations Governing the Discharge of Sewage and Other Wastes from Boats" to add Lynnhaven Watershed to a list of designated boating No Discharge Zones in the state.

Locality particularly affected: This regulation amendment will particularly affect the City of Virginia Beach and the Lynnhaven Watershed area.

How to comment: The Department of Environmental Quality accepts written comments by e-mail, fax and postal mail. All written comments must include the full name, address and telephone number of the person commenting and must be received by the department by 5 p.m. on the last day of the comment period.

Contact information for submitting comments or requesting additional information: Michael Gregory, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4065, FAX (804) 698-4032, or e-mail mbgregory@deq.virginia.gov.

BOARD OF MEDICINE

Periodic Review of Regulations

The Board of Medicine is conducting a periodic review of 18 VAC 85-40, Regulations Governing the Practice of Respiratory Care. The regulation was reviewed in 2001 with amendments effective in 2003. Specifically, the board will be looking at requirements for licensure, renewal and reinstatement. In addition, the board is receiving comment on whether there is a need for amendments for consistency with changes in practice and patient care.

Written comments begins on January 9, 2006, and may be submitted until February 8, 2006, to Elaine J. Yeatts, Agency Regulatory Coordinator, Department of Health Professions, 6603 West Broad Street, Richmond, VA 23230-1712, or e-mail to elaine.yeatts@dhp.virginia.gov, or FAX to (804) 662-9114. Regulations for collaborative practice may be viewed on-line at www.townhall.virginia.gov or www.dhp.virginia.gov or copies will be sent upon request.

STATE WATER CONTROL BOARD

Approval of Eleven Total Maximum Daily Load (TMDL) Reports

Notice is hereby given that the State Water Control Board (board) is seeking comment on the approval of 11 Total Maximum Daily Load (TMDL) reports and authorization to include the TMDL reports in the appropriate Water Quality Management Plans.

The purpose of this action is to approve 11 TMDL reports containing 33 bacteria TMDLs as Virginia's plans for the pollutant reductions necessary for attainment of water quality goals in several impaired waterbodies. These actions are taken in accordance with the Public Participation Procedures for Water Quality Management Planning.

At its December 2, 2004 meeting, the board voted unanimously to delegate to the DEQ Director the authority to approve TMDLs that do not include waste load allocations requiring regulatory adoption by the board, provided that a summary report of the action the director plans to take is presented to the board prior to the director approving the TMDL reports. The TMDLs included in this public notice will be approved using this delegation of authority.

The TMDLs listed below have been developed in accordance with Federal Regulations (40 CFR 130.7) and are exempt from the provisions of Article II of the Virginia Administrative Process Act. The TMDLs have been through the TMDL public participation process contained in DEQ's Public Participation Procedures for Water Quality Management Planning. The public comment process provides the affected stakeholders an opportunity for public appeal of the TMDLs. EPA approved all TMDL reports presented under this public notice. The approved reports can be found at http://gisweb.deq.virginia.gov/tmdlapp/tmdl_report_search.cfm.

DEQ staff intends to recommend that 1) the DEQ Director approve the 11 TMDL reports listed below as Virginia's plans for the pollutant reductions necessary for attainment of water quality goals in the impaired segments, and 2) that the DEQ Director authorize inclusion of the TMDL reports in the appropriate Water Quality Management Plans. No regulatory amendments are required for these TMDLs and their associated waste load allocations.

In the Potomac-Shenandoah River Basin:

"Total Maximum Daily Load Development, Mill Creek Bacteria (E. coli) Impairment, Page County, Virginia"

1. Mill Creek bacteria TMDL, located in Page County, proposes bacteria reductions for portions of the watershed

In the Chesapeake Bay-Small Coastal-Eastern Shore River Basin:

"Total Maximum Daily Load (TMDL) Report for Shellfish Areas Listed Due to Bacteria Contamination – Piankatank River, Lower"

General Notices/Errata

2. Piankatank River, Cobbs Creek bacteria TMDL, located in Middlesex County (VDH Shellfish Area Condemnation #034-170, dated October 2003), proposes bacteria reductions for portions of the watershed

3. Piankatank River, Wilton Creek bacteria TMDL, located in Middlesex County (VDH Shellfish Area Condemnation #034-126, dated March 1993), proposes bacteria reductions for portions of the watershed

4. Piankatank River, Healy Creek bacteria TMDL, located in Middlesex County (VDH Shellfish Area Condemnation #034-129, dated February 1999), proposes bacteria reductions for portions of the watershed

In the Rappahannock River Basin:

"Total Maximum Daily Load (TMDL) Report for Shellfish Areas Listed Due to Bacteria Contamination – Lagrange and Robinson Creeks"

5. Lagrange Creek bacteria TMDL, located in Middlesex County (VDH Shellfish Area Condemnation #028-127, dated June 1996), proposes bacteria reductions for portions of the watershed

6. Robinson Creek bacteria TMDL, located in Middlesex County (VDH Shellfish Area Condemnation #028-177, dated May 1997), proposes bacteria reductions for portions of the watershed

"Total Maximum Daily Load (TMDL) Report for Shellfish Areas Listed Due to Bacteria Contamination – Urbanna Creek"

7. Urbanna Creek bacteria TMDL, located in Middlesex County (VDH Shellfish Area Condemnation #029-42 (A), dated September 1993), proposes bacteria reductions for portions of the watershed

"Total Maximum Daily Load (TMDL) Report for Shellfish Areas Listed Due to Bacteria Contamination – Rappahannock River: Mud and Parrots Creeks"

8. Weeks Creek bacteria TMDL, located in Middlesex County (VDH Shellfish Area Condemnation #027-202, dated October 1996), proposes bacteria reductions for portions of the watershed

9. Parrots Creek bacteria TMDL, located in Middlesex County (VDH Shellfish Area Condemnation #027-90, dated April 1989), proposes bacteria reductions for portions of the watershed

"Total Maximum Daily Load (TMDL) Report for Shellfish Areas Listed Due to Bacteria Contamination – Whiting and Meachim Creeks"

10. Whiting Creek bacteria TMDL, located in Middlesex County (VDH Shellfish Area Condemnation #030-51 (D), dated September 1997), proposes bacteria reductions for portions of the watershed

11. Meachim Creek bacteria TMDL, located in Middlesex County (VDH Shellfish Area Condemnation #030-179 (A), dated August 1998), proposes bacteria reductions for portions of the watershed

12. Meachim Creek bacteria TMDL, located in Middlesex County (VDH Shellfish Area Condemnation #030-179 (B), dated August 1998), proposes bacteria reductions for portions of the watershed

"Bacteria TMDLs for Mountain Run and Mine Run, Orange County, Virginia"

13. Mountain Run bacteria TMDL, located in Orange County, proposes bacteria reductions for portions of the watershed

14. Mine Run bacteria TMDL, located in Orange County, proposes bacteria reductions for portions of the watershed

In the York River Basin:

"Bacteria TMDLs for York River Basin, Orange, Louisa, Spotsylvania Counties, Virginia"

15. Beaver Creek bacteria TMDL, located in Orange County, proposes bacteria reductions for portions of the watershed

16. Terrys Run bacteria TMDL, located in Orange County, proposes bacteria reductions for portions of the watershed

17. Pamunkey Creek bacteria TMDL, located in Orange County, proposes bacteria reductions for portions of the watershed

18. Mountain Run bacteria TMDL, located in Orange County, proposes bacteria reductions for portions of the watershed

19. Plentiful Creek bacteria TMDL, located in Louisa and Spotsylvania Counties, proposes bacteria reductions for portions of the watershed

20. Goldmine Creek bacteria TMDL, located in Louisa and Spotsylvania Counties, proposes bacteria reductions for portions of the watershed

In the Chowan River-Dismal Swamp River Basin:

"Development of Bacterial TMDLs for the Chowan Study Area"

21. Beaverpond Creek bacteria TMDL, located in Dinwiddie County, proposes bacteria reductions for portions of the watershed

22. Big Hounds Creek bacteria TMDL, located in Lunenburg County, proposes bacteria reductions for portions of the watershed

23. Little Nottoway River bacteria TMDL, located in Nottoway County, proposes bacteria reductions for portions of the watershed

24. Nottoway River bacteria TMDL, located in Lunenburg, Nottoway and Prince Edward Counties, proposes bacteria reductions for portions of the watershed

25. Raccoon Creek bacteria TMDL, located in Sussex and Southampton Counties, proposes bacteria reductions for portions of the watershed

26. Cypress Swamp bacteria TMDL, located in Surry and Isle of Wight Counties, proposes bacteria reductions for portions of the watershed

27. Mill Swamp bacteria TMDL, located in Surry and Isle of Wight Counties, proposes bacteria reductions for portions of the watershed

28. Rattlesnake (Creek) Swamp bacteria TMDL, located in Surry and Isle of Wight Counties, proposes bacteria reductions for portions of the watershed

"Development of Bacterial TMDLs for the Virginia Beach Coastal Area"

29. London Bridge Creek and Canal #2 bacteria TMDL, located in the City of Virginia Beach, proposes bacteria reductions for portions of the watershed

30. Milldam Creek bacteria TMDL, located in the City of Virginia Beach, proposes bacteria reductions for portions of the watershed

31. Nawney Creek bacteria TMDL, located in the City of Virginia Beach, proposes bacteria reductions for portions of the watershed

32. West Neck Creek (Middle) bacteria TMDL, located in the City of Virginia Beach, proposes bacteria reductions for portions of the watershed

33. West Neck Creek (Upper) bacteria TMDL, located in the City of Virginia Beach, proposes bacteria reductions for portions of the watershed

Public participation: The board is seeking comments on the intended approval of eleven bacteria TMDL reports. Anyone wishing to submit written comments may do so by mail or by e-mail to Jutta Schneider at the address given below. Written comments must include the name and address of the commenter. The comment period begins on January 9, 2006, and ends at 4 p.m. on February 9, 2006.

Contact: Additional information is available on the Department of Environmental Quality website at <http://www.deq.virginia.gov/tmdl/> or contact Jutta Schneider, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, or telephone (804) 698-4099, or e-mail at jschneider@deq.virginia.gov.

