
TABLE OF CONTENTS

CUMULATIVE TABLE OF VIRGINIA ADMINISTRATIVE CODE SECTIONS ADOPTED, AMENDED, OR REPEALED

Cumulative Table.....2967

PETITIONS FOR RULEMAKING

TITLE 9. ENVIRONMENT

Department of Environmental Quality2976

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

Board of Dentistry.....2976

Board of Pharmacy.....2977

Board of Psychology.....2977

NOTICES OF INTENDED REGULATORY ACTION

TITLE 6. CRIMINAL JUSTICE AND CORRECTIONS

Criminal Justice Services Board.....2978

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

Board of Medicine.....2978

Board of Counseling2979

TITLE 22. SOCIAL SERVICES

State Board of Social Services.....2979

Department for the Blind and Vision Impaired.....2979

PROPOSED REGULATIONS

TITLE 2. AGRICULTURE

BOARD OF AGRICULTURE AND CONSUMER SERVICES

Rules and Regulations Pertaining to the Sanitary and
Operating Requirements in Retail Food Stores (repealing
2 VAC 5-580-10 through 2 VAC 5-580-310).....2980

Retail Food Establishment Regulations (adding 2 VAC 5-585-
10 through 2 VAC 5-585-4070).....2980

TITLE 6. CRIMINAL JUSTICE AND CORRECTIONS

BOARD OF CORRECTIONS

Regulations Governing Certification and Inspection (amending
6 VAC 15-20-10 through 6 VAC 15-20-230).....3040

CRIMINAL JUSTICE SERVICES BOARD

Rules Relating to Compulsory In-Service Training Standards
for Law-Enforcement Officers, Jailors or Custodial Officers,
Courtroom Security Officers, Process Service Officers and
Officers of the Department of Corrections, Division of
Operations (amending 6 VAC 20-30-10 through 6 VAC 20-30-
60, 6 VAC 20-30-80)..... 3048

Rules Relating to Compulsory Minimum Training Standards
for Jailors or Custodial Officers, Courthouse and Courtroom
Security Officers and Process Service Officers (amending
6 VAC 20-50-10 through 6 VAC 20-50-90; adding 6 VAC 20-
50-21 and 6 VAC 20-50-110; repealing 6 VAC 20-50-100).
..... 3058

TITLE 8. EDUCATION

STATE BOARD OF EDUCATION

Regulations for Conducting Division-Level Academic Reviews
(adding 8 VAC 20-700-10 through 8 VAC 20-700-50). 3069

Regulations Governing the Process for Submitting Proposals
to Consolidate School Divisions (adding 8 VAC 20-710-10
through 8 VAC 20-710-30)..... 3072

TITLE 9. ENVIRONMENT

STATE AIR POLLUTION CONTROL BOARD

Regulation for Emissions Trading (adding Part II: Article 1
(9 VAC 5-140-1010 through 9 VAC 5-140-1080), Article 2
(9 VAC 5-140-1100 through 9 VAC 5-140-1140), Article 3
(9 VAC 5-140-1200 through 9 VAC 5-140-1240), Article 4
(9 VAC 5-140-1300), Article 5 (9 VAC 5-140-1400 through
9 VAC 5-140-1430), Article 6 (9 VAC 5-140-1500 through
9 VAC 5-140-1570), Article 7 (9 VAC 5-140-1600), Article 8
(9 VAC 5-140-1700 through 9 VAC 5-140-1760), Article 9
(9 VAC 5-140-1800 through 9 VAC 5-140-1880); Part III:
Article 1 (9 VAC 5-140-2010 through 9 VAC 5-140-2080),
Article 2 (9 VAC 5-140-2100 through 9 VAC 5-140-2140),
Article 3 (9 VAC 5-140-2200 through 9 VAC 5-140-2240),
Article 4 (9 VAC 5-140-2300), Article 5 (9 VAC 5-140-2400
through 9 VAC 5-140-2430), Article 6 (9 VAC 5-140-2500
through 9 VAC 5-140-2570), Article 7 (9 VAC 5-140-2600
through 9 VAC 5-140-2620), Article 8 (9 VAC 5-140-2700
through 9 VAC 5-140-2760), Article 9 (9 VAC 5-140-2800
through 9 VAC 5-140-2880); Part IV: Article 1 (9 VAC 5-140-
3010 through 9 VAC 5-140-3080), Article 2 (9 VAC 5-140-
3100 through 9 VAC 5-140-3140), Article 3 (9 VAC 5-140-
3200 through 9 VAC 5-140-3240), Article 4 (9 VAC 5-140-
3300), Article 5 (9 VAC 5-140-3400), Article 6 (9 VAC 5-140-
3500 through 9 VAC 5-140-3570), Article 7 (9 VAC 5-140-
3600 through 9 VAC 5-140-3620), Article 8 (9 VAC 5-140-
3700 through 9 VAC 5-140-3760), Article 9 (9 VAC 5-140-
3800 through 9 VAC 5-140-3880)..... 3074

Table of Contents

TITLE 14. INSURANCE

STATE CORPORATION COMMISSION

Rules Governing Insurance Holding Companies (amending 14 VAC 5-260-10, 14 VAC 5-260-30 through 14 VAC 5-260-60, 14 VAC 5-260-80, 14 VAC 5-260-90; adding 14 VAC 5-260-110; repealing 14 VAC 5-260-20).....[3083](#)

FINAL REGULATIONS

TITLE 4. CONSERVATION AND NATURAL RESOURCES

BOARD OF GAME AND INLAND FISHERIES

Definitions and Miscellaneous: In General (adding 4 VAC 15-20-65).....[3089](#)

Game: Deer (amending 4 VAC 15-90-80).....[3091](#)

TITLE 8. EDUCATION

STATE BOARD OF EDUCATION

Regulations Governing the Reenrollment of Students Committed to the Department of Juvenile Justice (adding 8 VAC 20-660-10 through 8 VAC 20-660-40).....[3092](#)

TITLE 11. GAMING

CHARITABLE GAMING BOARD

Charitable Gaming Rules and Regulations (amending 11 VAC 15-22-10 through 11 VAC 15-22-80, 11 VAC 15-22-110 and 11 VAC 15-22-120).....[3095](#)

Supplier Regulations (amending 11 VAC 15-31-10 through 11 VAC 15-31-60).....[3105](#)

TITLE 12. HEALTH

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Standards Established and Methods Used to Assure High Quality Care (amending 12 VAC 30-60-40; adding 12 VAC 30-60-350).....[3112](#)

Methods and Standards for Establishing Payment Rates for Long-Term Care (amending 12 VAC 30-90-41).....[3112](#)

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF ACCOUNTANCY

Board of Accountancy Regulations (amending 18 VAC 5-21-10 through 18 VAC 5-21-40 and 18 VAC 5-21-170).....[3112](#)

DEPARTMENT OF HEALTH PROFESSIONS

Regulations Governing the Health Practitioners' Intervention Program for the Department of Health Professions (amending 18 VAC 76-10-20 and 18 VAC 76-10-65).....[3119](#)

TITLE 22. SOCIAL SERVICES

STATE BOARD OF SOCIAL SERVICES

Regulation for Background Checks for Assisted Living Facilities and Adult Day Care Centers (amending 22 VAC 40-90-10 through 22 VAC 40-90-40).....[3120](#)

Background Checks for Child Welfare Agencies (amending 22 VAC 40-191-10, 22 VAC 40-191-20, 22 VAC 40-191-40 through 22 VAC 40-191-70, 22 VAC 40-191-90, 22 VAC 40-191-100, 22 VAC 40-191-120, 22 VAC 40-191-130 and 22 VAC 40-191-150).....[3122](#)

FAST-TRACK REGULATIONS

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF ACCOUNTANCY

Board of Accountancy Regulations (amending 18 VAC 5-21-20).....[3134](#)

TITLE 22. SOCIAL SERVICES

STATE BOARD OF SOCIAL SERVICES

Collection of Overpayments in the Refugee Other Assistance Program (repealing 22 VAC 40-330-10 through 22 VAC 40-330-30).....[3136](#)

Protective Payments in the Refugee Other Assistance Program (repealing 22 VAC 40-340-10 and 22 VAC 40-340-20).....[3138](#)

FORMS

TITLE 14. INSURANCE

STATE CORPORATION COMMISSION

Rules Governing Insurance Holding Companies (14 VAC 5-260).....[3140](#)

GENERAL NOTICES/ERRATA

DEPARTMENT OF ENVIRONMENTAL QUALITY

Restore Water Quality in the James River and Tributaries in Cumberland, Fluvanna, Goochland, Louisa, and Powhatan Counties, Virginia.....[3141](#)

Restore Water Quality in the James River and Tributaries in the City of Hopewell, Chesterfield, Charles City, and Prince George Counties, Virginia.....[3141](#)

Restore Water Quality in the James River and Tributaries in Richmond City, Chesterfield, Henrico, and Powhatan Counties, Virginia.....[3142](#)

Table of Contents

Restore Water Quality in Upham Brook and Tributaries in Henrico County, Virginia3142

Water Quality Assessment Integrated Report3143

Water Quality Improvement Study for James River Watershed in Lynchburg3143

DEPARTMENT OF SOCIAL SERVICES

Periodic Review of Regulations3144

STATE CORPORATION COMMISSION

Administrative Letter 2006-10.....3144

Order to Take Notice regarding the matter of adoption of adjusted prima facie rates for credit life and credit accident and sickness insurance pursuant to §§ 38.2-3725, 38.2-3726, 38.2-3727 and 38.2-3730 of the Code of Virginia3147

STATE LOTTERY DEPARTMENT

Director's Orders3152

STATE WATER CONTROL BOARD

Proposed Consent Special Order - Mr. Yazan Ahmad3152

Amendment of Water Quality Management Planning Regulation3152

Approval of Water Quality Management Planning Actions3153

Proposed Consent Special Order - Brabham Petroleum Co.3154

Proposed Consent Special Order - King George County Service Authority3154

Proposed Consent Special Order - North Oaks, LLC.3155

Proposed Consent Special Order - Old Church Enterprises, Inc.....3155

Proposed Consent Special Order - Skyline Swannanoa, Inc.3155

Proposed Consent Special Order - Smiley's Fuel City.....3156

VIRGINIA CODE COMMISSION

Notice to State Agencies3156

Forms for Filing Material for Publication in the Virginia Register of Regulations3156

CALENDAR OF EVENTS

EXECUTIVE

Open Meetings and Public Hearings3157

INDEPENDENT

Open Meetings and Public Hearings3181

LEGISLATIVE

Open Meetings and Public Hearings.....3183

CHRONOLOGICAL LIST

Open Meetings.....3183

Public Hearings.....3186

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 Spring 2006 VAC Supplement includes final regulations published through *Virginia Register* Volume 22, Issue 6, dated January 9, 2006). 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 2. Agriculture			
2 VAC 5-20-10 through 2 VAC 5-20-40	Amended	22:11 VA.R. 1761-1764	3/10/06
2 VAC 5-20-30	Erratum	22:13 VA.R. 2153	--
2 VAC 5-390-180	Amended	22:14 VA.R. 2201	2/27/06
Title 4. Conservation and Natural Resources			
4 VAC 5-36-50	Erratum	22:14 VA.R. 2216	--
4 VAC 5-40-10 through 4 VAC 5-40-350	Repealed	22:21 VA.R. 2801-2804	7/26/06
4 VAC 5-60-10 through 4 VAC 5-60-170	Repealed	22:21 VA.R. 2805-2807	7/26/06
4 VAC 10-30-10 through 4 VAC 10-30-350	Added	22:21 VA.R. 2801-2804	7/26/06
4 VAC 10-40-10 through 4 VAC 10-40-170	Added	22:21 VA.R. 2805-2807	7/26/06
4 VAC 15-20-130	Amended	22:19 VA.R. 2599	7/1/06
4 VAC 15-20-160	Amended	22:19 VA.R. 2600	7/1/06
4 VAC 15-40-30	Amended	22:19 VA.R. 2601	7/1/06
4 VAC 15-40-200	Amended	22:19 VA.R. 2601	7/1/06
4 VAC 15-40-285	Added	22:19 VA.R. 2601	7/1/06
4 VAC 15-50-71	Amended	22:19 VA.R. 2601	7/1/06
4 VAC 15-50-110	Amended	22:19 VA.R. 2602	7/1/06
4 VAC 15-50-120	Amended	22:19 VA.R. 2602	7/1/06
4 VAC 15-70-10	Amended	22:19 VA.R. 2602	7/1/06
4 VAC 15-70-60	Added	22:19 VA.R. 2602	7/1/06
4 VAC 15-90-22	Added	22:19 VA.R. 2603	7/1/06
4 VAC 15-90-70	Amended	22:19 VA.R. 2603	7/1/06
4 VAC 15-90-80	Amended	22:19 VA.R. 2604	7/1/06
4 VAC 15-90-90	Amended	22:19 VA.R. 2605	7/1/06
4 VAC 15-90-91	Added	22:19 VA.R. 2605	7/1/06
4 VAC 15-90-100 through 4 VAC 15-90-121	Repealed	22:19 VA.R. 2608-2609	7/1/06
4 VAC 15-90-141	Repealed	22:19 VA.R. 2609	7/1/06
4 VAC 15-90-160	Repealed	22:19 VA.R. 2609	7/1/06
4 VAC 15-90-170	Repealed	22:19 VA.R. 2609	7/1/06
4 VAC 15-90-190 through 4 VAC 15-90-220	Repealed	22:19 VA.R. 2609-2610	7/1/06
4 VAC 15-90-291	Added	22:19 VA.R. 2610	7/1/06
4 VAC 15-90-292	Added	22:19 VA.R. 2610	7/1/06
4 VAC 15-110-20	Amended	22:19 VA.R. 2613	7/1/06
4 VAC 15-120-10	Amended	22:19 VA.R. 2614	7/1/06
4 VAC 15-170-21	Added	22:19 VA.R. 2614	7/1/06
4 VAC 15-190-10	Amended	22:19 VA.R. 2614	7/1/06
4 VAC 15-200-10	Amended	22:19 VA.R. 2614	7/1/06
4 VAC 15-210-10 and 4 VAC 15-210-20	Amended	22:19 VA.R. 2615	7/1/06
4 VAC 15-230-21	Added	22:19 VA.R. 2615	7/1/06
4 VAC 15-230-40	Repealed	22:19 VA.R. 2615	7/1/06
4 VAC 15-230-61	Added	22:19 VA.R. 2616	7/1/06
4 VAC 15-240-10	Amended	22:19 VA.R. 2616	7/1/06
4 VAC 15-240-20	Amended	22:19 VA.R. 2616	7/1/06
4 VAC 15-240-31	Amended	22:19 VA.R. 2616	7/1/06
4 VAC 15-320-25	Amended	22:19 VA.R. 2617	7/1/06