A copy of the full text of these procedures is available electronically at: <http://www.deq.virginia.gov/tmdl/pdf/tmdlipn122005.pdf>

The electronic copy is in PDF format and may be read online or downloaded. Hard copies are available upon request from the address above.

Approval of Two Total Maximum Daily Load Implementation Plans (TMDL IPs)

Notice is hereby given that the State Water Control Board (board) is seeking comment on the approval of two Total Maximum Daily Load Implementation Plans (TMDL IPs) and authorization to include these TMDL IPs in the appropriate Water Quality Management Plans. All TMDLs addressed by these implementation plans have been previously approved by EPA.

The purpose of this action is to approve two TMDL IPs addressing nine bacteria TMDLs as Virginia's plans for the pollutant reductions necessary for attainment of water quality goals in several impaired waterbodies. These actions are taken in accordance with the Public Participation Procedures for Water Quality Management Planning. At its June 26, 2005 meeting, the board voted unanimously to delegate to the DEQ Director the authority to approve TMDL IPs, provided that a summary report of the action the director plans to take is presented to the board prior to the director approving the TMDL IPs. The TMDL IPs included in this public notice will be approved using this delegation of authority.

The TMDL IPs listed below have been developed in accordance with the 1997 Water Quality Monitoring, Information and Restoration Act (WQMIRA, § 62.1-44.19:4 through 62.1-44.19:8 of the Code of Virginia) and federal recommendations. The TMDL IPs were developed in accordance with DEQ's Public Participation Procedures for Water Quality Management Planning. Extensive public participation was solicited during the development of the plans, and the public comment process provided the affected stakeholders with opportunities for comment on the proposed plans. The final TMDL IPs can be found at <http://www.deq.state.va.us/tmdl/iprpts.html>.

DEQ staff intends to recommend 1) that the DEQ Director approve the two TMDL IPs listed below, and 2) that the DEQ Director authorize inclusion of the TMDL IPs in the appropriate Water Quality Management Plans. No regulatory amendments are required for these TMDL IPs.

In the Potomac-Shenandoah River Basin: "Willis River Water Quality Implementation Plan (Fecal Coliform TMDL)"

1. Willis River bacteria TMDL implementation plan, Cumberland and Buckingham Counties

In the Chowan River-Dismal Swamp River Basin: "A Total Maximum Daily Load Implementation Plan for the Chowan Study Area"

2. Beaverpond Creek bacteria TMDL implementation plan, Dinwiddie County
3. Big Hounds Creek bacteria TMDL implementation plan, Lunenburg County
4. Little Nottoway River bacteria TMDL implementation plan, Nottoway County
5. Nottoway River bacteria TMDL implementation plan, Lunenburg, Nottoway and Prince Edward Counties
6. Raccoon Creek bacteria TMDL implementation plan, Sussex and Southampton Counties
7. Cypress Swamp bacteria TMDL implementation plan, Surry and Isle of Wight Counties
8. Mill Swamp bacteria TMDL implementation plan, Surry and Isle of Wight Counties
9. Rattlesnake (Creek) Swamp bacteria TMDL implementation plan, Surry and Isle of Wight Counties

Public participation: The board is seeking comments on the intended approval of 11 bacteria TMDL reports. Anyone

General Notices/Errata

wishing to submit written comments may do so by mail or by e-mail to Jutta Schneider at the address given below. Written comments must include the name and address of the commenter. The comment period begins on January 9, 2006, and ends at 4 p.m. on February 9, 2006.

Contact: Additional information is available on the Department of Environmental Quality website at <http://www.deq.virginia.gov/tmdl/> or contact Jutta Schneider, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, or telephone (804) 698-4099, or e-mail at jschneider@deq.virginia.gov. A copy of the full text of these procedures is available electronically at <http://www.deq.virginia.gov/tmdl/pdf/tmdlippn122005.pdf>. The electronic copy is in PDF format and may be read online or downloaded. Hard copies are available upon request from the address above.

Proposed Consent Special Order for Augusta Cooperative Farm Bureau, Inc.

Citizens may comment on a proposed consent order for a facility in Staunton, Virginia

Public comment period: January 9, 2006, to February 8, 2006.

Purpose of notice: To invite the public to comment on a proposed consent order.

A consent order is issued to a business owner or other responsible party to perform specific actions that will bring the entity into compliance with the relevant law and regulations. It is developed cooperatively with the facility and entered into by mutual agreement.

Consent order description: The State Water Control Board proposes to issue a consent order to Augusta Cooperative Farm Bureau, Inc. to address an unpermitted discharge of wastewater that caused a fish kill. The location of the facility where the alleged violations occurred is at the company's fertilizer plant in Staunton. The consent order describes a settlement to resolve the unpermitted discharge and fish kill. It requires the company to take corrective actions to ensure that no unpermitted discharges recur and pay a civil charge.

How a decision is made: After public comments have been considered, the State Water Control Board will make a final decision.

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.

To review the consent order: The public may review the proposed consent order at the DEQ Valley Regional Office every work day by appointment or on the DEQ website at www.deq.virginia.gov.

Contact for public comments, document requests and additional information: Steven W. Hetrick, Valley Regional Office, Department of Environmental Quality, Post Office Box 3000, Harrisonburg, VA 22801-9519, telephone (540) 574-

7833, FAX (540) 574-7844, or e-mail swhetrick@deq.virginia.gov.

Proposed Consent Special Order for Town of Culpeper

Purpose of notice: To invite citizens to comment on a proposed amended consent order for a facility in Culpeper, Virginia.

Public comment period: January 9, 2006, to February 8, 2006.

Consent order description: The State Water Control Board proposes to issue an amended consent order to the Town of Culpeper to address alleged violations of the Virginia Pollutant Discharge Elimination System Permit No. VA0061590. The location of the facility where the alleged violations occurred is at 15108 Service Lane. The amended consent order describes a settlement to resolve consent order violations for not completing construction of an upgraded sewage treatment plant on time, permit effluent limit violations, and late submittal of reports.

How to comment: The Department of Environmental Quality 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 the department within the comment period. The public may review the proposed amended consent order at the department office named below or on the department website at www.deq.virginia.gov.

Contact for public comments, document requests and additional information: Carl Ciccarella, Department of Environmental Quality, Northern Regional Office, 13901 Crown Court, Woodbridge, VA 22193, telephone (703) 583-3862, FAX (703) 583-3871, or e-mail cjiccarella@deq.virginia.gov.

VIRGINIA CODE COMMISSION

Notice to State Agencies

Mailing Address: Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219, FAX (804) 692-0625.

Forms for Filing Material for Publication in the Virginia Register of Regulations

All agencies are required to use the appropriate forms when furnishing material for publication in the Virginia Register of Regulations. The forms may be obtained from: Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591.

Internet: Forms and other Virginia Register resources may be printed or downloaded from the Virginia Register web page: <http://register.state.va.us>.

FORMS:

NOTICE of INTENDED REGULATORY ACTION-RR01
NOTICE of COMMENT PERIOD-RR02
PROPOSED (Transmittal Sheet)-RR03
FINAL (Transmittal Sheet)-RR04
EMERGENCY (Transmittal Sheet)-RR05
NOTICE of MEETING-RR06
AGENCY RESPONSE TO LEGISLATIVE OBJECTIONS-
RR08
RESPONSE TO PETITION FOR RULEMAKING-RR13
FAST-TRACK RULEMAKING ACTION-RR14

ERRATA

STATE BOARD OF HEALTH

Title of Regulation: **12 VAC 5-410. Regulations for the Licensure of Hospitals in Virginia.**

Publication: 22:8 VA.R. 1115-1155 December 26, 2005.

Correction to Final Regulation:

Pages 1122-1125, in 12 VAC 5-410-444, previous changes to the subsection designations were not shown as changed and have been corrected. On page 1122, in what is shown as subdivisions J 1 and K 1, unstrike "Subdivision" and "1" and remove the new language "*Subsection*"

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

EXECUTIVE

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Virginia State Apple Board

† **January 25, 2006 - 11 a.m.** -- Open Meeting
Holiday Inn Select-Koger South, 10800 Midlothian Turnpike, Richmond, Virginia.♿

A meeting of the board to (i) approve the minutes of the last meeting held August 15, 2005, (ii) review its financial statement, and (iii) discuss old and new business. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodation in order to participate at the meeting should contact Dave Robishaw at least five days before the meeting date so that suitable arrangements can be made.

Contact: Dave Robishaw, Secretary, Department of Agriculture and Consumer Services, 900 Natural Resources Dr., Suite 300, Charlottesville, VA 22903, telephone (434) 984-0573, FAX (434) 984-4156, e-mail david.robishaw@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 Irish Potato Board

January 18, 2006 - 7 p.m. -- Open Meeting
Eastern Shore AREC, Painter Research Station, 33446 Research Drive, Painter, Virginia.♿

A meeting to (i) approve minutes of the last meeting; (ii) review the financial statement and annual budget; (iii) discuss promotion, research, and education programs; and (iv) review and evaluate grant proposals for the next fiscal year. 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 Butch Nottingham at least five days before the meeting date so that suitable arrangements can be made.

Contact: Butch Nottingham, Program Manager, Virginia Irish Potato Board, P.O. Box 26, Onley, VA 23418, telephone (757) 787-5867, FAX (757) 787-5973, e-mail jnottingham@vdacs.state.va.us.

STATE AIR POLLUTION CONTROL BOARD

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.

ALCOHOLIC BEVERAGE CONTROL BOARD

January 17, 2006 - 9 a.m. -- Open Meeting
February 6, 2006 - 9 a.m. -- Open Meeting
February 21, 2006 - 9 a.m. -- Open Meeting
March 6, 2006 - 9 a.m. -- Open Meeting
March 20, 2006 - 9 a.m. -- Open Meeting
† April 3, 2006 - 9 a.m. -- Open Meeting
Department of Alcoholic Beverage Control, 2901 Hermitage Road, Richmond, Virginia. 

An executive staff meeting to receive and discuss reports and activities from staff members and to discuss other matters not yet determined.

Contact: W. Curtis Coleburn, III, Secretary to the Board, Department of Alcoholic Beverage Control, 2901 Hermitage Rd., Richmond, VA 23220, telephone (804) 213-4409, FAX (804) 213-4411, (804) 213-4687/TTY , e-mail curtis.coleburn@abc.virginia.gov.

ALZHEIMER'S DISEASE AND RELATED DISORDERS COMMISSION

† January 24, 2006 - 10 a.m. -- Open Meeting
Virginia Department for the Aging, 1610 Forest Avenue, Suite 100, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A regularly scheduled meeting. Public comments welcome.

Contact: Cecily Slasor, Information Specialist, Alzheimer's Disease and Related Disorders Commission, 1610 Forest Avenue, Suite 100, Richmond VA 23229, telephone (804) 662-9333, FAX (804) 662-9354, toll-free (800) 552-3402, (804) 662-9333/TTY , e-mail cecily.slasor@vda.virginia.gov.

March 14, 2006 - 10 a.m. -- Open Meeting
Department for the Aging, 1610 Forest Avenue, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A regular meeting.

Contact: Cecily Slasor, I and R Specialist, Alzheimer's Disease and Related Disorders Commission, 1610 Forest Ave., Ste. 100, Richmond, VA 23229, telephone (804) 662-9338, FAX (804) 662-9354, toll-free (800) 552-3402, (804) 662-9333/TTY , e-mail cecily.slasor@vda.virginia.gov.

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

January 12, 2006 - 9:30 a.m. -- Open Meeting
January 30, 2006 - 9:30 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. 

A meeting of the Photogrammetry Committee to draft regulation wording for consideration by the APESCIDLA Board in order to establish a regulatory program for photogrammetrists pursuant to Chapter 440 of the 2005 Acts of Assembly. 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.

January 18, 2006 - 10 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: Mark N. Courtney, Executive Director, Board for Architects, Professional Engineers, Land Surveyors, Certified

Calendar of Events

Interior Designers and Landscape Architects, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY 📞, e-mail apelscidla@dpor.virginia.gov.

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.

March 16, 2006 - 9 a.m. -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. 📍

A meeting of the full board 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 interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Mark N. Courtney, Executive Director, Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8514, FAX (804) 367-2475 or e-mail apelscidla@dpor.virginia.gov.

* * * * *

March 16, 2006 - 9 a.m. -- Public Hearing

Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Richmond, Virginia. 📍

March 16, 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 for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects is amending regulations entitled

18 VAC 10-20, Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects Regulations. The purpose of the proposed action is to amend the entry requirements for landscape architects who possess an LAAB-accredited degree in landscape architecture to require them to obtain three years of acceptable experience before being granted certification. Applicants could still be approved to take, and sit for, the examination prior to obtaining the required three years of experience; however, certification would not be awarded until such time as the three years of acceptable experience is obtained, documented, submitted, reviewed and approved.

Statutory Authority: §§ 54.1-201, 54.1-404 and 54.1-411 of the Code of Virginia.

Contact: Mark N. Courtney, Executive Director, Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8514, FAX (804) 367-2475 or e-mail apelscidla@dpor.virginia.gov.

VIRGINIA BOARD FOR ASBESTOS, LEAD, AND HOME INSPECTORS

NOTE: CHANGE IN MEETING TIME

† **January 31, 2006 - 2 p.m.** -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, 4th Floor, Room 453, Richmond,
Virginia. 

March 13, 2006 - 10 a.m. -- Open Meeting
Wytheville Town Offices, Wytheville Municipal Building, 150
East Monroe Street, Conference Room B, Wytheville, 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.

† **February 1, 2006 - 9 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia. 

A regular meeting.

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.

† **March 30, 2006 - 9 a.m.** -- Public Hearing
Department of Professional and Occupational Regulation,
3600 West Broad Street, Conference Room 4, Richmond,
Virginia. 

April 14, 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 for Asbestos, Lead, and Home Inspectors is amending regulations entitled **18 VAC 15-20, Virginia Asbestos Licensing Regulations.** The purpose of the proposed action is to empower the board to deny license and approval as well as to take disciplinary action against those acting as or being ostensible licensee for undisclosed persons who do or will control or direct, directly or indirectly, the operations of the licensee's business, and to require training providers to submit information electronically and include social security numbers to speed up application processing. The regulations having been reorganized to present the regulatory requirements in a format that is easier to understand.

Statutory Authority: §§ 54.1-201 and 54.1-501 of the Code of Virginia.

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.

† **March 30, 2006 - 9 a.m.** -- Public Hearing
Department of Professional and Occupational Regulation,
3600 West Broad Street, Conference Room 4, Richmond,
Virginia. 

April 14, 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 for Asbestos, Lead, and Home Inspectors is amending regulations entitled **18 VAC 15-30, Virginia Lead-Based Paint Activities.** The purpose of the proposed action is to empower the board to deny license and approval as well as to take disciplinary action against those acting as or being ostensible licensee for undisclosed persons who do or will control or direct, directly or indirectly, the operations of the licensee's business, and to require training providers to submit information electronically and include social security numbers to speed up application processing. The regulations having been reorganized to present the regulatory requirements in a format that is easier to understand.

Statutory Authority: §§ 54.1-201 and 54.1-501 of the Code of Virginia.

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.

ASSISTIVE TECHNOLOGY LOAN FUND AUTHORITY

† **January 26, 2006 - 10 a.m.** -- Open Meeting
Assistive Technology Loan Fund Authority, 1602 Rolling Hills
Drive, Suite 107, Richmond, Virginia. 

Calendar of Events

A quarterly business meeting of the Board of Directors.

Contact: Joey Wallace, Interim Executive Director, Assistive Technology Loan Fund Authority, 1602 Rolling Hills Dr., Suite 107, Richmond, VA 23229, telephone (804) 662-9997, FAX (804) 662-9533, toll-free (866) 835-5976, e-mail joey.wallace@atlfa.org.

AUCTIONEERS BOARD

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.

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, (804) 367-9753/TTY , e-mail william.ferguson@dpor.virginia.gov.

February 6, 2006 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia. 

A general business meeting including consideration of regulatory issues as may be presented on the agenda. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. 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: William H. Ferguson, II, Executive Director, Board for Barbers and Cosmetology, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590, FAX (804) 367-6295, (804) 367-9753/TTY , e-mail barbercosmo@dpor.virginia.gov.

† **March 7, 2006 - 10 a.m.** -- Public Hearing
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia. 

March 10, 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 for Barbers and Cosmetology intends to adopt regulations entitled **18 VAC 41-60, Body-Piercing Regulations**. The purpose of the proposed action is to promulgate regulations governing the licensure and practice of body piercing as mandated by Chapter 869 of the 2002 Act of Assembly.

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

Contact: William H. Ferguson, II, Executive Director, Board for Barbers and Cosmetology, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590, FAX (804) 367-6295, (804) 367-9753/TTY , e-mail barbercosmo@dpor.virginia.gov.

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.

DEPARTMENT FOR THE BLIND AND VISION IMPAIRED

Rehabilitation Council for the Blind

† **March 11, 2006 - 10 a.m.** -- Open Meeting
Department for the Blind and Vision Impaired, Administrative Headquarters, 397 Azalea Avenue, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A regular meeting.

Contact: Susan D. Payne, VR Program Director, Department for the Blind and Vision Impaired, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3184, FAX (804) 371-3390, toll-free (800) 622-2155, (804) 371-3140/TTY , e-mail susan.payne@dbvi.virginia.gov.

BOARD FOR BRANCH PILOTS

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.

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.

CHILD DAY-CARE COUNCIL

January 12, 2006 - 10 a.m. -- Open Meeting
Department of Social Services, 7 North 8th Street, 6th Floor, Conference Room, Richmond, Virginia. 

A regular meeting.

Contact: Pat Rengnerth, Board of Liaison, Office of Legislative and Regulatory Affairs, Department of Social Services, 7 N. 8th St., Room 5214, Richmond, VA 23219, telephone (804) 726-7905, FAX (804) 726-7906 or e-mail patricia.rengnerth@dss.virginia.gov.

STATE CHILD FATALITY REVIEW TEAM

March 10, 2006 - 10 a.m. -- Open Meeting
Office of the Chief Medical Examiner, 400 East Jackson Street, Richmond, Virginia. 

The business portion of the State Child Fatality Review Team meeting, from 10 a.m. to 10:30 a.m., is open to the public. At the conclusion of the open meeting, the team will go into closed session for confidential case review.

Contact: Rae Hunter-Havens, Coordinator, State Child Fatality Review, 400 East Jackson St.; Richmond, VA 23219, telephone (804) 786-1047, FAX (804) 371-8595, toll-free (800) 447-1708, e-mail rae.hunter-havens@vdh.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)

† **March 15, 2006 - 1:30 p.m.** -- Open Meeting
The Prizery, 700 Bruce Street, South Boston, 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 

† **March 16, 2006 - 9 a.m.** -- Open Meeting
Southern Virginia Higher Education Center, 820 Bruce Street, South Boston, Virginia.  (Interpreter for the deaf provided upon request)

A regular business meeting. Public comment may be received upon notification at least five working days prior to the meeting.

Contact: D. Susan Hayden, Director of Public Relations, State Board for Community Colleges, VCCS, 101 N. 14th Street, 15th Floor, Richmond, VA 23219, telephone (804) 819-4961, FAX (804) 819-4768, (804) 371-8504/TTY 

COMPENSATION BOARD

January 10, 2006 - 2 p.m. -- Open Meeting
102 Governor Street, Richmond, Virginia. 

The annual meeting with Constitutional Officer Association presidents to discuss issues/legislation for the upcoming General Assembly Session.

Calendar of Events

Contact: Cindy P. Waddell, Compensation Board, P.O. Box 710, Richmond, VA 23218, telephone (804) 225-3308, FAX (804) 371-0235, e-mail cindy.waddell@scb.virginia.gov.