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
4 VAC 15-320-100	Amended	22:16 VA.R. 2370	5/17/06
4 VAC 15-330-50	Amended	22:19 VA.R. 2623	7/1/06
4 VAC 15-330-140	Amended	22:19 VA.R. 2623	7/1/06
4 VAC 15-330-160	Amended	22:19 VA.R. 2623	7/1/06
4 VAC 15-340-10	Amended	22:19 VA.R. 2624	7/1/06
4 VAC 15-340-30	Amended	22:19 VA.R. 2624	7/1/06
4 VAC 15-340-40	Amended	22:19 VA.R. 2624	7/1/06
4 VAC 15-360-10	Amended	22:19 VA.R. 2625	7/1/06
4 VAC 15-360-30	Amended	22:19 VA.R. 2626	7/1/06
4 VAC 15-360-70	Added	22:19 VA.R. 2626	7/1/06
4 VAC 20-20-20	Amended	22:10 VA.R. 1551	12/22/05
4 VAC 20-20-50	Amended	22:10 VA.R. 1551	12/22/05
4 VAC 20-20-50 emer	Amended	22:10 VA.R. 1682	12/28/05-1/27/06
4 VAC 20-20-50	Amended	22:12 VA.R. 2033	1/27/06
4 VAC 20-150-10 emer	Amended	22:20 VA.R. 2716	5/29/06-6/28/06
4 VAC 20-150-70 emer	Amended	22:20 VA.R. 2716	5/29/06-6/28/06
4 VAC 20-252-55	Amended	22:15 VA.R. 2280	3/2/06
4 VAC 20-252-150	Amended	22:15 VA.R. 2280	3/2/06
4 VAC 20-450-30	Amended	22:20 VA.R. 2704	5/26/06
4 VAC 20-530-10	Amended	22:12 VA.R. 2034	1/27/06
4 VAC 20-530-20	Amended	22:12 VA.R. 2034	1/27/06
4 VAC 20-530-20 emer	Amended	22:14 VA.R. 2208	3/2/06-3/31/06
4 VAC 20-530-20	Amended	22:16 VA.R. 2371	3/31/06
4 VAC 20-530-23	Repealed	22:12 VA.R. 2034	1/27/06
4 VAC 20-530-26	Repealed	22:12 VA.R. 2034	1/27/06
4 VAC 20-530-29	Repealed	22:12 VA.R. 2034	1/27/06
4 VAC 20-530-30	Amended	22:12 VA.R. 2034	1/27/06
4 VAC 20-530-30 emer	Amended	22:14 VA.R. 2208	3/2/06-3/31/06
4 VAC 20-530-30	Amended	22:16 VA.R. 2371	3/31/06
4 VAC 20-530-31	Added	22:12 VA.R. 2035	1/27/06
4 VAC 20-530-31 emer	Amended	22:14 VA.R. 2208	3/2/06-3/31/06
4 VAC 20-530-31	Amended	22:16 VA.R. 2371	3/31/06
4 VAC 20-530-32 emer	Added	22:14 VA.R. 2209	3/2/06-3/31/06
4 VAC 20-530-32	Added	22:16 VA.R. 2371	3/31/06
4 VAC 20-530-35	Repealed	22:12 VA.R. 2035	1/27/06
4 VAC 20-560-20 emer	Amended	22:16 VA.R. 2387	3/30/06-4/28/06
4 VAC 20-560-20	Amended	22:19 VA.R. 2626	4/28/06
4 VAC 20-560-40 emer	Amended	22:16 VA.R. 2388	3/30/06-4/28/06
4 VAC 20-560-40	Amended	22:19 VA.R. 2627	4/28/06
4 VAC 20-560-50 emer	Amended	22:16 VA.R. 2388	3/30/06-4/28/06
4 VAC 20-560-50	Amended	22:19 VA.R. 2628	4/28/06
4 VAC 20-720-40	Amended	22:10 VA.R. 1552	1/1/06
4 VAC 20-720-40 emer	Amended	22:12 VA.R. 2043	2/1/06-2/28/06
4 VAC 20-720-50	Amended	22:10 VA.R. 1552	1/1/06
4 VAC 20-720-50 emer	Amended	22:12 VA.R. 2043	2/1/06-2/28/06
4 VAC 20-720-70	Amended	22:10 VA.R. 1553	1/1/06
4 VAC 20-720-75	Amended	22:10 VA.R. 1553	1/1/06
4 VAC 20-900-25	Amended	22:10 VA.R. 1553	12/22/05
4 VAC 20-900-30	Amended	22:10 VA.R. 1554	12/22/05
4 VAC 20-910-45	Amended	22:10 VA.R. 1555	12/30/05
4 VAC 20-950-47 emer	Amended	22:10 VA.R. 1682	1/1/06-1/30/06
4 VAC 20-950-47	Amended	22:12 VA.R. 2035	2/1/06
4 VAC 20-950-48 emer	Amended	22:10 VA.R. 1683	1/1/06-1/30/06
4 VAC 20-950-48	Amended	22:12 VA.R. 2035	2/1/06
4 VAC 20-1040-20	Amended	22:10 VA.R. 1555	1/1/06
4 VAC 20-1100-10 through 4 VAC 20-1100-30	Added	22:19 VA.R. 2628	7/1/06

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
4 VAC 25-31 (Forms)	Amended	22:16 VA.R. 2389	--
4 VAC 25-35 (Forms)	Amended	22:16 VA.R. 2389	--
4 VAC 25-40 (Forms)	Amended	22:16 VA.R. 2389	--
4 VAC 25-130 (Forms)	Amended	22:16 VA.R. 2390	--
Title 6. Criminal Justice and Corrections			
6 VAC 20-120-80	Amended	22:20 VA.R 2704	7/12/06
6 VAC 20-190-10 through 6 VAC 20-190-200	Repealed	22:10 VA.R. 1556-1559	2/22/06
6 VAC 20-210-10 through 6 VAC 20-210-110	Repealed	22:10 VA.R. 1561-1562	2/22/06
6 VAC 20-220-20 through 6 VAC 20-220-80	Repealed	22:10 VA.R. 1559-1560	2/22/06
6 VAC 20-240-10 through 6 VAC 20-240-120	Added	22:11 VA.R. 1764-1768	3/8/06
6 VAC 20-260-10 through 6 VAC 20-260-360 emer	Added	22:12 VA.R. 2044-2053	2/20/06-2/19/07
6 VAC 40-20-10 through 6 VAC 40-20-200	Added	22:10 VA.R. 1556-1559	2/22/06
6 VAC 40-20 (Forms)	Added	22:16 VA.R. 2392	--
6 VAC 40-30-10 through 6 VAC 40-30-80	Added	22:10 VA.R. 1559-1560	2/22/06
6 VAC 40-30-10	Amended	22:21 VA.R. 2807	7/26/06
6 VAC 40-30-20	Amended	22:21 VA.R. 2807	7/26/06
6 VAC 40-30-50	Amended	22:21 VA.R. 2807	7/26/06
6 VAC 40-40-10 through 6 VAC 40-40-110	Added	22:10 VA.R. 1561-1562	2/22/06
Title 8. Education			
8 VAC 20-520-10	Repealed	22:21 VA.R. 2922	9/15/06
8 VAC 20-521-10 through 8 VAC 20-521-60	Added	22:21 VA.R. 2922-2924	9/15/06
Title 9. Environment			
9 VAC 5-50-250	Amended	22:10 VA.R. 1563	*
9 VAC 5-50-270	Amended	22:10 VA.R. 1563	*
9 VAC 5-50-280	Amended	22:10 VA.R. 1564	*
9 VAC 5-80-1100	Amended	22:10 VA.R. 1564	*
9 VAC 5-80-1110	Amended	22:10 VA.R. 1565	*
9 VAC 5-80-1310	Repealed	22:10 VA.R. 1569	*
9 VAC 5-80-1605	Amended	22:10 VA.R. 1571	*
9 VAC 5-80-1615	Amended	22:10 VA.R. 1571	*
9 VAC 5-80-1625	Amended	22:10 VA.R. 1583	*
9 VAC 5-80-1635	Added	22:10 VA.R. 1583	*
9 VAC 5-80-1645	Added	22:10 VA.R. 1584	*
9 VAC 5-80-1655	Added	22:10 VA.R. 1584	*
9 VAC 5-80-1665	Added	22:10 VA.R. 1584	*
9 VAC 5-80-1675	Added	22:10 VA.R. 1584	*
9 VAC 5-80-1685	Added	22:10 VA.R. 1584	*
9 VAC 5-80-1695	Added	22:10 VA.R. 1584	*
9 VAC 5-80-1700	Repealed	22:10 VA.R. 1585	*
9 VAC 5-80-1705	Added	22:10 VA.R. 1585	*
9 VAC 5-80-1710	Repealed	22:10 VA.R. 1586	*
9 VAC 5-80-1715	Added	22:10 VA.R. 1586	*
9 VAC 5-80-1720	Repealed	22:10 VA.R. 1586	*
9 VAC 5-80-1725	Added	22:10 VA.R. 1586	*
9 VAC 5-80-1730	Repealed	22:10 VA.R. 1586	*
9 VAC 5-80-1735	Amended	22:10 VA.R. 1586	*
9 VAC 5-80-1740	Repealed	22:10 VA.R. 1587	*
9 VAC 5-80-1745	Added	22:10 VA.R. 1587	*
9 VAC 5-80-1750	Repealed	22:10 VA.R. 1587	*
9 VAC 5-80-1755	Added	22:10 VA.R. 1587	*
9 VAC 5-80-1760	Repealed	22:10 VA.R. 1587	*
9 VAC 5-80-1765	Amended	22:10 VA.R. 1587	*
9 VAC 5-80-1770	Repealed	22:10 VA.R. 1588	*

* Notice of Suspension of Regulatory Process and Reopening of Public Comment Period (22:13 VA.R. 2131-2132)

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
9 VAC 5-80-1775	Added	22:10 VA.R. 1588	*
9 VAC 5-80-1780	Repealed	22:10 VA.R. 1590	*
9 VAC 5-80-1785	Amended	22:10 VA.R. 1590	*
9 VAC 5-80-1790	Repealed	22:10 VA.R. 1591	*
9 VAC 5-80-1795	Added	22:10 VA.R. 1591	*
9 VAC 5-80-1800	Repealed	22:10 VA.R. 1591	*
9 VAC 5-80-1805	Added	22:10 VA.R. 1591	*
9 VAC 5-80-1810	Repealed	22:10 VA.R. 1591	*
9 VAC 5-80-1815	Added	22:10 VA.R. 1591	*
9 VAC 5-80-1820	Repealed	22:10 VA.R. 1591	*
9 VAC 5-80-1825	Amended	22:10 VA.R. 1591	*
9 VAC 5-80-1830	Repealed	22:10 VA.R. 1592	*
9 VAC 5-80-1835	Added	22:10 VA.R. 1592	*
9 VAC 5-80-1845	Added	22:10 VA.R. 1593	*
9 VAC 5-80-1855	Added	22:10 VA.R. 1596	*
9 VAC 5-80-1840	Repealed	22:10 VA.R. 1593	*
9 VAC 5-80-1850	Repealed	22:10 VA.R. 1596	*
9 VAC 5-80-1860	Repealed	22:10 VA.R. 1597	*
9 VAC 5-80-1865	Added	22:10 VA.R. 1597	*
9 VAC 5-80-1870 through 9 VAC 5-80-1920	Repealed	22:10 VA.R. 1602	*
9 VAC 5-80-1925	Added	22:10 VA.R. 1602	*
9 VAC 5-80-1930	Repealed	22:10 VA.R. 1603	*
9 VAC 5-80-1935	Added	22:10 VA.R. 1603	*
9 VAC 5-80-1940	Repealed	22:10 VA.R. 1603	*
9 VAC 5-80-1945	Added	22:10 VA.R. 1603	*
9 VAC 5-80-1950	Repealed	22:10 VA.R. 1604	*
9 VAC 5-80-1955	Added	22:10 VA.R. 1604	*
9 VAC 5-80-1960	Repealed	22:10 VA.R. 1604	*
9 VAC 5-80-1965	Added	22:10 VA.R. 1604	*
9 VAC 5-80-1970	Repealed	22:10 VA.R. 1604	*
9 VAC 5-80-1975	Added	22:10 VA.R. 1604	*
9 VAC 5-80-1985	Added	22:10 VA.R. 1605	*
9 VAC 5-80-1995	Added	22:10 VA.R. 1605	*
9 VAC 5-80-2000 through 9 VAC 5-80-2020	Amended	22:10 VA.R. 1605-1617	*
9 VAC 5-80-2040 through 9 VAC 5-80-2070	Amended	22:10 VA.R. 1617-1620	*
9 VAC 5-80-2090	Amended	22:10 VA.R. 1620	*
9 VAC 5-80-2091	Added	22:10 VA.R. 1620	*
9 VAC 5-80-2110 through 9 VAC 5-80-2140	Amended	22:10 VA.R. 1621-1624	*
9 VAC 5-80-2141 through 9 VAC 5-80-2144	Added	22:10 VA.R. 1624-1634	*
9 VAC 5-80-2180	Amended	22:10 VA.R. 1634	*
9 VAC 5-80-2200 through 9 VAC 5-80-2240	Amended	22:10 VA.R. 1635-1637	*
9 VAC 20-170-70	Amended	22:21 VA.R. 2808	7/26/06
9 VAC 25-194-40	Amended	22:16 VA.R. 2372	5/17/06
9 VAC 25-194-70	Amended	22:16 VA.R. 2372	5/17/06
9 VAC 25-260-310	Amended	22:11 VA.R. 1768	1/12/06
9 VAC 25-260-410	Amended	22:11 VA.R. 1768	1/12/06
9 VAC 25-260-530	Amended	22:11 VA.R. 1768	1/12/06
9 VAC 25-660-10	Erratum	22:12 VA.R. 2063	--
9 VAC 25-660-10 through 9 VAC 25-660-100	Amended	22:21 VA.R. 2809-2824	8/1/06
9 VAC 25-660-60	Erratum	22:12 VA.R. 2063	--
9 VAC 25-660-70	Erratum	22:12 VA.R. 2063	--
9 VAC 25-660-95	Added	22:21 VA.R. 2817	8/1/06
9 VAC 25-670-10	Erratum	22:12 VA.R. 2063	--
9 VAC 25-670-10 through 9 VAC 25-670-100	Amended	22:21 VA.R. 2824-2845	8/1/06
9 VAC 25-670-70	Erratum	22:12 VA.R. 2063	--
9 VAC 25-670-95	Added	22:21 VA.R. 2833	8/1/06

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
9 VAC 25-670-100	Erratum	22:12 VA.R. 2063	--
9 VAC 25-680-10 through 9 VAC 25-680-100	Amended	22:21 VA.R. 2845-2866	8/1/06
9 VAC 25-680-70	Erratum	22:12 VA.R. 2063	--
9 VAC 25-680-80	Erratum	22:12 VA.R. 2063	--
9 VAC 25-680-95	Added	22:21 VA.R. 2854	8/1/06
9 VAC 25-680-100	Erratum	22:12 VA.R. 2063	--
9 VAC 25-690-10 through 9 VAC 25-690-100	Amended	22:21 VA.R. 2867-2889	8/1/06
9 VAC 25-690-30	Erratum	22:12 VA.R. 2063	--
9 VAC 25-690-50	Erratum	22:12 VA.R. 2063	--
9 VAC 25-690-95	Added	22:21 VA.R. 2876	8/1/06
9 VAC 25-690-100	Erratum	22:12 VA.R. 2063	--
9 VAC 25-720-60	Erratum	22:12 VA.R. 2064	--
9 VAC 25-720-110	Amended	22:16 VA.R. 2378	5/17/06
9 VAC 25-720-120	Erratum	22:12 VA.R. 2064	--
9 VAC 25-780-30	Amended	22:21 VA.R. 2889	7/26/06
Title 10. Finance and Financial Institutions			
10 VAC 5-200-80	Amended	22:11 VA.R. 1769	3/1/06
10 VAC 5-160-10	Amended	22:18 VA.R. 2514	9/1/06
10 VAC 5-160-20	Amended	22:18 VA.R. 2514	9/1/06
10 VAC 5-160-30	Amended	22:18 VA.R. 2515	9/1/06
10 VAC 5-160-60	Added	22:18 VA.R. 2516	9/1/06
Title 11. Gaming			
11 VAC 10-20-240	Amended	22:11 VA.R. 1771	3/8/06
11 VAC 10-20-260	Amended	22:15 VA.R. 2281	3/7/06
11 VAC 10-70-20	Amended	22:20 VA.R 2705	5/19/06-9/4/06
11 VAC 10-70-30	Amended	22:20 VA.R 2706	5/19/06-9/4/06
11 VAC 10-70-40	Amended	22:20 VA.R 2706	5/19/06-9/4/06
11 VAC 10-70-50	Repealed	22:20 VA.R 2706	5/19/06-9/4/06
11 VAC 10-70-60	Amended	22:20 VA.R 2706	5/19/06-9/4/06
11 VAC 10-70-70	Amended	22:20 VA.R 2707	5/19/06-9/4/06
11 VAC 10-70-80	Amended	22:20 VA.R 2707	5/19/06-9/4/06
11 VAC 10-70-90	Amended	22:20 VA.R 2707	5/19/06-9/4/06
11 VAC 10-70-170	Amended	22:20 VA.R 2708	5/19/06-9/4/06
11 VAC 10-90-10	Amended	22:20 VA.R 2708	5/19/06-9/4/06
11 VAC 10-90-30	Amended	22:20 VA.R 2708	5/19/06-9/4/06
11 VAC 10-90-50	Amended	22:20 VA.R 2708	5/19/06-9/4/06
Title 12. Health			
12 VAC 5-590-370	Amended	22:15 VA.R. 2282	5/3/06
12 VAC 5-590-400	Amended	22:15 VA.R. 2306	5/3/06
12 VAC 5-590-410	Amended	22:15 VA.R. 2307	5/3/06
12 VAC 5-590-440	Amended	22:15 VA.R. 2310	5/3/06
12 VAC 5-590-530	Amended	22:21 VA.R. 2890	7/26/06
12 VAC 5-590-540, Appendices B and N	Amended	22:15 VA.R. 2313	5/3/06
12 VAC 30-50-10	Amended	22:16 VA.R. 2382	7/3/06
12 VAC 30-50-120	Amended	22:16 VA.R. 2383	7/3/06
12 VAC 30-50-140	Amended	22:16 VA.R. 2383	7/3/06
12 VAC 30-50-150	Amended	22:16 VA.R. 2385	7/3/06
12 VAC 30-80-40	Amended	22:14 VA.R. 2202	5/1/06
12 VAC 30-80-190	Amended	22:14 VA.R. 2204	5/1/06
12 VAC 30-80-190 emer	Amended	22:14 VA.R. 2209	5/1/06-4/30/07
12 VAC 30-120-10 through 12 VAC 30-120-60	Repealed	22:10 VA.R. 1638	2/22/06
12 VAC 30-120-211	Amended	22:19 VA.R. 2629	6/28/06
12 VAC 30-120-213	Amended	22:19 VA.R. 2632	6/28/06
12 VAC 30-120-215	Amended	22:19 VA.R. 2633	6/28/06
12 VAC 30-120-217	Amended	22:19 VA.R. 2637	6/28/06

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
12 VAC 30-120-219	Amended	22:19 VA.R. 2639	6/28/06
12 VAC 30-120-221	Amended	22:19 VA.R. 2640	6/28/06
12 VAC 30-120-223	Amended	22:19 VA.R. 2641	6/28/06
12 VAC 30-120-225	Amended	22:19 VA.R. 2643	6/28/06
12 VAC 30-120-227	Amended	22:19 VA.R. 2647	6/28/06
12 VAC 30-120-229	Amended	22:19 VA.R. 2648	6/28/06
12 VAC 30-120-231	Amended	22:19 VA.R. 2649	6/28/06
12 VAC 30-120-233	Amended	22:19 VA.R. 2650	6/28/06
12 VAC 30-120-237	Amended	22:19 VA.R. 2653	6/28/06
12 VAC 30-120-241	Amended	22:19 VA.R. 2654	6/28/06
12 VAC 30-120-243	Repealed	22:19 VA.R. 2656	6/28/06
12 VAC 30-120-245	Amended	22:19 VA.R. 2658	6/28/06
12 VAC 30-120-247	Amended	22:19 VA.R. 2658	6/28/06
12 VAC 30-120-249	Amended	22:19 VA.R. 2660	6/28/06
12 VAC 30-120-490 through 12 VAC 30-120-550	Repealed	22:10 VA.R. 1638	2/22/06
12 VAC 30-120-900 through 12 VAC 30-120-980	Added	22:10 VA.R. 1638-1661	2/22/06
12 VAC 30-141-500	Amended	22:16 VA.R. 2385	7/3/06
12 VAC 35-45-10	Amended	22:10 VA.R. 1684	12/30/05-12/29/06
12 VAC 35-45-70 emer	Amended	22:10 VA.R. 1685	12/30/05-12/29/06
12 VAC 35-45-80 emer	Amended	22:10 VA.R. 1685	12/30/05-12/29/06
12 VAC 35-45-210 emer	Added	22:10 VA.R. 1686	12/30/05-12/29/06
12 VAC 35-105-20 emer	Amended	22:10 VA.R. 1686	12/30/05-12/29/06
12 VAC 35-105-30 emer	Amended	22:10 VA.R. 1693	12/30/05-12/29/06
12 VAC 35-105-590 emer	Amended	22:10 VA.R. 1693	12/30/05-12/29/06
12 VAC 35-105-660 emer	Amended	22:10 VA.R. 1694	12/30/05-12/29/06
Title 13. Housing			
13 VAC 5-51-132	Amended	22:20 VA.R 2709	7/12/06
13 VAC 5-63-40	Amended	22:20 VA.R 2710	7/12/06
13 VAC 5-63-480	Amended	22:20 VA.R 2712	7/12/06
13 VAC 6-20-10	Amended	22:10 VA.R. 1679	4/12/06
13 VAC 6-20-80	Amended	22:10 VA.R. 1680	4/12/06
13 VAC 6-20-120	Amended	22:10 VA.R. 1680	4/12/06
13 VAC 6-20-350	Amended	22:10 VA.R. 1680	4/12/06
Title 16. Labor and Employment			
16 VAC 25-90-1910.6	Amended	22:18 VA.R. 2518	6/15/06
16 VAC 25-90-1910.106	Amended	22:18 VA.R. 2518	6/15/06
16 VAC 25-90-1910.142	Amended	22:18 VA.R. 2518	6/15/06
16 VAC 25-90-1910.178	Amended	22:18 VA.R. 2517	6/15/06
16 VAC 25-90-1910.243	Amended	22:18 VA.R. 2518	6/15/06
16 VAC 25-90-1910.254	Amended	22:18 VA.R. 2518	6/15/06
16 VAC 25-90-1910.265	Amended	22:18 VA.R. 2518	6/15/06
16 VAC 25-90-1910.1000	Amended	22:18 VA.R. 2519	6/15/06
16 VAC 25-90-1910.1026	Added	22:18 VA.R. 2519	6/15/06
16 VAC 25-100-1915.1000	Amended	22:18 VA.R. 2519	6/15/06
16 VAC 25-100-1915.1026	Added	22:18 VA.R. 2519	6/15/06
16 VAC 25-120-1917.1	Amended	22:18 VA.R. 2519	6/15/06
16 VAC 25-130-1918.1	Amended	22:18 VA.R. 2519	6/15/06
16 VAC 25-175-1926, Appendix B of Subpart R	Amended	22:18 VA.R. 2520	6/15/06
16 VAC 25-175-1926, Appendix A to Subpart W	Adding	22:18 VA.R. 2520	6/15/06
16 VAC 25-175-1926.55	Added	22:18 VA.R. 2519	6/15/06
16 VAC 25-175-1926.754	Amended	22:18 VA.R. 2520	6/15/06
16 VAC 25-175-1926.1002	Amended	22:18 VA.R. 2520	6/15/06
16 VAC 25-175-1926.1003	Amended	22:18 VA.R. 2520	6/15/06
16 VAC 25-175-1926.1126	Added	22:18 VA.R. 2519	6/15/06
16 VAC 25-190-1928, Appendix B to Subpart C	Added	22:18 VA.R. 2520	6/15/06
16 VAC 25-190-1928.51	Amended	22:18 VA.R. 2520	6/15/06