† **January 25, 2006 - 11 a.m.** -- Open Meeting
Compensation Board, 102 Governor Street, Richmond, Virginia. 

A monthly board meeting.

Contact: Cindy Waddell, Compensation Board, P.O. Box 710, Richmond, VA 23218, telephone (804) 225-3308, FAX (804) 371-0235, e-mail cindy.waddell@scb.virginia.gov.

BOARD FOR CONTRACTORS

January 10, 2006 - 9 a.m. -- Open Meeting
† **January 11, 2006 - 9 a.m.** -- Open Meeting
January 12, 2006 - 9 a.m. -- Open Meeting
† **January 24, 2006 - 1:30 p.m.** -- Open Meeting
† **January 31, 2006 - 9 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, 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
March 14, 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
March 14, 2006 - 1 p.m. -- Open Meeting
Department of Corrections, 6900 Atmore Drive, 3rd Floor,
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
March 15, 2006 - 9:30 a.m. -- Open Meeting
Department of Corrections, 6900 Atmore Drive, 3rd Floor,
Room 3054, 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
March 15, 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

February 3, 2006 - 9 a.m. -- Open Meeting
February 10, 2006 - 9 a.m. -- Open Meeting
March 17, 2006 - 9 a.m. -- Open Meeting
† **March 31, 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, Department of Health Professions, 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, Department of Health Professions, 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

† **January 19, 2006 - 11 a.m.** -- Open Meeting
† **February 16, 2006 - 11 a.m.** -- Open Meeting
† **March 16, 2006 - 11 a.m.** -- Open Meeting
Department of General Services, 202 N. Ninth Street, Room 412, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A regular monthly meeting. Please contact the Division of Engineering and Buildings to confirm the meeting.

Contact: Rhonda M. Bishton, Administrative Assistant, Division of Engineering and Buildings, Department of General Services, 202 N. Ninth Street, Richmond, VA 23219, telephone (804) 786-3263, FAX (804) 371-7934, (804) 786-6152/TTY, e-mail rhonda.bishton@dgs.virginia.gov.

BOARD OF EDUCATION

January 11, 2006 - 9 a.m. -- Open Meeting
February 15, 2006 - 9 a.m. -- Open Meeting
March 22, 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.

* * * * *

January 17, 2006 - 7 p.m. -- Public Hearings
Loudoun County, Virginia.
Chesapeake City, Virginia.
Richmond, Virginia.
Waynesboro, Virginia.
Wytheville, Virginia.
Contact the department for specific locations.

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

NOTE: CHANGE IN MEETING DATE
February 6, 2006 - 9 a.m. -- Open Meeting
March 20, 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.

DEPARTMENT OF ENVIRONMENTAL QUALITY

† **January 10, 2006 - 7 p.m.** -- Open Meeting
Abraham and William Cooper Memorial Branch Library, 20 Washington Avenue, Colonial Beach, Virginia.

The final public meeting on the development of the fecal coliform TMDLs for shellfish propagation waters in Westmoreland County. The public notice appears in the Virginia Register of Regulations on December 26, 2005.

Contact: Chris French, Department of Environmental Quality, 4949-A Cox Road, Glen Allen, VA 23060, telephone (804) 527-5124, FAX (804) 527-5106, e-mail rcfrench@deq.virginia.gov.

Calendar of Events

January 12, 2006 - 6 p.m. -- Open Meeting

New River Community College, Edwards Hall, Room 206, Dublin, Virginia. 

A public meeting on the development of an implementation plan for the fecal coliform and general standard (benthic) impairments in Back Creek in Pulaski. The public notice appears in the Virginia Register on December 26, 2005. The comment period begins on December 28, 2005, and ends on February 28, 2006.

Contact: Jason Hill, Department of Environmental Quality, 3019 Peters Creek Rd., Roanoke, VA 24019, telephone (540) 562-6724, FAX (540) 562-6860, e-mail jrhill@deq.virginia.gov.

† January 12, 2006 - 7 p.m. -- Open Meeting

Northumberland Public Library, 7204 Northumberland Highway, Heathsville, Virginia. 

The first public meeting on the development of fecal coliform TMDLs for shellfish propagation waters in Northumberland County. The public notice appears in the Virginia Register of Regulations on December 26, 2005.

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.

† January 17, 2006 - 6 p.m. -- Open Meeting

Natural Tunnel State Park, Cove Ridge Center, Duffield, Virginia. 

A public meeting on the development of a TMDL to address impairments of Stock Creek located in Scott County. The public notice appears in the Virginia Register on January 9, 2006. The public comment period begins on January 17, 2006, and ends on February 15, 2006.

Contact: Nancy T. Norton, Department of Environmental Quality, 355 Deadmore St., Abingdon, VA 24212, telephone (276) 676-4807, FAX (276) 676-4899, e-mail ntnorton@deq.virginia.gov.

† January 19, 2006 - 7 p.m. -- Open Meeting

Princess Anne High School, 4400 Virginia Beach Boulevard, Cafeteria, Virginia Beach, Virginia. 

A public meeting on a department proposal to improve water quality in Lynnhaven Watershed, which is listed as an impaired waterway, by requesting a No Discharge Zone designation from the Environmental Protection Agency. If the designation is received, Lynnhaven Watershed will be established as a No Discharge Zone, which means that all discharges of sewage from boats, whether treated or untreated, would be prohibited, and sewage wastes must be contained until removed at pump out facilities. Untreated discharges of sewage from boats are currently prohibited by state regulation, so the regulation amendment primarily impacts boats with waste treatment devices that discharge treated sewage. If the Environmental Protection Agency grants the designation, the Department of Environmental Quality and the State Water Control Board will amend state regulation 9 VAC 25-71, "Regulations Governing the Discharge of Sewage and Other Wastes from Boats" to add Lynnhaven Watershed to a list of designated boating No Discharge Zones in the state. The public notice appears in

the Virginia Register of Regulations on January 9, 2006. The comment period begins on January 9, 2006, and closes on February 10, 2006.

Contact: Michael Gregory, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4065, FAX (804) 698-4032, e-mail mbgregory@deq.virginia.gov.

† January 23, 2006 - 6 p.m. -- Open Meeting

Friends Community Church, 145 Palmer Avenue, Saltville, Virginia. 

A public meeting on the development of a TMDL to address impairments of the North Fork Holston River in Smyth and Washington Counties. The public notice appears in the Virginia Register of Regulations on January 9, 2006. The public comment period begins on January 23, 2006, and ends on February 21, 2006.

Contact: Nancy T. Norton, Department of Environmental Quality, 355 Deadmore St., Abingdon, VA 24212, telephone (276) 676-4807, FAX (276) 676-4899, e-mail ntnorton@deq.virginia.gov.

† January 23, 2006 - 7 p.m. -- Open Meeting

Brookneal Community Center, 261 Main Street, Brookneal, Virginia. 

A public meeting on the development of a TMDL to address impairments of the Staunton (Roanoke) River watershed located in Campbell, Pittsylvania, Halifax and Charlotte counties. The public notice appears in the Virginia Register of Regulations on January 9, 2006. The public comment period begins on January 23, 2006, and closes on February 22, 2006.

Contact: Kelly J. 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 30, 2006 - 6 p.m. -- Open Meeting

Galax-Carroll Regional Library, 610 West Stuart Drive, Galax, Virginia. 

A public meeting on the development of a TMDL to address bacteria impairments of Chestnut Creek in Galax and in Carroll and Grayson counties. The public notice appears in the Virginia Register of Regulations on January 9, 2006. The public comment period begins on January 30, 2006, and ends on February 28, 2006.

Contact: Nancy T. Norton, Department of Environmental Quality, 355 Deadmore St., Abingdon, VA 24212, telephone (276) 676-4807, FAX (276) 676-4899, e-mail ntnorton@deq.virginia.gov.

† **February 6, 2006 - 6 p.m.** -- Open Meeting
Hurley Elementary and Middle School, Hurley, Virginia. 

A public meeting on the development of a TMDL to address impairments of Knox Creek and Pawpaw Creek in Buchanan County. The public notice appears in the Virginia Register of Regulations on January 9, 2006. The public comment period begins on February 6, 2006, and ends on March 7, 2006.

Contact: Nancy T. Norton, Department of Environmental Quality, 355 Deadmore St., Abingdon, VA 24212, telephone (276) 676-4807, FAX (276) 676-4899, e-mail ntnorton@deq.virginia.gov.

† **February 13, 2006 - 6 p.m.** -- Open Meeting
Pocahontas Presbyterian Church, 134 Moore Street, Pocahontas, Virginia. 

A public meeting on the development of a TMDL to address impairments of Laurel Fork in Pocahontas and Tazewell County. The public notice appears in the Virginia Register of Regulations on January 9, 2006. The public comment period begins on February 13, 2006, and ends on March 7, 2006.

Contact: Nancy T. Norton, Department of Environmental Quality, 355 Deadmore St., Abingdon, VA 24212, telephone (276) 676-4807, FAX (276) 676-4899, e-mail ntnorton@deq.virginia.gov.

March 21, 2006 - 9 a.m. -- Open Meeting
Department of Environmental Quality, 629 East Main Street, Richmond, Virginia. 

A meeting of the Ground Water Protection Steering Committee. The meeting will begin with a presentation by Scott Kudlas, DEQ Office of Water Supply Planning. Agency updates will follow the presentation; the meeting will adjourn by 11 a.m.

Contact: Mary Ann Massie, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4042, e-mail mamassie@deq.virginia.gov.

BOARD OF FORESTRY

† **January 13, 2006 - 10 a.m.** -- Open Meeting
Virginia Forestry Association, 3808 Augusta Avenue, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A business meeting.

Contact: Donna Hoy, Administrative Staff Specialist, Board of Forestry, 900 Natural Resources Dr., Suite 800, Charlottesville, VA 22903, telephone (434) 977-6555, FAX (434) 977-7749, e-mail donna.hoy@dof.virginia.gov.

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

January 17, 2006 - 9 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Conference Room 4, Richmond, Virginia. 

A meeting to discuss general business matters related to the practice of funeral service.