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
16 VAC 25-190-1928.52	Added	22:18 VA.R. 2520	6/15/06
16 VAC 25-190-1928.53 and Appendix B to Subpart C	Added	22:18 VA.R. 2520	6/15/06
Title 17. Libraries and Cultural Resources			
17 VAC 10-30-10 through 17 VAC 10-30-160	Added	22:13 VA.R. 2132-2140	4/5/06
Title 18. Professional and Occupational Licensing			
18 VAC 30-20-80	Amended	22:14 VA.R. 2205	4/19/06
18 VAC 60-20-30	Amended	22:15 VA.R. 2320	5/3/06
18 VAC 65-20-60	Amended	22:21 VA.R. 2897	7/26/06
18 VAC 65-20-110	Amended	22:12 VA.R. 2036	3/22/06
18 VAC 65-20-500	Amended	22:21 VA.R. 2897	7/26/06
18 VAC 65-20-580	Amended	22:21 VA.R. 2898	7/26/06
18 VAC 65-40-10	Amended	22:21 VA.R. 2898	7/26/06
18 VAC 65-40, Forms	Amended	22:21 VA.R. 2900	--
18 VAC 65-40-40	Amended	22:12 VA.R. 2036	3/22/06
18 VAC 65-40-40	Amended	22:21 VA.R. 2898	7/26/06
18 VAC 65-40-90	Amended	22:21 VA.R. 2898	7/26/06
18 VAC 65-40-110	Amended	22:21 VA.R. 2898	7/26/06
18 VAC 65-40-130	Amended	22:21 VA.R. 2899	7/26/06
18 VAC 65-40-160	Amended	22:21 VA.R. 2899	7/26/06
18 VAC 65-40-180	Amended	22:21 VA.R. 2899	7/26/06
18 VAC 65-40-201	Amended	22:21 VA.R. 2899	7/26/06
18 VAC 65-40-220	Amended	22:21 VA.R. 2899	7/26/06
18 VAC 65-40-280	Amended	22:21 VA.R. 2899	7/26/06
18 VAC 65-40-300	Amended	22:21 VA.R. 2899	7/26/06
18 VAC 65-40-320	Amended	22:21 VA.R. 2899	7/26/06
18 VAC 65-40-330	Amended	22:21 VA.R. 2899	7/26/06
18 VAC 65-40-340	Amended	22:21 VA.R. 2899	7/26/06
18 VAC 70-20, Forms	Amended	22:21 VA.R. 2911	--
18 VAC 70-20-10	Amended	22:21 VA.R. 2908	8/1/06
18 VAC 70-20-20	Repealed	22:21 VA.R. 2908	8/1/06
18 VAC 70-20-30	Amended	22:21 VA.R. 2908	8/1/06
18 VAC 70-20-50 through 18 VAC 70-20-90	Amended	22:21 VA.R. 2908-2910	8/1/06
18 VAC 70-20-105	Added	22:21 VA.R. 2911	8/1/06
18 VAC 70-20-110	Amended	22:21 VA.R. 2911	8/1/06
18 VAC 70-20-140	Amended	22:21 VA.R. 2911	8/1/06
18 VAC 70-20-150	Amended	22:21 VA.R. 2911	8/1/06
18 VAC 85-10-10 through 18 VAC 85-10-110	Erratum	22:15 VA.R. 2324	--
18 VAC 85-20-400 emer	Added	22:10 VA.R. 1695	12/21/05-12/20/06
18 VAC 85-20-410 emer	Added	22:10 VA.R. 1696	12/21/05-12/20/06
18 VAC 85-20-420 emer	Added	22:10 VA.R. 1696	12/21/05-12/20/06
18 VAC 85-130-10 through 18 VAC 85-130-170 emer	Added	22:10 VA.R. 1696-1700	12/21/05-12/20/06
18 VAC 90-20-30	Amended	22:12 VA.R. 2037	3/22/06
18 VAC 90-20-120	Amended	22:21 VA.R. 2915	7/26/06
18 VAC 90-25-80	Amended	22:12 VA.R. 2037	3/22/06
18 VAC 90-30-50	Amended	22:12 VA.R. 2038	3/22/06
18 VAC 90-40-70	Amended	22:12 VA.R. 2038	3/22/06
18 VAC 90-50-30	Amended	22:12 VA.R. 2038	3/22/06
18 VAC 95-20-130	Amended	22:13 VA.R. 2141	4/5/06
18 VAC 105-20-5	Amended	22:20 VA.R. 2714	7/12/06
18 VAC 105-20-10	Amended	22:20 VA.R. 2714	7/12/06
18 VAC 105-20-15	Amended	22:20 VA.R. 2714	7/12/06
18 VAC 105-20-16	Amended	22:20 VA.R. 2715	7/12/06
18 VAC 105-20-20	Amended	22:13 VA.R. 2141	4/5/06
18 VAC 110-20-20	Amended	22:15 VA.R. 2321	5/3/06
18 VAC 110-20-20	Erratum	22:16 VA.R. 2399	--
18 VAC 110-20-275	Amended	22:21 VA.R. 2926	9/10/06

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
18 VAC 110-20-710	Amended	22:21 VA.R. 2927	9/10/06
18 VAC 110-30-10	Amended	22:10 VA.R. 1662	2/22/06
18 VAC 110-30-15	Amended	22:10 VA.R. 1662	2/22/06
18 VAC 110-30-15	Amended	22:15 VA.R. 2322	5/3/06
18 VAC 110-30-15	Erratum	22:16 VA.R. 2399	--
18 VAC 110-30-20	Amended	22:10 VA.R. 1662	2/22/06
18 VAC 110-30-30	Amended	22:10 VA.R. 1662	2/22/06
18 VAC 110-30-35	Repealed	22:10 VA.R. 1662	2/22/06
18 VAC 110-30-40	Amended	22:10 VA.R. 1662	2/22/06
18 VAC 110-30-50	Amended	22:10 VA.R. 1662	2/22/06
18 VAC 110-30-80	Amended	22:10 VA.R. 1662	2/22/06
18 VAC 110-30-110	Amended	22:10 VA.R. 1662	2/22/06
18 VAC 110-30-130	Amended	22:10 VA.R. 1662	2/22/06
18 VAC 110-30-150	Amended	22:10 VA.R. 1662	2/22/06
18 VAC 110-30-170 through 18 VAC 110-30-220	Amended	22:10 VA.R. 1662	2/22/06
18 VAC 110-30-240	Amended	22:10 VA.R. 1662	2/22/06
18 VAC 110-30-260	Amended	22:10 VA.R. 1662	2/22/06
18 VAC 110-30-270	Amended	22:10 VA.R. 1662	2/22/06
18 VAC 112-20-130	Amended	22:13 VA.R. 2141	4/5/06
18 VAC 112-20-150	Amended	22:13 VA.R. 2142	4/5/06
18 VAC 115-20-20	Amended	22:14 VA.R. 2206	4/19/06
18 VAC 115-20-106	Amended	22:12 VA.R. 2039	3/22/06
18 VAC 115-30-30	Amended	22:14 VA.R. 2206	4/19/06
18 VAC 115-40-20	Amended	22:14 VA.R. 2207	4/19/06
18 VAC 115-50-20	Amended	22:14 VA.R. 2207	4/19/06
18 VAC 115-50-96	Amended	22:12 VA.R. 2040	3/22/06
18 VAC 115-60-20	Amended	22:14 VA.R. 2207	4/19/06
18 VAC 115-60-116	Amended	22:12 VA.R. 2041	3/22/06
18 VAC 120-40-40	Amended	22:11 VA.R. 1779	4/23/06
18 VAC 120-40-50	Amended	22:11 VA.R. 1779	4/23/06
18 VAC 125-20-30	Amended	22:11 VA.R. 1772	3/8/06
18 VAC 125-30-20	Amended	22:11 VA.R. 1773	3/8/06
18 VAC 150-20-100	Amended	22:21 VA.R. 2916	7/26/06
Title 19. Public Safety			
19 VAC 30-20-40	Amended	22:10 VA.R. 1663	3/1/06
19 VAC 30-20-80	Amended	22:10 VA.R. 1663	3/1/06
19 VAC 30-20-205	Added	22:10 VA.R. 1663	3/1/06
19 VAC 30-20-220	Amended	22:10 VA.R. 1663	3/1/06
19 VAC 30-20-250	Amended	22:10 VA.R. 1663	3/1/06
Title 20. Public Utilities and Telecommunications			
20 VAC 5-313-10 through 20 VAC 5-313-40	Added	22:11 VA.R. 1775-1777	1/5/06
Title 22. Social Services			
22 VAC 40-141-20	Amended	22:10 VA.R. 1664	2/22/06
22 VAC 40-141-30	Amended	22:10 VA.R. 1664	2/22/06
22 VAC 40-141-80 through 22 VAC 40-141-90	Amended	22:10 VA.R. 1664-1666	2/22/06
22 VAC 40-141-110 through 22 VAC 40-141-210	Amended	22:10 VA.R. 1666-1672	2/22/06
Title 24. Transportation and Motor Vehicles			
24 VAC 30-41, Forms	Amended	22:21 VA.R. 2921	--
24 VAC 30-41-220	Amended	22:21 VA.R. 2917	7/26/06
24 VAC 30-41-230	Amended	22:21 VA.R. 2917	7/26/06
24 VAC 30-41-290	Amended	22:21 VA.R. 2917	7/26/06
24 VAC 30-41-300	Amended	22:21 VA.R. 2918	7/26/06
24 VAC 30-41-310	Amended	22:21 VA.R. 2918	7/26/06
24 VAC 30-41-320	Amended	22:21 VA.R. 2918	7/26/06
24 VAC 30-41-430	Amended	22:21 VA.R. 2919	7/26/06

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
24 VAC 30-41-520	Amended	22:21 VA.R. 2920	7/26/06
24 VAC 30-41-650	Amended	22:21 VA.R. 2920	7/26/06
24 VAC 30-121-10 through 24 VAC 30-121-40	Added	22:10 VA.R. 1672-1676	2/22/06
24 VAC 30-400-10 through 24 VAC 30-400-40	Repealed	22:13 VA.R. 2142	2/14/06
24 VAC 30-401-10 through 24 VAC 30-401-40	Added	22:13 VA.R. 2142-2143	2/14/06

PETITIONS FOR RULEMAKING

TITLE 9. ENVIRONMENT

DEPARTMENT OF ENVIRONMENTAL QUALITY

Initial Agency Notice

Title of Regulation: 9 VAC 25-720. Water Quality Management Planning Regulation.

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

Name of Petitioner: Mayor Richard L. Fox, Town of Craigsville, Virginia.

Nature of Petitioner's Request: The Town of Craigsville has requested an amendment of the Water Quality Management Planning Regulation (9 VAC 20-720) to assign nutrient waste load allocations for a new wastewater treatment plant. The town currently operates a 0.25 MGD wastewater plant that provides final treatment using spray irrigation under a Virginia pollution abatement permit (no surface water discharge). The existing plant is not a "significant discharger" for the purpose of assigning nutrient waste load allocations, and for that reason was not included in the Water Quality Management Planning Regulation amendments (9 VAC 25-720) adopted by the State Water Control Board in 2005. Further, since there is no surface water discharge, the plant has no design capacity as a nonsignificant discharger would. As a result, the plant has zero nutrient waste load allocations, and would be identified as a new discharge required to completely offset the additional nutrient load if it discharged to state waters.

The town recently applied for a VPDES discharge permit for a new 0.435 MGD plant, and has petitioned for nutrient waste load allocations as follows:

- Total Nitrogen = 10,600 lbs/yr (based on 0.435 MGD and 8.0 mg/l annual average TN concentration)
- Total Phosphorus = 1,325 lbs/yr (based on 0.435 MGD and 1.0 mg/l annual average TP concentration)

Agency's Plan for Disposition of Request: The department is public noticing receipt of the petition and seeking public comment on the petition. Upon close of the public comment period, comments received will be reviewed and a decision made on initiating a rulemaking or placing the petition on the board's next meeting agenda for consideration.

Public comments may be submitted until July 31, 2006.

Agency Contact: John M. Kennedy, Department of Environmental Quality, Chesapeake Bay Program Manager, P.O. Box 10009, Richmond, VA 23240-0009, telephone (804) 698-4312, FAX (804) 698-4116, toll free 1-800-592-5482, or e-mail jmkennedy@deq.virginia.gov.

VA.R. Doc. No. R06-270; Filed June 13, 2006, 2:04 p.m.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF DENTISTRY

Agency Decision

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

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

Name of Petitioner: Scott J. Golrich, DDS.

Nature of Petitioner's Request: To allow two CE units per year for an equivalent volunteer time in a free clinic.

Agency Decision: Request denied.

Statement of Reasons for Decision: While the board encourages participation in volunteer activities, it does not believe such activity addresses the purpose or meets the need for continuing education in the practice of dentistry.

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

VA.R. Doc. No. R06-212; Filed June 19, 2006, 9:48 a.m.

Agency Decision

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

Statutory Authority: §§ 54.1-2400 and 54.1-2706 of the Code of Virginia.

Name of Petitioner: Linda Cifelli.

Nature of Petitioner's Request: To amend regulations on false and misleading advertisements to allow dentists to advertise that they do not use mercury in fillings and do use an amalgam separator or rubber dam in their practice.