Contact: Elizabeth Young, Executive Director, Board of Funeral Directors and Embalmers, Alcoa Bldg., 6603 West Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9907, FAX (804) 662-9523, (804) 662-7197/TTY , e-mail elizabeth.young@dhp.virginia.gov.

January 17, 2006 - 1 p.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Conference Room 4, Richmond, Virginia. 

A formal hearing to hear possible violations of the laws and regulations governing the practice of funeral service.

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) 662-9523, (804) 662-7197/TTY , e-mail elizabeth.young@dhp.virginia.gov.

January 25, 2006 - 9 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor Conference, Room 1, Richmond, Virginia.

A meeting of the Legislative/Regulatory Committee to discuss the rules and regulations that pertain to the practice of funeral service.

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) 662-9523, (804) 662-7197/TTY , e-mail elizabeth.young@dhp.virginia.gov.

GOVERNOR'S EMS ADVISORY BOARD

† **February 2, 2006 - 3 p.m.** -- Open Meeting
Location to be determined. 

A regularly scheduled meeting of the Regulation and Policy Committee to discuss and review proposed regulations for the upcoming revision process.

Contact: Michael D. Berg, Manager, Regulation and Compliance, Department of Health, 109 Governor St., UB-55, Richmond, VA 23219, telephone (804) 864-7600, FAX (804) 864-7580, toll-free (800) 523-6019, e-mail michael.berg@vdh.virginia.gov.

BOARD FOR GEOLOGY

† **April 5, 2006 - 9 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. 

A regular meeting.

Contact: David E. Dick, Executive Director, Board for Geology, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8507, FAX (804) 367-2475, (804) 367-9753/TTY , e-mail geology@dpor.virginia.gov.

Calendar of Events

DEPARTMENT OF HEALTH

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.

† February 24, 2006 - 10 a.m. -- Open Meeting

† April 7, 2006 - 10 a.m. -- Open Meeting
Department of Health, 109 Governor Street, 5th Floor Conference Room, Richmond, Virginia.

A meeting of the Sewage Handling and Disposal 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., Richmond, VA 23219, telephone (804) 864-7452, FAX (804) 864-7475, e-mail donald.alexander@vdh.virginia.gov.

BOARD OF HEALTH PROFESSIONS

† January 17, 2006 - 10 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Room 1, Richmond, Virginia. ♿

The Enforcement Committee will discuss items for its 2006 work plan to include a continuing review of agency performance on disciplinary cases. Public comment will be received at the beginning of the meeting.

Contact: Elizabeth A. Carter, Ph.D., Executive Director, Department of Health Professions, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Room 1, Richmond, VA 23230-1712, telephone (804) 662-7013, FAX (804) 662-7098, (804) 662-7197/TTY ♿, e-mail elizabeth.carter@dhp.virginia.gov.

† January 17, 2006 - 11 a.m. -- Open Meeting
Department of Health Professions, Alcoa Building, 6603 West Broad Street, 5th Floor, Room 1, Richmond, Virginia. ♿

The Regulatory Research Committee will meet to discuss its work plan for 2006 to address issues emerging from the General Assembly, the boards, and otherwise. Public comment will be received at the beginning of the meeting.

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) 662-7013, FAX (804) 662-7098, (804) 662-7197/TTY ♿, e-mail elizabeth.carter@dhp.virginia.gov.

† January 17, 2006 - Noon -- Open Meeting
Department of Health Professions, Alcoa Building, 6603 West Broad Street, 5th Floor, Room 1, Richmond, Virginia. ♿

A general business meeting for (i) discussion of the board's 2006 work plan, (ii) updates on the Sanctions Reference Study, (iii) review of legislation, and agency performance. Public comment will be received at the beginning of the meeting.

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) 662-9910, FAX (804) 662-7098, (804) 662-7197/TTY ♿, e-mail elizabeth.carter@dhp.virginia.gov.

DEPARTMENT OF HEALTH PROFESSIONS

† March 30, 2006 - 11 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Board Room 4, Richmond, Virginia. ♿

This is a working meeting of the Advisory Committee of the Prescription Monitoring Program for the purpose of reviewing data collected for the Program Evaluation Workplan and a progress report on the enhancement and expansion of the program. A review of Practitioner Notification Reports in other states will be given. The committee will discuss the development of criteria to provide these reports and the resource information that will be provided with them. Public comments will be received during this meeting.

Contact: Ralph Orr, PMP, Program Manager, Department of Health Professions, 6603 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 662-9133, FAX (804) 662-9240, e-mail ralph.orr@dhp.virginia.gov.

BOARD FOR HEARING AID SPECIALISTS

March 15, 2006 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Richmond, Virginia ♿

A general business meeting including consideration of regulatory issues as may be presented on the agenda. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: William H. Ferguson, II, Executive Director, Board for Hearing Aid Specialists, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590, FAX (804) 367-6295, (804) 367-9753/TTY ♿, e-mail hearingaidspec@dpor.virginia.gov.

STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

January 10, 2006 - 11:30 a.m. -- Open Meeting
James Monroe Building, 101 North 14th Street, Richmond, Virginia.

Committee meetings begin at approximately 8 a.m. Agenda materials will be available on the website approximately one week prior to the meeting at www.schev.edu. A public comment period will be allocated on the meeting agenda. To be scheduled, those interested in making public comment should contact the person listed below no later than 5 p.m. three business days prior to the meeting date. At the time of the request, the speaker's name, address and topic must be provided. Each speaker will be given up to three minutes to address SCHEV. Speakers are asked to submit a written copy of their remarks at the time of comment.

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.

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

† **January 18, 2006 - 11 a.m.** -- Open Meeting
Virginia Housing Development Authority, 601 South Belvidere Street, Richmond, Virginia. 

A regular meeting of the Board of Commissioners. The board will review and, if appropriate, approve the minutes from the prior meeting; may consider for approval and ratification mortgage loan commitments under its various programs; will review the authority's operations for the prior months; and will consider such other matters and take such other actions as they may deem appropriate. Various committees of the board, including the Programs Committee, the Audit/Operations Committee, the Executive Committee, and the Committee of the Whole, may also meet during the day preceding the meeting and before and after the meeting and may consider matters within their purview. The committees and the board may also meet during meals on the night before the meeting and on the day of the meeting. The planned agenda of the meeting will be available at the offices of the authority one week prior to the date of the meeting.

Contact: J. Judson McKellar, Jr., General Counsel, Virginia Housing Development Authority, 601 S. Belvidere St., Richmond, VA 23220, telephone (804) 343-5540, FAX (804) 783-6701, toll-free (800) 968-7837, (804) 783-6705/TTY , e-mail judson.mckellar@vhda.com.

DEPARTMENT OF HUMAN RESOURCE MANAGEMENT

February 27, 2006 - Public comments may be submitted until this date.

Notice is hereby given that the Department of Human Resource Management intends to amend regulations entitled **1 VAC 55-20, Commonwealth of Virginia Health Benefits Program**. The purpose of the proposed action is to bring the state regulations in line with the Working Families Tax Relief Act (WFTRA). The current definition of a dependent is based on IRS regulations that allowed an employee to cover certain dependents without incurring imputed income based on the state's contribution to the plan. WFTRA went into effect December 2004 and redefined who is considered a qualifying dependent for tax purposes under IRS § 152. WFTRA removes the requirement that a qualifying child be claimed by an employee as a dependent on his federal income tax return and sets up dependency criteria based on relationship, residency, age and self-support.

Statutory Authority: § 2.2-2818 of the Code of Virginia.

Contact: Charles Reed, Associate Director, Department of Human Resource Management, 101 N. 14th St., 13th Floor, Richmond, VA 23219, telephone (804) 786-3124, FAX (804) 371-0231 or e-mail charles.reed@dhrm.virginia.gov.

VIRGINIA INFORMATION TECHNOLOGIES AGENCY

Wireless E911 Services Board

† **January 11, 2006 - 10 a.m.** -- Open Meeting
† **March 8, 2006 - 10 a.m.** -- Open Meeting
Richmond Plaza Building, 110 South 7th Street, 4th Floor Auditorium, Richmond, Virginia. 

A regular board meeting.

Contact: Steve Marzolf, Public Safety Communications Coordinator, Virginia Information Technologies Agency, 411 E. Franklin St., 5th Floor, Suite 500, Richmond, VA 23219, telephone (804) 371-0015, FAX (804) 371-2277, toll-free (866) 482-3911, e-mail steve.marzolf@vita.virginia.gov.

JAMESTOWN-YORKTOWN FOUNDATION

† **March 15, 2006 - 2 p.m.** -- Open Meeting
Richmond area.  (Interpreter for the deaf provided upon request)

Regular meeting of the Executive Committee of the Jamestown 2007 Steering Committee. This meeting is

Calendar of Events

rescheduled from March 1, 2006. Please contact the Jamestown 2007 Office with questions.

Contact: Judy Leonard, Administrative Office Manager, Jamestown-Yorktown Foundation, 410 West Francis St., Williamsburg, VA 23185, telephone (757) 253-4253, FAX (757) 253-4950, e-mail judith.leonard@jyf.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.

* * * * *

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

March 13, 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

January 10, 2006 - 9:30 a.m. -- Public Hearing
Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. 

February 24, 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 Long-Term Care Administrators intends to amend regulations entitled **18 VAC 95-20, Regulations Governing the Practice of Nursing Home Administrators**. The purpose of the proposed action is to amend educational requirements for initial licensure that have been problematic or confusing for some applicants and to clarify the existing regulations.

Statutory Authority: § 54.1-2400 and Chapter 31 (§ 54.1-3100 et seq.) of the Code of Virginia.

Public comments may be submitted until February 24, 2006, to Sandra K. Reen, Executive Director, Board of Long-Term Care Administrators, 6603 West Broad Street, Richmond, VA 23230.