Agency Decision: Request denied.

Statement of Reasons for Decision: Current regulations do not prohibit a dentist from advertising that he does not use mercury in fillings or that he uses an amalgam separator. The law prohibits advertisements that are false, deceptive or misleading or contain a claim of superiority. Therefore, no amendment to the regulation is necessary.

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

VA.R. Doc. No. R06-221; Filed June 19, 2006, 9:48 a.m.

BOARD OF PHARMACY

Agency Decision

Title of Regulation: 18 VAC 110-20. Regulations Governing the Practice of Pharmacy.

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

Name of Petitioner: Meron T. Endale.

Nature of Petitioner's Request: Amend regulations to accept hours of experience gained prior to registration of internship with board by foreign pharmacists who are approved to take the FPGEE examination.

Agency Decision: Request denied.

Statement of Reasons for Decision: Discussions indicated that the applicant wanted immediate relief rather than a change in the rule and that the experience being gained was as a technician and would not qualify as experience necessary for licensure as a pharmacist regardless of the timing.

Agency Contact: Elizabeth Scott Russell, Executive Director, Board of Pharmacy, 6603 West Broad Street, 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9911, FAX (804) 662-9313, or e-mail scotti.russell@dhp.virginia.gov.

VA.R. Doc. No. R06-213; Filed June 19, 2006, 9:47 a.m.

BOARD OF PSYCHOLOGY

Initial Agency Notice

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

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

Name of Petitioner: Teresa C. Simonson.

Nature of Petitioner's Request: To amend regulations to delete the requirement for half of the required hours to be earned in face-to-face educational experiences.

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

Public comments may be submitted until August 10, 2006.

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

VA.R. Doc. No. R06-274; Filed June 19, 2006, 9:48 a.m.

NOTICES OF INTENDED REGULATORY ACTION

Symbol Key

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

TITLE 6. CRIMINAL JUSTICE AND CORRECTIONS

CRIMINAL JUSTICE SERVICES BOARD

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Criminal Justice Services Board intends to consider repealing regulations entitled **6 VAC 20-171, Regulations Relating to Private Security Services**, and promulgating regulations entitled **6 VAC 20-172, Regulations Relating to Private Security Services**. The purpose of the proposed action is to conduct a comprehensive review and replacement of existing regulations 6 VAC 20-171. Due to the extensive nature of the amendments, the board will promulgate these regulations under a new number, 6 VAC 20-172 to replace 6 VAC 20-171. This review is based on legislative actions that require incorporation of regulations for detector canine credentials and on a comprehensive review to amend and revise the rules mandating and prescribing standards, requirements, and procedures that serve to protect the citizens of the Commonwealth from unqualified, unscrupulous and incompetent persons engaging in the activities of private security services. Regulations will also be established in order to incorporate the requirements for explosives and narcotic detector canine handlers as established in the Code of Virginia.

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

Statutory Authority: § 9.1-141 of the Code of Virginia.

Public comments may be submitted until August 9, 2006.

Contact: Lisa McGee, Regulatory Program Manager, Department of Criminal Justice Services, 202 N. 9th St., Richmond, VA 23219, telephone (804) 371-2419, FAX (804) 786-6344 or e-mail lisa.mcgee@dcjs.virginia.gov.

VA.R. Doc. No. R06-269; Filed June 15, 2006, 10:58 a.m.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF MEDICINE

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Medicine intends to consider amending regulations entitled **18 VAC 85-20, Regulations Governing the Practice of Medicine**,

Osteopathic Medicine, Podiatry, and Chiropractic. The purpose of the proposed action is to address two regulatory issues that have been raised by the Credentials Committee in the process of considering applications for licensure - clinical training for an applicant who graduated from a nonapproved medical school and the current requirement that all three steps of the United States Medical Licensing Examination (USMLE) be taken within seven years.

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

Statutory Authority: § 54.1-2400 and Chapter 29 (§ 54.1-2900 et seq.) of Title 54.1 of the Code of Virginia.

NOTE: CHANGE IN COMMENT DEADLINE

Public comments may be submitted until 5 p.m. on July 26, 2006.

Contact: William L. Harp, M.D., Executive Director, Board of Medicine, 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9908, FAX (804) 662-9943 or e-mail william.harp@dhp.virginia.gov.

VA.R. Doc. No. R06-241; Filed 05/24/06, 9:26 a.m. and 5/30/06, 3:32 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Medicine intends to consider amending regulations entitled **18 VAC 85-40, Regulations Governing the Practice of Respiratory Care Practitioners**. The purpose of the proposed action is to clarify certain provisions of the regulation for ease of compliance and consistency with current practices. The board will consider rules for reactivation or reinstatement of inactive or lapsed licenses to provide requirements that will reasonably ensure competency for active practice.

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

Statutory Authority: §§ 54.1-2400 and 54.1-2912.1 of the Code of Virginia.

NOTE: CHANGE IN COMMENT DEADLINE

Public comments may be submitted until 5 p.m. on July 26, 2006.

Contact: William L. Harp, M.D., Executive Director, Board of Medicine, 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9908, FAX (804) 662-9943 or e-mail william.harp@dhp.virginia.gov.

VA.R. Doc. No. R06-242; Filed May 24, 2006, 9:26 a.m. and May 30, 2006, 3:32 p.m.

BOARD OF COUNSELING

VA.R. Doc. No. R06-267; Filed June 16, 2006, 8:26 a.m.

† Withdrawal of Notice of Intended Regulatory Action

Notice is hereby given that the Board of Counseling has WITHDRAWN the Notice of Intended Regulatory Action for **18 VAC 115-20, Regulations Governing the Practice of Professional Counseling**, relating to portability of licensure, which was published in 21:6 VA.R. 557 November 29, 2004.

Contact: Elaine Yeatts, Regulatory Coordinator, Department of Health Professions, 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9918, FAX (804) 662-9914 or e-mail elaine.yeatts@dhp.virginia.gov.

VA.R. Doc. No. R05-59; Filed June 19, 2006, 9:47 a.m.



TITLE 22. SOCIAL SERVICES

STATE BOARD OF SOCIAL SERVICES

† Withdrawal of Notice of Intended Regulatory Action

Notice is hereby given that the State Board of Social Services has WITHDRAWN the Notice of Intended Regulatory Action for **22 VAC 40-221, Interstate Compact on the Placement of Children**, which was published in 22:5 VA.R. 702 November 14, 2005.

Contact: Richard Martin, Office of Legislative and Regulatory Affairs, Department of Social Services, 7 N. 8th St., Richmond, VA 23219, telephone (804) 726-7000.

VA.R. Doc. No. R06-89; Filed June 16, 2006, 8:26 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 **22 VAC 40-810, Fees for Court Services Provided by Local Department of Social Services**. The purpose of the proposed action is to repeal the regulation because standards for fees for court services provided by local departments of social services are now included in a new comprehensive regulation, currently under promulgation. This outdated, standalone regulation is no longer needed.

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

Statutory Authority: §§ 63.2-217 and 63.2-319 of the Code of Virginia.

Public comments may be submitted until August 9, 2006 to contact person identified below.

Contact: Brenda Kerr, Adoption Program Manager, Department of Social Services, 7 N. 8th St., Richmond, VA 23219, telephone (804) 726-7530, FAX (804) 726-7499 or e-mail brenda.kerr@dss.virginia.gov.

DEPARTMENT FOR THE BLIND AND VISION IMPAIRED

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department for the Blind and Vision Impaired intends to consider repealing **22 VAC 45-50, Regulations Governing Provisions of Services in Vocational Rehabilitation**, and promulgating regulations entitled **22 VAC 45-51, Regulations Governing Provisions of Services in Vocational Rehabilitation**. The purpose of the proposed action is to update the vocational rehabilitation regulations and provide clearer articulation of vocational rehabilitation regulations for citizens who are blind or vision impaired.

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

Statutory Authority: § 51.5-65 of the Code of Virginia.

Public comments may be submitted until July 27, 2006.

Contact: Susan D. Payne, Program Director, Vocational Rehabilitation, Department for the Blind and Vision Impaired, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3184, FAX (804) 371-3351 or e-mail susan.payne@dbvi.virginia.gov.

VA.R. Doc. No. R06-263; Filed June 6, 2006, 4:23 p.m.

PROPOSED REGULATIONS

For information concerning Proposed Regulations, see Information Page.

Symbol Key

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

TITLE 2. AGRICULTURE

BOARD OF AGRICULTURE AND CONSUMER SERVICES

REGISTRAR'S NOTICE: The following regulatory action is exempt from the Administrative Process Act in accordance with § 2.2-4002 A 13 of the Code of Virginia, which excludes the Board of Agriculture and Consumer Services when promulgating regulations pursuant to § 3.1-398, which conform, insofar as practicable, with the federal Food and Drug Administration's Food Code.

Titles of Regulations: **2 VAC 5-580. Rules and Regulations Pertaining to the Sanitary and Operating Requirements in Retail Food Stores (repealing 2 VAC 5-580-10 through 2 VAC 5-580-310).**

2 VAC 5-585. Retail Food Establishment Regulations (adding 2 VAC 5-585-10 through 2 VAC 5-585-4070).

Statutory Authority: § 3.1-398 of the Code of Virginia.

Public Hearing Date: August 29, 2006 - 9 a.m.

Public comments may be submitted until September 11, 2006.

(See Calendar of Events section for additional information)

Agency Contact: Richard D. Saunders, Program Manager, Office of Dairy and Foods, Department of Agriculture and Consumer Services, 102 Governor Street, Suite 349, Richmond, VA 23219, telephone (804) 786-8899, FAX (804) 371-7792, or e-mail doug.saunders@vdacs.virginia.gov.

Basis: Section 3.1-398 of the Code of Virginia provides the legal basis for the promulgation of this proposed regulation. Specifically, subsections B and C identify the authority and certain requirements for the expedited adoption of the FDA's Food Code. The authority is discretionary and is assigned to the Board of Agriculture and Consumer Services. Additionally, the existing regulation, 2 VAC 5-580 (Rules and Regulations Pertaining to the Sanitary and Operating Requirements in Retail Food Stores) will be automatically repealed upon the effective date of the new regulation as provided in Chapter 802 of the 2004 Acts of Assembly.

Purpose: This proposed regulatory action is essential to the protection of the health and welfare of citizens in that it sets the necessary standards of operation for the retail segment of Virginia's food industry to (i) provide a system of prevention and overlapping safeguards designed to minimize foodborne illness; (ii) ensure employee health, industry manager knowledge, safe food, nontoxic and cleanable equipment and acceptable levels of sanitation on food establishment premises; and (iii) promote fair dealings with the consumer. Additionally, 2 VAC 5-585-20 of the proposed regulation

states "The purpose of this regulation is to safeguard public health and provide to consumers food that is safe, unadulterated, and honestly presented."

The first goal of the proposed regulation is to maintain a scientifically sound basis for regulation of the retail food industry that is consistent with retail regulations enforced by other states. The current regulation, 2 VAC 5-580 (Rules and Regulations Pertaining to the Sanitary and Operating Requirements in Retail Food Stores), was adopted by the Board of Agriculture and Consumer Services on February 25, 1986. This regulation was based on a model document entitled Retail Food Store Sanitation Code, which was developed by the Association of Food and Drug Officials and the U.S. Food and Drug Administration and represented the most current, sound science available at the time. This model document was the forerunner to the FDA Food Code. The FDA Food Code was first published in 1993 but was not widely accepted because many within state governments and the food industry believed that it contained significant controversial issues that still needed to be refined. Through an organization known as the Conference for Food Protection, which represents all state and many local food safety programs, the food industry, and the federal government, the controversial issues were successfully addressed, and the FDA Food Code is now receiving widespread acceptance throughout the nation as the standard for regulation of the retail segment of the food industry. The retail segment includes those establishments or locations in the food distribution chain where the consumer takes possession of the food. Because the FDA Food Code is now being accepted as the standard for regulation of retail food establishments, versions of that model code have been adopted by state food safety agencies in 45 states. Of those states, 21 have adopted the 1999 version and 16 have adopted the 2001 version (as of March 2005). Adoption of the appropriate portions of the 2001 version of the FDA Food Code as 2 VAC 5-585 will enable VDACS to have a retail food store regulation that is based on the most current, sound science available and that is consistent with retail food store regulations being enforced by most of the other states.

The second goal of the proposed regulation is to facilitate the shared responsibility of the food industry and the government of ensuring that food provided to the consumer is safe and does not become a vehicle in a disease outbreak or in the transmission of communicable disease. Foodborne disease in the United States is a major cause of personal distress, preventable death, and avoidable economic burden. The U.S. Centers for Disease Control and Prevention estimate that foodborne diseases cause approximately 76 million illnesses, 325,000 hospitalizations, and 5,000 deaths in the United States each year. Epidemiological outbreak data repeatedly identify five major risk factors related to employee behaviors and preparation practices in retail and food service establishments as contributing to foodborne illness. Those risk factors include (i) improper holding temperatures;

(ii) inadequate cooking, such as undercooking raw shell eggs; (iii) contaminated equipment; (iv) food from unsafe sources; and (v) poor personal hygiene. The FDA Food Code addresses controls for these risk factors and further establishes five key public health interventions to protect consumer health. Specifically, these interventions are: (i) demonstration of knowledge; (ii) employee health controls; (iii) controlling hands as a vehicle of contamination; (iv) time and temperature parameters for controlling pathogens; and (v) consumer advisories. Adoption of the appropriate portions of the 2001 version of the FDA Food Code and the 2003 Supplement as 2 VAC 5-585 will provide the necessary guidance to the retail food industry for controlling risk factors and implementing intervention strategies, and will enable VDACS to more appropriately focus inspection activities on the reduction of out-of-control risk factors, and retail food store operator educational efforts on properly implementing foodborne disease intervention protocols.