Contact: Elaine J. Yeatts, Regulatory Coordinator, Department of Health Professions, 6606 W. Broad St., Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9114 or e-mail elaine.yeatts@dhp.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

January 24, 2006 - 9:30 a.m. -- Open Meeting
February 28, 2006 - 9:30 a.m. -- Open Meeting
† March 28, 2006 - 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.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

February 24, 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 30-70, Methods and Standards for Establishing Payments Rates; Inpatient Hospital Services.
12 VAC 30-80, Methods and Standards for Establishing Payments Rates; Other Types of Care.
12 VAC 30-90, Methods and Standards for Establishing Payments Rates; Long-Term Care.

The purpose of the proposed action is to sunset intergovernmental financial transfers that are not being phased out by the federal government.

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

Contact: William Lessard, Provider Reimbursement Division, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 225-4593, FAX (804) 786-1680 or e-mail william.lessard@dmas.virginia.gov.

February 24, 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** and **12 VAC 30-141, Family**

Access to Medical Insurance Security Plan (FAMIS). The purpose of the proposed action is to exclude participants in the Virginia Birth-Related Neurological Injury Compensation Program from Medicaid and FAMIS managed care.

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

Contact: Daniel Plain, Managed Care Division, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7958, FAX (804) 786-1680 or e-mail daniel.plain@dmas.virginia.gov.

February 24, 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 30-60, Standards Established and Methods Used to Assure High Quality Care**, and **12 VAC 30-90, Methods and Standards for Establishing Payments Rates; Long-Term Care.** The purpose of the proposed action is to provide additional reimbursement (\$10 per day) to nursing facilities (NF) for residents who require specialized treatment beds due to their having at least one treatable Stage IV pressure ulcer.

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.

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.

Calendar of Events

BOARD OF MEDICINE

† **January 11, 2006 - 9 a.m.** -- Open Meeting
Williamsburg Marriott, 50 Kingsmill Road, Williamsburg, Virginia. 

January 18, 2006 - 8:45 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. 

January 26, 2006 - 9:30 a.m. -- Open Meeting
Clarion Hotel, 3315 Ordway Drive, Roanoke, Virginia. 

A special conference committee of the Board of Medicine will convene informal conferences to inquire into allegations that certain practitioners of medicine or 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 sessions pursuant to the Code of Virginia. Public comment will not be received. Meeting Minutes

Contact: Renee S. Dixon, Discipline Case Manager, Board of Medicine, 6603 W. Broad St., 5th Floor, Richmond, VA, telephone (804) 662-7009, FAX (804) 662-9517, (804) 662-7197/TTY , e-mail renee.dixon@dhp.virginia.gov.

STATE MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES BOARD

† **January 18, 2006 - 10 a.m.** -- Open Meeting
Department of Mental Health, Mental Retardation and Substance Abuse Services, 1220 Bank Street, Richmond, Virginia. 

A regular board meeting. Public comment will be received.

Contact: Marlene A. Butler, Board Secretary, State Mental Health, Mental Retardation and Substance Abuse Services Board, Jefferson Bldg., 1220 Bank St., 13th Floor, Richmond, VA 23219, telephone (804) 786-7945, FAX (804) 371-2308, e-mail marlene.butler@co.dmhmrzas.virginia.gov.

MOTOR VEHICLE DEALER BOARD

January 9, 2006 - 8:30 a.m. -- Open Meeting
Department of Motor Vehicles, 2300 West Broad Street, Room 702, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

Committees will meet as follows:

Dealer Practices Committee - 8:30 a.m.
Licensing Committee - Immediately following Dealer Practices
Advertising Committee - 9:30 a.m. or immediately after Licensing, whichever is later
Transaction Recovery Fund Committee - Immediately following Advertising
Franchise Law Committee - To be scheduled as needed.
Full board meeting - 10 a.m. or five to 45 minutes following Transaction Recovery Fund

NOTE: Meetings may begin later, but not earlier than scheduled. Meeting end times are approximate. Any person who needs any accommodation in order to participate in the meeting should contact the board at least 10 days before the meeting so that suitable arrangements can be made.

Contact: Alice R. Weedon, Administrative Assistant, Motor Vehicle Dealer Board, 2201 W. Broad St., Suite 104, Richmond, VA 23220, telephone (804) 367-1100, FAX (804) 367-1053, toll-free (877) 270-0203, e-mail dboard@mvdb.virginia.gov.

VIRGINIA MUSEUM OF FINE ARTS

† **January 24, 2006 - 10 a.m.** -- Open Meeting
Virginia Museum of Fine Arts, CEO 2nd Floor Meeting Room, 200 N. Boulevard, Richmond, Virginia; Wachovia Bank, 101 West Main Street, Suite 100, Norfolk, Virginia; Wachovia Bank, Austin, Texas. 

A meeting for the search firm to update the Search Committee. A request will be made for the meeting to be held in closed session. 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.

February 7, 2006 - 8 a.m. -- Open Meeting

March 7, 2006 - 8 a.m. -- Open Meeting

† **April 4, 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 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.

BOARD OF NURSING

January 23, 2006 - 9 a.m. -- Open Meeting

January 25, 2006 - 9 a.m. -- Open Meeting

January 26, 2006 - 9 a.m. -- Open Meeting

March 20, 2006 - 9 a.m. -- Open Meeting

March 22, 2006 - 9 a.m. -- Open Meeting

March 23, 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

March 21, 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.

February 6, 2006 - 9 a.m. -- Open Meeting

February 8, 2006 - 9 a.m. -- Open Meeting

February 14, 2006 - 9 a.m. -- Open Meeting

February 23, 2006 - 9 a.m. -- Open Meeting

February 27, 2006 - 9 a.m. -- Open Meeting

February 28, 2006 - 9 a.m. -- Open Meeting

March 2, 2006 - 9 a.m. -- Open Meeting

April 3, 2006 - 9 a.m. -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. 

A Special Conference Committee comprised of two or three members of the Virginia Board of Nursing or agency subordinate will conduct informal conferences with licensees and certificate holders. Public comment will not be received.

Contact: Jay P. Douglas, R.N., M.S.M., C.S.A.C., Executive Director, Board of Nursing, 6603 West Broad Street, 5th Floor, Richmond, VA 23230, telephone (804) 662-9909, FAX (804) 662-9512, (804) 662-7197/TTY , e-mail nursebd@dhp.virginia.gov.

JOINT BOARDS OF NURSING AND MEDICINE

February 22, 2006 - 9 a.m. -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. 

A regular meeting.

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

NOTE: CHANGE IN MEETING TIME

February 13, 2006 - Noon -- Open Meeting

March 20, 2006 - Noon -- Open Meeting

† **April 7, 2006 - 1 p.m.** -- Open Meeting

Webb University Center, Old Dominion University, Norfolk, Virginia. 

A regular meeting of the Executive Committee of the Board of Visitors to discuss business of the board and the

institution as determined by the Rector and the President. Public comment will not be received by the board.

Contact: Donna Meeks, Executive Secretary to the Board of Visitors, Old Dominion University, 204 Koch Hall, Old Dominion University, Norfolk, VA 23529, telephone (757) 683-3072, FAX (757) 683-5679, e-mail dmeeks@odu.edu.

BOARD FOR OPTICIANS

† **April 7, 2006 - 9:30 a.m.** -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Richmond, Virginia. 

A general business meeting including consideration of regulatory issues as may be presented on the agenda. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. Public comment will be heard at the beginning of the meeting. Person desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the department at (804) 367-8590 at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: William H. Ferguson, II, Executive Director, Board for Opticians, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590, FAX (804) 367-6295, (804) 367-9753/TTY , e-mail opticians@dpor.state.va.us.

VIRGINIA BOARD FOR PEOPLE WITH DISABILITIES

† **January 11, 2006 - 10 a.m.** -- Open Meeting

202 North 9th Street, 9th Floor, Richmond, Virginia. 
(Interpreter for the deaf provided upon request)

A meeting to review report draft.

Contact: Tom Driscoll, Strategic Planning and Marketing Manager, Virginia Board for People with Disabilities, 202 N. 9th St., 9th Floor, Richmond, VA, telephone (804) 786-9380, FAX (804) 786-1118, toll-free (800) 846-4464, (804) 786-0016/TTY , e-mail thomas.driscoll@vbpd.virginia.gov.

PESTICIDE CONTROL BOARD

† **January 19, 2006 - 9 a.m.** -- Open Meeting

Oliver W. Hill Building, 102 Governor Street, 2nd Floor Board Room, Richmond, Virginia. 

A meeting open to the public to discuss general business matters requiring board action. However, portions of the meeting may be held in closed session pursuant to § 2.2-3711 of the Code of Virginia. The board will entertain public comment at the beginning of the meeting on 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 the person identified in this notice at least five days before the meeting date so that suitable arrangements can be made for any appropriate accommodation.

Calendar of Events

Contact: Dr. W. Wayne Surlles, Program Manager, Department of Agriculture and Consumer Services, Oliver W. Hill Bldg., 102 Governor St., 1st Floor, Richmond, VA 23219, telephone (804) 371-6559, FAX (804) 786-9149, e-mail wayne.surlles@vdacs.virginia.gov.

BOARD OF PHYSICAL THERAPY

January 27, 2006 - 9 a.m. -- Open Meeting
Department of Health Professions 6603 West Broad Street, 5th Floor, Conference Room 1, Richmond, Virginia. ♿

A general business meeting.

Contact: Elizabeth Young, Executive Director, Board of Physical Therapy, Alcoa Bldg., 6603 West Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9924, FAX (804) 662-9523, (804) 662-7197/TTY ☎, e-mail elizabeth.young@dhp.virginia.gov.

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 formal hearing.

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.

NOTE: CHANGE IN MEETING TIME

January 10, 2006 - 10:30 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.

VIRGINIA PUBLIC GUARDIAN AND CONSERVATOR ADVISORY BOARD

March 23, 2006 - 10 a.m. -- Open Meeting
Department for the Aging, 1610 Forest Avenue, Suite 100, Richmond, Virginia. ♿

A quarterly meeting.

Contact: Janet Dingle Brown, Esq., Public Guardianship Coordinator and Legal Services Developer, Virginia Department for the Aging, 1610 Forest Ave., Suite 100, Richmond, VA 23229, telephone (804) 662-7049, FAX (804)

662-9354, toll-free (800) 552-3402, (804) 662-9333/TTY ☎, e-mail janet.brown@vda.virginia.gov.