The third goal of the proposed regulation is to ensure a regulatory approach that is uniform throughout the retail segment of Virginia's food industry by administering standards that are equivalent to those administered by the Virginia Department of Health (VDH) in restaurants and food service establishments. For many years, the retail segment of Virginia's food industry has expressed concern that the Virginia Department of Agriculture and Consumer Services (VDACS) and VDH have enforced different regulations in similar types of food establishments. Although the basic requirements of those regulations were the same, there were enough differences in the regulations to sometimes be confusing to the retail segment of the food industry. The Virginia General Assembly recently passed legislation that provides the authority for both VDACS and VDH to concurrently adopt the same version of the FDA Food Code through an expedited adoption process as long as both regulations have the same effective date. Consequently, VDH will be pursuing the process for adoption of the 2001 version of the FDA Food Code during the same time as VDACS. Once both regulations are finalized, they will have the same effective date, and at that point VDACS and VDH will be administering the same food safety standards within all portions of the retail segment of Virginia's food industry.

Substance: The proposed regulation provides much greater detail, and in some cases much greater specificity, with respect to food safety issues, foodborne disease risk factors, and interventions to reduce foodborne disease risk factors. Additionally, the proposed regulation provides for more flexibility for the retail segment of the food industry in how they choose to alleviate food safety problems or foodborne disease risk factors. Because of the greater detail and specificity, and the level of flexibility allowed, the proposed regulation is certainly longer than the existing regulation (2 VAC 5-580, Rules and Regulations Pertaining to the Sanitary and Operating Requirements in Retail Food Stores), but the informative nature of the document and the clarity of the information and requirements will lead to a greater ease of understanding and much less opportunity for misinterpretation. Since both VDACS and VDH will be administering equivalent regulatory requirements, a much

greater level of uniformity among the two agencies should be realized by the retail segment of Virginia's food industry.

The proposed regulation contains all of the provisions of the existing regulation, only updated to reflect the most current, sound science. Additionally, there are new items contained in the proposed regulation that are not part of the existing regulation because of the numerous innovations and advancements that have occurred in the retail segment of the food industry since the existing regulation was adopted in 1986. Those innovations and advancements have necessitated the need for additional regulatory requirements to provide assurances that the food products produced and handled through new processes at the retail level will be safe for the consumer.

The new substantive provisions contained in this proposed regulation include the following:

1. A significantly expanded section of definitions, providing legal definitions for more terms, and greater clarification with respect to those terms.
2. A requirement for demonstration of knowledge by the person in charge for foodborne disease prevention, application of Hazard Analysis Critical Control Point principles, and the requirements of the regulation.
3. A requirement for minimal bare hand contact to preclude contamination from hands of ready-to-eat food products to be served to highly susceptible populations.
4. An expansion of the time and a more flexible protocol for properly cooling hot foods.
5. A reduction in the required cold-holding temperature for most foods from 45°F to 41°F. However, for those establishments whose cold-holding equipment cannot achieve a 41°F temperature, a five-year phase-in period is allowed.
6. A reduction in the required hot-holding temperature for foods from 140°F to 135°F.
7. An allowance to use time, rather than the typical time and temperature, as a public health control as long as appropriate procedures are followed.
8. A requirement that a retail food establishment obtain a variance from VDACS if performing certain food processing operations that are typically not performed at the retail level (i.e., smoking, curing, using additives or acidifying, reduced oxygen packaging, custom processing of animals not covered by the Meat and Poultry Inspection Program, etc.)
9. For foods of animal origin that are to be consumed raw, undercooked or not otherwise processed to eliminate pathogenic microorganisms, a requirement for the use of a disclosure statement indicating that the foods have not been processed to eliminate pathogens and consumption of such foods significantly increases risk of foodborne illness to the consumer.
10. Special requirements that are necessary to properly protect highly susceptible populations (i.e.,

Proposed Regulations

immunocompromised, preschool-age children, or older adults) from foodborne illness.

11. A relaxing of the restrictions on animals to allow all service animals controlled by any disabled persons.

Issues:

Public: The proposed regulation will enhance the safety of food products sold through the retail segment of the food industry. Because the proposal is based on the most current sound science available, contains provisions to address the safety of food products processed at retail that have typically only been processed at the food manufacturing level, and addresses issues such as disclosure statements for undercooked foods of animal origin and demonstration of knowledge by the person in charge, consumers purchasing food products from retail establishments should develop greater confidence in the safety of the retail food supply.

There are no disadvantages to the public.

Regulated Entities: The advantages of well-written, scientifically sound, and up-to-date retail food safety requirements have long been recognized by industry and government officials. Industry conformance with acceptable procedures and practices is far more likely where regulatory officials "speak with one voice" about what is required to protect public health, why it is important, and which alternatives for compliance may be accepted. With both VDACS and VDH administering equivalent food safety requirements in each agency's respective portion of the retail segment of the food industry, Virginia's regulatory officials will be "speaking with one voice," greatly enhancing the uniform application of retail standards and requirements. The standards and requirements of this proposal can also be applied by the retail segment of the food industry in training and quality assurance programs.

The proposed regulation will also provide the retail food segment of Virginia's food industry the alternative and the opportunity to incorporate performance standards into their processes. Such performance standards in effect define public food safety expectations for food products, usually in terms of lethality to a pathogenic microorganism of particular concern. Use of performance standards as a measure of regulatory compliance means that food establishments are free to use innovative approaches in producing safe products, in lieu of adherence to traditional processing approaches, such as specified cooking times and temperatures, that achieve the same end. Many federally and state inspected food processing establishments demonstrate compliance with performance standards by showing that their process adheres to an appropriately designed, validated Hazard Analysis Critical Control Point (HACCP) plan, and through this proposed regulation, retail processing will be provided the same opportunity. However, if the retail food establishment chooses to utilize performance standards, the retail processing operation must demonstrate that processing controls are in place to ensure that standards are being met, which is the purpose of the HACCP plan.

The proposed regulation addresses all of the food safety issues currently addressed in the existing regulation (2 VAC 5-

580, Rules and Regulations Pertaining to the Sanitary and Operating Requirements in Retail Food Stores); however, the proposed regulation is more lengthy because of some very important differences: (i) much more emphasis is placed on assignment of responsibility and demonstration of knowledge by operators and employees; (ii) there is greater focus on public health protection, and awareness, control and elimination of diseases that are transmissible through food; (iii) all of the issues addressed by the current regulation have been updated and modernized; and (iv) because of the update and modernization, the language is much more informative and educational and provides much greater clarification relative to the requirements.

Another issue addressed by this proposal that is not contained in the existing regulation is the consumption of foods of animal origin that are raw, undercooked, or not otherwise processed to eliminate pathogens. This proposal requires that if such foods are served for consumption without further processing, a consumer advisory must be used to disclose that the consumption of such foods significantly increases the risk of foodborne illness to the consumer. This requirement results directly from so many foodborne illness outbreaks being caused by products such as raw oysters on the half shell, cooked-to-order rare hamburgers, Caesar Salad dressing or mayonnaise made with raw eggs, and others.

The primary disadvantage of this proposal to the retail food segment of the food industry is the requirement that the refrigeration temperature for most potentially hazardous foods must be 41°F or below. Under the existing regulation, the required refrigeration temperature for potentially hazardous foods is 45°F or below. This 4°F reduction in temperature will require that the retail segment of the food industry maintain refrigeration equipment that can achieve the lower temperature. Based on data supplied by FDA, manufacturers of refrigeration equipment have been manufacturing for more than 20 years food refrigeration units that will maintain the 41°F temperature; the units at the upper end of that time line may require some modification, but such modification would be inexpensive. However, there are some establishments, mostly in rural or economically challenged areas of the state, where the refrigeration equipment may be 30 years old or older and such equipment probably cannot be modified to achieve the lower temperature. If the equipment cannot be modified, it will have to be replaced. Because it would be unreasonable to adopt a regulation and expect immediate replacement of such equipment, this proposal allows the use of existing refrigeration equipment if it is in place and in use on the effective date of the regulation and if it is upgraded or replaced before January 1, 2012. Additionally, this proposal gives the agency the authority to direct the replacement of such equipment if (i) the equipment constitutes a public health hazard or nuisance or (ii) there is an ownership change of the establishment. At any rate, those retail food establishments that cannot maintain a refrigeration temperature of 41°F will have a phase-in period of more than five years to meet that requirement.

Department of Planning and Budget's Economic Impact Analysis:

Summary of the Proposed Regulation. The Board of Agriculture and Consumer Services (board) proposes to amend and repeal the existing regulation 2 VAC 5-580 (Rules and Regulations Pertaining to the Sanitary and Operating Requirements in Retail Food Stores) to provide practical, science-based guidance and manageable, enforceable provisions for mitigating risk factors known to cause foodborne disease. The proposed regulation will adopt appropriate portions of the 2001 edition and 2003 supplement of the U.S. Food and Drug Administration (FDA)'s Food Code and will be consistent with regulations enforced by the Virginia Department of Health (VDH) in restaurants and food service operations. Major changes include:

- (1) The required cold-holding temperature for most potentially hazardous foods¹ will be reduced from 45°F to 41°F. For retail food establishments whose refrigeration equipment cannot achieve 41°F, a five-year phase-in period is allowed for modification or replacement of the equipment.
- (2) The person in charge will be required to demonstrate knowledge of foodborne disease prevention, application of Hazard Analysis Critical Control Point principles (HACCP),² and the requirements of the regulation.
- (3) A retail food establishment performing certain food processing operations that are typically not performed at the retail level will be required to obtain a variance³ from Virginia Department of Agriculture and Consumer Services (VDACS) and maintain a validated HACCP plan.
- (4) For foods of animal origin that are to be consumed raw, undercooked or not otherwise processed to eliminate pathogenic microorganisms, a disclosure statement will be required indicating that the foods have not been processed to eliminate pathogens and consumption of such foods significantly increases risk of foodborne illness to the consumers.
- (5) The proposed regulation will also provide more flexibility for the retail segment of the food industry in how they choose to alleviate food safety problems or foodborne disease risk factors, without compromising food safety and public health. For example, an expansion of the time and a more flexible protocol will be provided for properly cooling hot foods; the required hot-holding temperature will be reduced from 140°F to 135°F; the retail food establishment will be allowed to use time, rather than the typical time and temperature, as a public health control as long as

1 According to the proposed regulation, "Potentially hazardous food" means a food that is natural or synthetic and that requires temperature control because it is in a form capable of supporting (i) the rapid and progressive growth of infectious or toxigenic microorganisms; (ii) the growth and toxin production of *Clostridium botulinum*; or (iii) in raw shell eggs, the growth of *Salmonella enteritidis*. "Potentially hazardous food" includes an animal food (a food of animal origin) that is raw or heat-treated; a food of plant origin that is heat-treated or consists of raw seed sprouts; cut melons; and garlic-in-oil mixtures that are not acidified or otherwise modified at a food processing plant in a way that results in mixtures that do not support growth as specified above in this definition.

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

3 According to the proposed regulation, "Variance" means a written document issued by VDACS that authorizes a modification or waiver of one or more requirements of 2 VAC 5-585 if, in the opinion of VDACS, a health hazard or nuisance will not result from the modification or waiver.

appropriate procedures are followed; and restrictions on animals will be relaxed to allow service animals controlled by disabled persons under certain conditions.

Results of analysis. There is insufficient data to accurately compare the magnitude of the benefits versus the costs. Detailed analysis of the benefits and costs can be found in the next section.

Estimated Economic Impact. Foodborne illnesses are defined as diseases, usually either infectious or toxic in nature, caused by agents that enter the body through the ingestion of food. Every person is at risk of foodborne illness.⁴ Foodborne disease in the United States is a major cause of personal distress, preventable death, and avoidable economic burden. The Centers for Disease Control and Prevention (CDC) estimate that foodborne diseases cause approximately 76 million illnesses, 325,000 hospitalizations, and 5,000 deaths in the United States each year. The yearly cost of all foodborne diseases in this country is estimated to be \$5 to 6 billion in direct medical expenses and lost productivity. Infections with the bacteria *Salmonella* alone account for \$1 billion yearly in direct and indirect medical costs.⁵

The current regulation, 2 VAC 5-580 (Rules and Regulations Pertaining to the Sanitary and Operating Requirements in Retail Food Stores), adopted by the board on February 25, 1986, was based on a model document entitled Retail Food Store Sanitation Code that was developed by the Association of Food and Drug Officials and the U.S. FDA and was the forerunner to the FDA Food Code. The FDA Food Code was first published in 1993, but was not widely adopted until controversial issues were successfully refined. Now the FDA Food Code is being accepted as the standard for regulation of retail food establishments.⁶ The board proposes to adopt the appropriate portions of the 2001 edition and 2003 supplement of the FDA food code and amend the current regulations so as to provide a retail food store regulation that is based on the most current, sound science available in order to mitigate risk factors⁷ known to cause foodborne illness.

Adoption of appropriate portions of the FDA Food Code will also ensure that the retail food store regulations enforced by VDACS be consistent with those being enforced by most of the other states as well as regulations enforced by VDH in similar types of food establishments. The Virginia General Assembly has passed legislation that provides the authority for both VDACS and VDH to concurrently adopt the same version of the FDA Food Code through an expedited adoption process as long as both regulations have the same effective date.

Consequently, VDH will be pursuing the process for adoption of the 2001 version of the FDA Food Code during the same time as VDACS. Once both regulations are finalized, they will

4 Source: the World Health Organization.

5 Source: National Institute of Health, U.S. Department of Health and Human Services. <http://www.niaid.nih.gov/factsheets/foodbornedis.htm>

6 According to VDACS, as of March 2005, 21 states have adopted the 1999 version and 16 have adopted the 2001 version of FDA Food Code.

7 According to VDACS, the five major risk factors contributing to foodborne illness are (i) improper holding temperatures; (ii) inadequate cooking, such as undercooking raw shell eggs; (iii) contaminated equipment; (iv) food from unsafe sources; and (v) poor personal hygiene.

Proposed Regulations

have the same effective date, and at that point VDACS and VDH will be administering the same food safety standards within all portions of the retail segment of Virginia's food industry. A much greater level of uniformity in the regulations enforced by the two agencies will reduce confusion and enhance industry conformance with acceptable procedures and practices.

The FDA Food Code has established five key public health interventions for control of the major risk factors⁸ and for protection of consumer health, which are embodied in the proposed regulations: (i) demonstration of knowledge; (ii) employee health controls; (iii) controlling hands as a vehicle of contamination; (iv) time and temperature parameters for controlling pathogens; and (v) consumer advisories.

One of the major proposed regulatory changes is that the required cold-holding temperature for most of the potentially hazardous foods will be 41°F or below, unless 45°F is otherwise permitted. Retail store establishments are given a five-year phase-in period to upgrade or replace the equipment. Currently, the required refrigeration temperature for potentially hazardous foods is 45°F or below. This 4°F reduction in temperature will require that the retail segment of the food industry maintain refrigeration equipment that can achieve the lower temperature. Based on data supplied by FDA, manufacturers of refrigeration equipment have been manufacturing for more than 20 years food refrigeration units that will maintain the 41°F temperature. Units manufactured at the upper end of that time line may require some modification, the average cost of which is \$200.⁹ However, some establishments, mostly in rural or economically challenged areas, use refrigeration equipment more than 30 years old that probably can not be modified to achieve the lower temperature. Therefore, a replacement is needed with a cost of \$2,500 on average for one 49-cubic-foot refrigeration unit.¹⁰

According to VDACS, of the 8,725 retail food establishments, 3,509 are major retail food store chains that already meet the lower temperature requirement. Supposing all of the remaining 5,216 retail food stores must either modify or replace their existing refrigeration equipment, with 80% (4,172) modifying and 20% (1,044) replacing, the estimated cost statewide will be up to $\$200 \times 4,172 + \$2,500 \times 1,044 = \$3,444,400$. Provided that this increased cost will be spread evenly among the five years, the estimated annual cost will be up to \$688,880 statewide.

The proposed regulation will require that the person in charge at the retail food establishment demonstrate knowledge of foodborne disease prevention, application of Hazard Analysis Critical Control Point principles, and the other requirements of the regulation. Options for the demonstrations include complying with this regulation by having no violations during the inspection by VDACS, or responding correctly to the inspector's questions as they relate to the specific food operation.

If a retail food establishment chooses to perform certain food processing operations that are typically not performed at the

retail level (such as smoking, curing, using additives or acidifying, reduced oxygen packaging, custom processing of animals not covered by the Meat and Poultry Inspection Program, etc.), it will be required to obtain a variance from VDACS and maintain a validated HACCP plan. Requirement of obtaining a variance and maintaining a HACCP plan will ensure that the retail store has the proper procedures for those operations so as to guarantee food safety. According to VDACS, although not required in the current regulation, the retail food stores have to provide certain information to prove that they can process those food operations successfully and safely, which is similar to those included in the variance request. Therefore, requirement of variance request will likely not cause significant cost.

However, there might be additional costs associated with preparation of HACCP plans, which will vary from several hours to several days depending on how complicated the plan is and whether current guidance for the plan is available.

For foods of animal origin that are to be consumed raw, undercooked or not otherwise processed to eliminate pathogenic microorganisms, a disclosure statement is required to be used to indicate that the foods have not been processed to eliminate pathogens and consumption of such foods significantly increases risk of foodborne illness to the consumer. This requirement will keep consumers informed of the potential risk and help them make appropriate decisions.

The proposed regulation also provides more flexibility for the retail food establishments in how they choose to alleviate food safety problems or foodborne disease risk factors, without compromising food safety or public health. Firstly, an expansion of time and a more flexible protocol are proposed for cooling hot foods. Under the current regulation, potentially hazardous food requiring refrigeration after preparation shall be cooled to an internal temperature of 45°F within four hours. The proposed regulation requires that cooked potentially hazardous foods shall be cooled within two hours from 135°F to 70°F, and within a total of six hours from 135°F to 45°F, or 41°F. According to VDACS, it has been scientifically proved that cooked potentially hazardous foods that are cooled from the hot-holding temperature to 70°F within two hours can be safely cooled to the cold-holding temperature within another four hours, therefore this regulatory change allows more flexibility in cooling hot foods without compromising food safety or public health. Secondly, the proposed regulation allows time only, rather than time in conjunction with temperature that are traditionally employed, to be used as a public health control as long as proper procedures are followed. Thirdly, the required hot-holding temperature for potentially hazardous food will be reduced from 140°F to 135°F. According to VDACS, it has been shown scientifically that food safety will be maintained if the required hot-holding temperature is raised to 135°F. Finally, under certain conditions, service animals will be allowed by the disabled persons. The above regulatory changes slightly reduce costs for the retail store establishments.

In summary, the proposed regulation will provide the necessary guidance to the retail food industry that is based on the most current sound science available for controlling risk factors and implementing intervention strategies, which will

⁸ Ibid.

⁹ Source: VDACS.

¹⁰ Source: VDACS.

enhance the safety of food products sold through the retail segment of the food industry and protect the health and welfare of the citizens. On the other hand, the proposed reduction of the required cold-holding temperature will cause an increase in cost for many retail food establishments, which will commensurately reduce their profits. The yearly increased cost is estimated to be up to \$688,880 statewide during the five-year phase-in period. Since there is insufficient data to accurately estimate by how much the frequency of foodborne illnesses will be reduced, the benefits of the proposed regulatory changes can not be quantified. Thus, whether the total benefit exceeds the total cost cannot be accurately estimated at this time.

Businesses and entities affected. Among the 8,725 Retail food establishments, 5,216 that are not major retail food store chains may have to modify or replace their refrigeration equipment due to the reduction of the required cold-holding temperature from 45°F to 41°F. Therefore, the proposed regulatory change will increase their costs and commensurately reduce their profits. The estimated total annual cost will be up to \$688,880 statewide during the five-year phase-in period. On the other hand, the proposed regulation will provide practical, science-based guidance and manageable, enforceable provisions for mitigating risk factors known to cause foodborne disease, therefore, the public (7.1 million) will benefit from reduction or elimination of the foodborne illness risk factors and enhanced food safety.

Localities particularly affected. The proposed regulation affects localities throughout the Commonwealth.

Projected impact on employment. Reduction of the required cold-holding temperature from 45°F to 41°F will increase costs for the retail food stores that have to modify or replace their refrigeration equipment. This increase in cost will commensurately reduce their profits and may have a small negative impact on the number of people employed.

Effects on the use and value of private property. Retail food establishments whose current refrigeration equipment cannot achieve 41°F will have to upgrade or replace their equipment and incur a cost of \$200 for modification and \$2,500 for replacement with one 49-cubic-foot refrigeration unit. The increased cost will commensurately reduce their profits and will likely have a small negative impact on the use and value of their property.

Small businesses: costs and other effects. VDACS estimates that 90% of the 5,216 (4,694) stores that are not major retail food chain stores are small businesses. They may have to modify or replace their refrigeration equipments if their current refrigeration equipment cannot achieve 41°F. Given that the estimated total cost for the 5,216 stores being \$3,444,400, the estimated total cost for the small businesses will be 90% x \$3,444,400 = \$3,099,960. Supposing that this increased cost will be spread evenly among the five years, the estimated annual cost will be up to \$619,992 for the small businesses statewide.

Small businesses: alternative method that minimizes adverse impact. The proposed regulation will provide a practical, science-based guidance for controlling risk factors known to cause foodborne diseases and will result in cost savings in

terms of direct medical expenses and lost productivity associated with foodborne diseases. There is no alternative method that will achieve the same benefit while having a smaller adverse impact.

Legal mandate. 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. Further, if the proposed regulation has an adverse effect on small businesses, § 2.2-4007 H requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis:

The economic impact analysis prepared by the Department of Planning and Budget (DPB) with respect to 2 VAC 5-585 has been reviewed by the Virginia Department of Agriculture and Consumer Services (VDACS). VDACS believes that the information provided by that economic impact analysis is accurate, but would like to offer the following comments as clarification on specific issues:

Subsection Entitled "Estimated Economic Impact"

DPB reports that the information reported in footnote 6 is "according to VDACS." However, the information in footnote 6 was actually obtained from the United States Food and Drug Administration (FDA) website at <http://www.cfsan.fda.gov/~ear/fcadopt.html>. Additionally, the statement should actually state ". . . 20 states have adopted the 1999 version and 17 have adopted the 2001 version of the FDA Food Code."

DPB reports that the information reported in footnote 7 is "according to VDACS." However, the five major risk factors contributing to foodborne illness were identified by the FDA in its report entitled Report of the FDA Retail Food Program Database of Foodborne Illness Risk Factors, which was published on August 10, 2000, and is available on the FDA website at <http://www.cfsan.fda.gov/~dms/retrsk.html>.

DPB reports that the information reported in footnote 8 is "according to VDACS." However, the five key public health

Proposed Regulations

interventions to protect consumer health from foodborne illness are specifically identified within the FDA Food Code.

DPB reports that the proposed regulation allows for two options for the person in charge at the retail food establishment to demonstrate knowledge of foodborne disease prevention, application of Hazard Analysis Critical Control Point principles and other requirements of the regulation. Those options include complying with this regulation by having no violations during an inspection by VDACS, or by responding correctly to the inspector's questions as they relate to the specific food operation. Actually, the proposed regulation also addresses a third option for the demonstration of knowledge; that option is being a certified food protection manager who has shown proficiency of required information through passing a test that is part of an accredited program. "Accredited Program" is defined by the proposed regulation as a food protection manager certification program that has been evaluated and listed by an accrediting agency as conforming to national standards for organizations that certify individuals.

The DPB analysis states, "According to VDACS, it has been shown scientifically that food safety will be maintained if the required hot-holding temperature is raised to 135°F." To be accurate, this statement should say that ". . . the required hot-holding temperature is . . ." lowered to 135°F, since existing regulations now require a hot-holding temperature of 140°F. Additionally, the decision to lower the hot-holding temperature is based on recommendations to the FDA by the 2002 Conference for Food Protection meeting and the National Advisory Committee on Microbiological Criteria for Foods (NACMCF) (See January 2002 NACMCF report at

http://www.fsis.usda.gov/Frame/FrameRedirect.asp?main=http://www.fsis.usda.gov/OPHS/NACMCF/2002/rep_hothold1.htm.

Summary:

The proposed new regulation replaces the existing regulation (2 VAC 5-580) in order to (i) be consistent with regulations enforced by the Virginia Department of Health in restaurants and food service operations, by adopting appropriate portions of the 2001 edition and 2003 supplement of the U.S. Food and Drug Administration's Food Code; (ii) provide practical, science-based guidance and manageable, enforceable provisions for mitigating risk factors known to cause foodborne disease; (iii) significantly expand the definitions section, providing much greater clarification; (iv) require the demonstration of knowledge by the food establishment operator for foodborne disease prevention, application of Hazard Analysis Critical Control Point principles, and the requirements of the regulation; (v) require minimal bare-hand contact with ready-to-eat foods; (vi) allow greater flexibility with respect to properly cooling hot foods; (vii) require colder holding temperatures for refrigerated foods (41°F as opposed to 45°F) but allow a five year phase-in period for existing equipment that cannot currently meet the 41°F requirement; (viii) allow a lesser temperature for foods required to be held hot (135°F as opposed to 140°F); (ix) permit the use of time as a public health control, as appropriate, in place of the typical time in conjunction with temperature; (x) require that food establishments obtain a variance from the agency if

performing certain high-risk processing operations not typically performed at the retail level; (xi) require the use of a disclosure statement indicating that the consumption of raw or undercooked animal foods significantly increase the risk of foodborne disease to the consumer; (xii) identify requirements that are necessary to properly protect highly susceptible populations from foodborne disease; and (xiii) lessen the restrictions contained in the existing regulation by allowing all service animals controlled by disabled persons.