REAL ESTATE APPRAISER BOARD

† **January 11, 2006 - 10 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Room 453, Richmond, Virginia ♿

Informal fact-finding conferences.

Contact: Christine Martine, Executive Director, Real Estate Appraiser Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8552, FAX (804) 367-6946, (804) 367-9753/TTY ☎, e-mail reappraisers@dpor.virginia.gov.

DEPARTMENT OF REHABILITATIVE SERVICES

Virginia Statewide Independent Living Council

January 19, 2006 - Noon -- Open Meeting
Resources for Independent Living Center, 4009 Fitzhugh Avenue, Richmond Virginia.

A business meeting. Public comment will be received at 12:30 pm. The Virginia Statewide Independent Living Council encourages a scent free environment. If interpreter services or other accommodations are required, please notify Ms. Grubb.

Contact: Lisa Grubb, Executive Director, Department of Rehabilitative Services, 8004 Franklin Farms Drive, Richmond, VA 23288, telephone (804) 897-7228, FAX (804) 897-1080, e-mail VirginiaSILC@comcast.net.

VIRGINIA RESEARCH AND TECHNOLOGY ADVISORY COMMISSION

March 21, 2006 - 1 p.m. -- Open Meeting
University of Virginia Research Park, Charlottesville, Virginia.

A quarterly meeting.

Contact: Nancy Vorona, Virginia Research and Technology Advisory Commission, 2214 Rock Hill Rd., Suite 600, Herndon, VA 20170, telephone (703) 689-3043, e-mail nvorona@cit.org.

VIRGINIA RESOURCES AUTHORITY

NOTE: CHANGE IN MEETING TIME

January 10, 2006 - 8 a.m. -- Open Meeting
Virginia Resources Authority, 707 East Main Street, 2nd Floor, Conference Room, Richmond, Virginia. ♿

A regular board meeting. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. The authority fully complies with the Americans with Disabilities Act.

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.

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.

February 25, 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 adopt regulations entitled **16 VAC 25-55, Financial Responsibility of Boiler and Pressure Vessel Contract Fee Inspectors**. The purpose of the proposed action is to set minimum aggregate limits for professional liability or errors of omission coverage or other methods of insuring financial responsibility for boiler and pressure vessel contract fee inspectors operating in the Commonwealth.

Statutory Authority: § 40.1-51.9:2 of the Code of Virginia.

Contact: Fred P. Barton, Director, Boiler Safety Compliance, Department of Labor and Industry, 13 S. 13th St., Richmond, VA 23219, telephone (804) 371-2631, FAX (804) 371-6524 or e-mail fred.barton@doli.virginia.gov.

SEWAGE HANDLING AND DISPOSAL APPEAL REVIEW BOARD

† **January 18, 2006 - 10 a.m.** -- Open Meeting

† **February 22, 2006 - 10 a.m.** -- Open Meeting

Henrico County Health Department, 8600 Dixon Power Drive, Richmond, Virginia 

A meeting to hear appeals of health department denials of septic tank permits or indemnification fund requests.

Contact: Susan C. Sherertz, Secretary to the Board, Sewage Handling and Disposal Appeal Review Board, 109 Governor St., 5th Floor, Richmond, Virginia 23219, telephone (804) 864-7464, FAX (804) 864-7475, e-mail susan.sherertz@vdh.virginia.gov.

VIRGINIA SMALL BUSINESS FINANCING AUTHORITY

† **January 18, 2006 - 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 for general business of the board. 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.

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 TOBACCO SETTLEMENT FOUNDATION

† **January 17, 2006 - 3:30 p.m.** -- Open Meeting

OMNI Hotel, 100 South 12th Street, Shenandoah Room, Richmond, Virginia. 

Approving RAB recommendations for funding proposals.

Contact: Eloise Burke, Sr. Executive Assistant, Virginia Tobacco Settlement Foundation, 701 E. Franklin St., Suite 501, Richmond, VA 23219, telephone (804) 786-2523, e-mail eburke@vtsf.org.

COMMONWEALTH TRANSPORTATION BOARD

† **January 18, 2006 - 2 p.m.** -- Open Meeting

Department of Transportation, 1221 East Broad, Street Auditorium, Richmond, Virginia. 

A work session of the board and transportation staff.

Contact: Carol Mathis, Administrative Staff Assistant, Commonwealth Transportation Board, Policy Division, 1401 E.

Calendar of Events

Broad St., Richmond, VA 23219, telephone (804) 786-2701, e-mail carol.mathis@vdot.virginia.gov.

† **January 19, 2006 - 9 a.m.** -- Open Meeting
Department of Transportation, 1221 East Broad Street, Auditorium, Richmond, Virginia. ♿

A 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 Mathis, Administrative Staff Assistant, Commonwealth Transportation Board, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-2701, e-mail carol.mathis@vdot.virginia.gov.

TREASURY BOARD

† **January 18, 2006 - 9 a.m.** -- Open Meeting
James Monroe Building, 101 North 14th Street, 3rd Floor, Treasury Board Room, Richmond, Virginia. ♿

A regular meeting.

Contact: Melissa K. Mayes, Secretary, Department of the Treasury, 101 N. 14th St., 3rd Floor, Richmond, VA 23219, telephone (804) 371-6011, e-mail melissa.mayes@trs.virginia.gov.

BOARD OF VETERINARY MEDICINE

† **January 18, 2006 - 10 a.m.** -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. ♿

An Ad Hoc Committee on Equine Dentistry meeting for feedback on guidance document, discussion of working with technician programs to enhance training in equine dentistry, education of veterinarians regarding equine dentistry and new business.

Contact: Elizabeth A. Carter, Ph.D., Executive Director, Board of Veterinary Medicine, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9915, FAX (804) 662-7098, (804) 662-7197/TTY ♿, e-mail elizabeth.carter@dhp.virginia.gov.

† **January 19, 2006 - 9 a.m.** -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. ♿

Informal conferences (disciplinary hearings). These are public meetings, but public comment will not be received.

Contact: Terri Behr, Administrative Specialist, Board of Veterinary Medicine, 6603 W. Broad St., 5th Floor, Richmond,

VA 23230, telephone (804) 662-9915, FAX (804) 662-7098, (804) 662-7197/TTY ♿, e-mail terri.behr@dhp.virginia.gov.

DEPARTMENT OF VETERANS SERVICES

Board of Veterans Services

† **January 10, 2006 - 9:30 a.m.** -- Open Meeting
Virginia War Memorial, 621 South Belvidere Street, Richmond, Virginia. ♿

A regular meeting.

Contact: Rhonda Earman, Administrative Supervisor, Department of Veterans Services, 900 E. Main St., Richmond, VA 23219, telephone (804) 786-0286, e-mail rhonda.earman@dvs.virginia.gov.

Joint Leadership Council of Veterans Service Organizations

† **March 15, 2006 - 11 a.m.** -- Open Meeting
Richmond area (location to be determined). ♿

A regular meeting.

Contact: Steve Combs, Assistant to the Commissioner, Department of Veterans Services, 900 E. Main St., Richmond, VA 23219, telephone (804) 786-0294, e-mail steven.combs@dvs.virginia.gov.

VIRGINIA WASTE MANAGEMENT BOARD

† **January 25, 2006 - 1 p.m.** -- Open Meeting
† **February 8, 2006 - 1 p.m.** -- Open Meeting
† **February 22, 2006 - 1 p.m.** -- Open Meeting
Department of Environmental Quality, 629 East Main Street, Richmond, Virginia.

A meeting of the advisory committee assisting in the development of amendments to the regulations for the development of solid waste management plans.

Contact: Allen Brockman, Virginia Waste Management Board, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4468, FAX (804) 698-4327, e-mail arbrockman@deq.virginia.gov.

† **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 mjdieter@deq.virginia.gov.

STATE WATER CONTROL BOARD

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.

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.

† February 6, 2006 - 3:30 p.m. -- Public Hearing
Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia. 

March 10, 2006 - Public comment 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 25-660, Virginia Water Protection General Permit for Impacts Less Than One-Half Acre**. The purpose of the proposed action is to review and renew the general permit that is scheduled to expire in October 2006.

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

Contact: Catherine Harold, State Water Control Board, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4047, FAX (804) 698-4347, e-mail cmharold@deq.virginia.gov.

† February 6, 2006 - 3:30 p.m. -- Public Hearing
Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia. 

March 10, 2006 - Public comment 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 25-670, Virginia Water Protection General Permit for Facilities and Activities of Utility and Public Service Companies Regulated by the Federal Energy Regulatory Commission or the State Corporation Commission and Other Utility Line Activities**. The purpose of the proposed action is to review and reissue the VWP General Permit that expires in October 2006.

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

Contact: Catherine Harold, State Water Control Board, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4047, FAX (804) 698-4347, e-mail cmharold@deq.virginia.gov.

† February 6, 2006 - 3:30 p.m. -- Public Hearing
Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia. 

March 10, 2006 - Public comment 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 25-680, Virginia Water Protection General Permit for Linear Transportation Projects**. The purpose of the proposed action is to review and reissue the VWP General Permit that expires in October 2006.

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

Contact: Catherine Harold, State Water Control Board, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4047, FAX (804) 698-4347, e-mail cmharold@deq.virginia.gov.

† February 6, 2006 - 3:30 p.m. -- Public Hearing
Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia. 

Calendar of Events

March 10, 2006 - Public comment 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 25-690, Virginia Water Protection General Permit for Impacts from Development Activities**. The purpose of the proposed action is to review and renew the VWP General Permit that is scheduled to expire in October 2006.

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

Contact: Catherine Harold, State Water Control Board, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4047, FAX (804) 698-4347, e-mail cmharold@deq.virginia.gov.

BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS

† **January 25, 2006 - 9 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia. 

A meeting to evaluate and provide recommendation to the board on training course applications. Two board members are expected to be present, which does not constitute a quorum. No board business will be transacted.

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.

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

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 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.

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

† **February 16, 2006 - 1 p.m.** -- Open Meeting
Virginia Retirement System Investment Department, 1111 East Main Street, 3rd Floor, Richmond Virginia. ♿

The regular meeting of the Board of Trustees. No public comment will be received at this meeting.

Contact: Harriet Covey, Administrative Assistant, Virginia Retirement System, 1200 East Main Street, Richmond, VA 23219, telephone (804) 649-8059, FAX (804) 786-1541, toll-free (888) 827-3847, (804) 344-3190/TTY ☎, e-mail hcovey@varetire.org.

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.

VIRGINIA SMALL BUSINESS COMMISSION

† **January 9, 2006 - 3 p.m.** - Open Meeting
General Assembly Building, 9th and Broad Streets, Senate Room B, Richmond, Virginia. ♿

A regular meeting. For questions regarding the meeting agenda, contact Frank Munyan, Division of Legislative Services, (804) 786-3591.

Contact: Patty Lung, Senate Committee Operations, General Assembly Bldg., 910 Capitol St., Richmond, VA 23219, telephone (804) 698-7410.

DISABILITY COMMISSION

January 9, 2006 - 1 p.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, Senate Room A, Richmond, Virginia. ♿

A regular meeting. For questions regarding the meeting agenda, contact Pat Davis, Division of Legislative Services, (804) 786-3591.

Contact: Patty Lung, Senate Committee Operations, General Assembly Bldg., 910 Capitol St., Richmond, VA 23219, telephone (804) 698-7410.

JOINT SUBCOMMITTEE ON GUBERNATORIAL APPOINTMENTS

† **January 10, 2006 - 2 p.m.** - Open Meeting
General Assembly Building, 9th and Broad Streets, 4th Floor East Conference Room, Richmond, Virginia. ♿

A regular meeting. For questions regarding the meeting agenda, contact Mary Spain, Division of Legislative Services (804) 786-3591.

Contact: Patty Lung, Senate Committee Operations, General Assembly Bldg., 910 Capitol St., Richmond, VA 23219, telephone (804) 698-7410.

JOINT SUBCOMMITTEE ON MANUFACTURING NEEDS AND THE FUTURE OF MANUFACTURING IN VIRGINIA

January 10, 2006 - 1 p.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, Senate Room A, Richmond, Virginia. ♿

A regular meeting. For questions regarding the meeting agenda, contact Frank Munyan, Division of Legislative Services, (804) 786-3591.

Contact: Patty Lung, Senate Committee Operations, General Assembly Bldg., 910 Capitol St., Richmond, VA 23219, telephone (804) 698-7410.

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.

Calendar of Events

CHRONOLOGICAL LIST

OPEN MEETINGS

January 9

Disability Commission
Motor Vehicle Dealer Board
† Small Business Commission, Virginia

January 10

Administrative Rules, Joint Commission on
Blind and Vision Impaired, Board for the
Compensation Board
Contractors, Board for
† Environmental Quality, Department of
Higher Education for Virginia, State Council of
† Gubernatorial Appointments, Joint Subcommittee on
Long-Term Care Administrators, Board of
Manufacturing Needs and the Future of Manufacturing in
Virginia, Joint Subcommittee on
Prisoner Reentry to Society, Joint Subcommittee Studying
the Commonwealth's Program for
† Psychology, Board of
† Resources Authority, Virginia
Veterans Services, Department of
- Board of Veterans Services
Water Control Board, State

January 11

† Contractors, Board for
Education, Board of
† Information Technologies Agency, Virginia
Wireless E-911 Services Board
Juvenile Justice, Board of
Lottery Board, State
† Medicine, Board of
† People with Disabilities, Virginia Board for
Protection and Advocacy, Virginia Office for
- Disabilities Advisory Council
† Real Estate Appraiser Board

January 12

Architects, Professional Engineers, Land Surveyors,
Certified Interior Designers and Landscape Architects,
Board for
Auctioneers Board
Barbers and Cosmetology, Board for
Child Day-Care Council
Contractors, Board for
† Environmental Quality, Department of

January 13

† Forestry, Board of

January 17

Alcoholic Beverage Control Board
Corrections, Board of
† Environmental Quality, Department of
Funeral Directors and Embalmers, Board of
Health, Department of
† Health Professions, Board of
Housing and Community Development, Board of
† Tobacco Settlement Foundation, Virginia

January 18

Agriculture and Consumer Services, Department of
- Virginia Irish Potato Board

Architects, Professional Engineers, Land Surveyors,
Certified Interior Designers and Landscape Architects,
Board for

Community Colleges, State Board for
Corrections, Board of

† Virginia Housing Development Authority

† Medicine, Board of

† Mental Health, Mental Retardation and Substance Abuse
Services Board, State

† Sewage Handling and Disposal Appeal Review Board

† Small Business Financing Authority, Virginia

† Transportation Board, Commonwealth

Treasury Board

† Veterinary Medicine, Board of

January 19

† Transportation Board, Commonwealth

† Community Colleges, State Board for

† Design Build/Construction Management Review Board

† Environmental Quality, Department of

Manufactured Housing Board, Virginia

† Pesticide Control Board

Rehabilitative Services, Department of

- Statewide Independent Living Council, Virginia

† Veterinary Medicine, Board of

January 20

Protection and Advocacy, Virginia Office for

- Board for Protection and Advocacy

January 23

Nursing, Board of

† Environmental Quality, Department of

January 24

† Alzheimer's Disease and Related Disorders Commission

† Contractors, Board for

Marine Resources Commission

† Virginia Museum of Fine Arts

Nursing, Board of

January 25

† Agriculture and Consumer Services, Department of
- Virginia State Apple Board

† Compensation Board

Funeral Directors and Embalmers, Board of

Nursing, Board of

† Virginia Waste Management Board

† Waterworks and Wastewater Works Operators, Board for

January 26

† Assistive Technology Loan Fund Authority

† Medicine, Board of

Nursing, Board of

January 27

Library Board, State

Physical Therapy, Board of

January 30

Architects, Professional Engineers, Land Surveyors,
Certified Interior Designers and Landscape Architects,
Board for

† Environmental Quality, Department of

January 31

Agriculture and Consumer Services, Department of
- Virginia Horse Industry Board

† Asbestos, Lead, and Home Inspectors, Virginia Board for

† Contractors, Board for

February 1

Architects, Professional Engineers, Land Surveyors,
Certified Interior Designers and Landscape Architects,
Board for
† Asbestos, Lead, and Home Inspectors, Virginia Board for
Branch Pilots, Board for

February 2

Branch Pilots, Board for
† Governor's EMS Advisory Board

February 3

Dentistry, Board of

February 6

Alcoholic Beverage Control Board
Barbers and Cosmetology, Board for
Education, Board of
- Advisory Board on Teacher Education and Licensure
† Environmental Quality, Department of
Nursing, Board of

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
Nursing, Board of
† Waste Management Board, Virginia

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
† Environmental Quality, Department of
Old Dominion University

February 14

Nursing, Board of

February 15

Architects, Professional Engineers, Land Surveyors,
Certified Interior Designers and Landscape Architects,
Board for
Education, Board of

February 16

† Design Build/Construction Management Review Board
Protection and Advocacy, Virginia Office for
- PAIMI Advisory Council
† Retirement System, Virginia

February 21

Alcoholic Beverage Control Board

February 22

Nursing and Medicine, Joint Boards of
† Sewage Handling and Disposal Appeal Review Board
† Waste Management Board, Virginia

February 23

Nursing, Board of

February 24

† Health, Department of
- Sewage Handling and Disposal Advisory Committee

February 27

Nursing, Board of

February 28

Marine Resources Commission
Nursing, Board of

March 2

Dentistry, Board of
Nursing, Board of

March 3

Dentistry, Board of

March 6

Alcoholic Beverage Control Board

March 7

Museum of Fine Arts, Virginia

March 8

† Information Technologies Agency, Virginia
- Wireless E-911 Services Board
Waterworks and Wastewater Works Operators, Board for

March 10

Child Fatality Review Team, State

March 11

† Blind and Vision Impaired, Department for the
- Rehabilitation Council for the Blind

March 13

Asbestos, Lead, and Home Inspectors, Virginia Board for
Library Board, State

March 14

Alzheimer's Disease and Related Disorders Commission
Corrections, Board of

March 15

† Community Colleges, State Board for
Corrections, Board of
Hearing Aid Specialists, Board for
† Jamestown-Yorktown Foundation
Veterans Services, Department of
- Joint Leadership Council of Veterans Service
Organizations

March 16

Architects, Professional Engineers, Land Surveyors,
Certified Interior Designers and Landscape Architects,
Board for
† Community Colleges, State Board for
† Design Build/Construction Management Review Board

March 17

Dentistry, Board of

March 20

Alcoholic Beverage Control Board
Education, Board of
- Advisory Board on Teacher Education and Licensure
Nursing, Board of
† Old Dominion University

March 21

Environmental Quality, Department of
- Ground Water Protection Steering Committee
Nursing, Board of
Research and Technology Advisory Commission, Virginia

March 22

Education, Board of
Nursing, Board of

Calendar of Events

March 23

Nursing, Board of
Public Guardian and Conservator Advisory Board, Virginia

March 28

† Marine Resources Commission

March 30

† Health Professions, Department of

March 31

† Dentistry, Board of

April 3

† Alcoholic Beverage Control Board
† Nursing, Board of

April 4

† Museum of Fine Arts, Virginia

April 5

† Geology, Board for

April 7

† Health, Department of
- Sewage Handling and Disposal Advisory Committee
† Old Dominion University
† Opticians, Board for

PUBLIC HEARINGS**January 9, 2006**

Waste Management Board, Virginia

January 10

Long-Term Care Administrators, Board of

January 11

Juvenile Justice, Board of

January 12

Air Pollution Control Board, State

January 17

Education, Board of

February 6

† Water Control Board, State

March 7

† Barbers and Cosmetology, Board for

March 16

Architects, Professional Engineers, Land Surveyors,
Certified Interior Designers and Landscape Architects

March 30

† Asbestos, Lead and Home Inspectors, Virginia Board for