Due to the extensive amendments to the existing regulation, 2 VAC 5-580 (Rules and Regulations Pertaining to the Sanitary and Operating Requirements in Retail Food Stores) is being repealed and 2 VAC 5-585 (Retail Food Establishment Regulations) is being adopted concurrently.

CHAPTER 585.

RETAIL FOOD ESTABLISHMENT REGULATIONS.

PART I.

PURPOSE AND DEFINITIONS.

Article 1.

Title, Intent, Scope.

2 VAC 5-585-10. Retail food establishment regulations.

These provisions shall be known as the Retail Food Establishment Regulations hereinafter referred to as "this regulation." This regulation shall not apply to farmers selling their own farm-produced products directly to consumers for their personal use, whether such sales occur on such farmer's farm or at a farmers' market.

2 VAC 5-585-15. Categories of requirements.

Requirements contained in this regulation are presented as being in one of three categories of importance: critical item (as defined in 2 VAC 5-585-40); "swing" (i.e., those that may or may not be critical depending on the circumstances); and noncritical. An asterisk () after a catchline (the language immediately following a section number that introduces the subject of the section) indicates that all of the provisions within that section are critical unless otherwise indicated, as follows:*

- 1. Any provisions that are "swing" items are followed by the superscripted letter S and any provisions that are noncritical are followed by the superscripted letter N.*
- 2. Any unmarked provisions within a section that has an asterisked catchline are critical. All provisions following a catchline that is not marked with an asterisk are noncritical.*

2 VAC 5-585-20. Food safety, illness prevention, and honest presentation.

The purpose of this regulation is to safeguard public health and provide to consumers food that is safe, unadulterated, and honestly presented.

2 VAC 5-585-30. Statement.

This regulation establishes definitions; sets standards for management and personnel, food operations, and equipment and facilities; and provides for inspection and employee restriction.

Article 2.
Definitions.

2 VAC 5-585-40. Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Is published annually by the U.S. Government Printing Office; and
2. Contains FDA rules in 21 CFR, USDA rules in 7 CFR and 9 CFR, and EPA rules in 40 CFR, and Wildlife and Fisheries rules in 50 CFR.

"Commingle" means:

1. To combine shellstock harvested on different days or from different growing areas as identified on the tag or label; or
2. To combine shucked shellfish from containers with different container codes or different shucking dates.

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

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

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

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

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

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

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

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

Proposed Regulations

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

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

"Drinking water" means water that meets the "water quality standards" requirements for bacteria and nitrates of the Virginia Waterworks Regulations (12 VAC 5-590). Drinking water is traditionally known as "potable water." Drinking water includes the term water except where the term used connotes that the water is not potable, such as "boiler water," "mop water," "rainwater," "wastewater," and "nondrinking" water.

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

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

1. Allows effective removal of soil by normal cleaning methods;
2. Is dependent on the material, design, construction, and installation of the surface; and
3. Varies with the likelihood of the surface's role in introducing pathogenic or toxigenic agents or other contaminants into food based on the surface's approved placement, purpose, and use.

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

1. The appropriateness of stainless steel for a food preparation surface as opposed to the lack of need for stainless steel to be used for floors or for tables used for consumer dining; or
2. The need for a different degree of cleanability for a utilitarian attachment or accessory in the kitchen as opposed to a decorative attachment or accessory in the consumer dining area.

"Easily movable" means:

1. Portable; mounted on casters, gliders, or rollers; or provided with a mechanical means to safely tilt a unit of equipment for cleaning; and
2. Having no utility connection, a utility connection that disconnects quickly, or a flexible utility connection line of sufficient length to allow the equipment to be moved for cleaning of the equipment and adjacent area.

"Egg" means the shell egg of the domesticated chicken, turkey, duck, goose, or guinea.

"Employee" means the person in charge, person having supervisory or management duties, person on the payroll, family member, volunteer, person performing work under

contractual agreement, or other person working in a food establishment.

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

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

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

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

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

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

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

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

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

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

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

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

or satellite feeding location and (ii) an operation that is conducted in a mobile, stationary, temporary, or permanent facility or location, where consumption is on or off the premises.

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

1. An establishment that offers only prepackaged foods that are not potentially hazardous;
2. A produce stand that only offers whole, uncut fresh fruits and vegetables;
3. A food processing plant;
4. A food warehouse;
5. A kitchen in a private home;
6. A private home that receives catered or home delivered food.

"Food processing plant" means a commercial operation that manufactures, packages, labels, or stores food for human consumption and does not provide food directly to a consumer. "Food processing plant" does not include a "food establishment" as previously defined in this section.

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

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

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

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

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

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

"Highly susceptible population" means persons who are more likely than other people in the general population to experience foodborne disease because they are (i) immunocompromised; preschool age children, or older adults;

and (ii) obtaining food at a facility that provides services such as custodial care, health care, or assisted living, such as a child or adult day care center, kidney dialysis center, hospital or nursing home, or nutritional or socialization services such as a senior center.

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

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

"Juice," when used in the context of food safety, means the aqueous liquid expressed or extracted from one or more fruits or vegetables, purées of the edible portions of one or more fruits or vegetables, or any concentrate of such liquid or purée. Juice includes juice as a whole beverage, an ingredient of a beverage and a purée as an ingredient of a beverage.

"Kitchenware" means food preparation and storage utensils.

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

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

"Meat" means the flesh of animals used as food including the dressed flesh of cattle, swine, sheep, or goats and other edible animals, except fish, poultry, and wild game animals as specified under 2 VAC 5-585-330 A 3 and 4.

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

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

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

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

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

Proposed Regulations

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

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

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

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

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

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

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

1. Cleaners and sanitizers, which include cleaning and sanitizing agents and agents such as caustics, acids, drying agents, polishes, and other chemicals;
2. Pesticides, which include substances such as insecticides and rodenticides;
3. Substances necessary for the operation and maintenance of the establishment such as nonfood grade lubricants, paints, and personal care items that may be deleterious to health; and
4. Substances that are not necessary for the operation and maintenance of the establishment and are on the premises for retail sale, such as petroleum products and paints.

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

1. The rapid and progressive growth of infectious or toxigenic microorganisms;
2. The growth and toxin production of *Clostridium botulinum*; or
3. In raw shell eggs, the growth of *Salmonella enteritidis*.

"Potentially hazardous food" includes an animal food (a food of animal origin) that is raw or heat-treated; a food of plant origin that is heat-treated or consists of raw seed sprouts; cut melons; and garlic-in-oil mixtures that are not acidified or

otherwise modified at a food processing plant in a way that results in mixtures that do not support growth as specified above in this definition.

"Potentially hazardous food" does not include:

1. An air-cooled hard-boiled egg with shell intact or a shell egg that is not hard-boiled, but has been treated to destroy all viable *Salmonellae*;
2. A food with an a_w value of 0.85 or less;
3. A food with a pH level of 4.6 or below when measured at 75°F (24°C);
4. A food in an unopened hermetically sealed container that is commercially processed to achieve and maintain commercial sterility under conditions of nonrefrigerated storage and distribution;
5. A food for which laboratory evidence demonstrates that the rapid and progressive growth of infectious and toxigenic microorganisms or the growth of *Salmonella enteritidis* in eggs or *Clostridium botulinum* cannot occur, such as a food that has an a_w and a pH that are above the levels specified in this definition and that may contain a preservative, other barrier to the growth of microorganisms, or a combination of barriers that inhibit the growth of microorganisms; or
6. A food that does not support the growth of microorganisms as specified above in this definition even though the food may contain an infectious or toxigenic microorganism or chemical or physical contaminant at a level sufficient to cause illness.

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

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

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

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

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

1. (i) Is in a form that is edible without additional preparation to achieve food safety, as specified under subsections A through C of 2 VAC 5-585-700 or 2 VAC 5-585-710 or 2 VAC 5-585-730; (ii) is a raw or partially cooked animal food and the consumer is advised as specified under subdivisions D 1 and D 2 of 2 VAC 5-585-700; or (iii) is prepared in accordance with a variance that is granted as specified under subdivisions D 1 and D 3 of 2 VAC 5-585-700; and
2. May receive additional preparation for palatability or aesthetic, epicurean, gastronomic, or culinary purposes.

"Ready-to-eat food" includes:

1. Raw animal food that is cooked as specified under 2 VAC 5-585-700 or 2 VAC 5-585-710, or frozen as specified under 2 VAC 5-585-730;
2. Raw fruits and vegetables that are washed as specified under 2 VAC 5-585-510;
3. Fruits and vegetables that are cooked for hot holding, as specified under 2 VAC 5-585-720;
4. All potentially hazardous food that is cooked to the temperature and time required for the specific food under Article 4 (2 VAC 5-585-700 et seq.) of Part III of this regulation and cooled as specified in 2 VAC 5-585-800;
5. Plant food for which further washing, cooking, or other processing is not required for food safety, and from which rinds, peels, husks, or shells, if naturally present, are removed;
6. Substances derived from plants such as spices, seasonings, and sugar;
7. A bakery item such as bread, cakes, pies, fillings, or icing for which further cooking is not required for food safety;
8. The following products that are produced in accordance with USDA guidelines and that have received a lethality treatment for pathogens: dry, fermented sausages, such as dry salami or pepperoni; salt-cured meat and poultry products, such as prosciutto ham, country cured ham, and Parma ham; and dried meat and poultry products, such as jerky or beef sticks; and
9. Food manufactured according to 21 CFR Part 113, Thermally Processed Low-Acid Foods Packaged in Hermetically Sealed Containers.

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

"Reduced oxygen packaging" includes:

1. Vacuum packaging, in which air is removed from a package of food and the package is hermetically sealed so that a vacuum remains inside the package, such as *sous vide*;
2. Modified atmosphere packaging, in which the atmosphere of a package of food is modified so that its composition is different from air but the atmosphere may change over time due to the permeability of the packaging material or the respiration of the food. Modified atmosphere packaging includes reduction in the proportion of oxygen, total replacement of oxygen, or an increase in the proportion of other gases such as carbon dioxide or nitrogen; and
3. Controlled atmosphere packaging, in which the atmosphere of a package of food is modified so that until the package is

opened, its composition is different from air, and continuous control of that atmosphere is maintained, such as by using oxygen scavengers or a combination of total replacement of oxygen, nonrespiring food, and impermeable packaging material.

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

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

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

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

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

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

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

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

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

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

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

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

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

Proposed Regulations

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

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

"Shiga toxin-producing *Escherichia coli*" means any *E. coli* capable of producing Shiga toxins (also called verocytotoxins or "Shiga-like" toxins). This includes, but is not limited to, *E. coli* reported as serotype O157:H7, O157:NM, and O157:H-

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

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

"Single-use articles" means utensils and bulk food containers designed and constructed to be used once and discarded. Single-use articles includes items such as wax paper, butcher paper, plastic wrap, formed aluminum food containers, jars, plastic tubs or buckets, bread wrappers, pickle barrels, ketchup bottles, and number 10 cans that do not meet the materials, durability, strength and cleanability specifications under 2 VAC 5-585-960, 2 VAC 5-585-1080, and 2 VAC 5-585-1100 for multiuse utensils.

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

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

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

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

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

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

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

"Utensil" means a food-contact implement or container used in the storage, preparation, transportation, dispensing, sale, or

service of food, such as kitchenware or tableware that is multiuse, single service, or single use; gloves used in contact with food; temperature sensing probes of food temperature measuring devices; and probe-type price or identification tags used in contact with food.

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

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

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

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

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

PART II. MANAGEMENT AND PERSONNEL.

Article 1. Supervision.

2 VAC 5-585-50. Assignment of responsibility.*

The operator shall be the person in charge or shall designate a person in charge and shall ensure that a person in charge is present at the food establishment during all hours of operation.

2 VAC 5-585-60. Demonstration.*

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

1. Complying with this regulation by having no violations during the current inspection;
2. Being a certified food protection manager who has shown proficiency of required information through passing a test that is part of an accredited program; or
3. Responding correctly to the inspector's questions as they relate to the specific food operation. The areas of knowledge include:

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

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

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

d. Explaining the significance of the relationship between maintaining the time and temperature of potentially hazardous food and the prevention of foodborne illness;

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

f. Stating the required food temperatures and times for safe cooking of potentially hazardous food including meat, poultry, eggs, and fish;

g. Stating the required temperatures and times for the safe refrigerated storage, hot holding, cooling, and reheating of potentially hazardous food;

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

(1) Cross contamination;

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

(3) Handwashing; and

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

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

(1) Sufficient in number and capacity; and

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

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

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

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

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

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

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

(1) Food employee;

(2) Person in charge; and

(3) Department.

2 VAC 5-585-70. Person in charge.

The person in charge shall ensure that:

1. Food establishment operations are not conducted in a private home or in a room used as living or sleeping quarters as specified under 2 VAC 5-585-2990;

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

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

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

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

6. Employees are properly cooking potentially hazardous food, being particularly careful in cooking those foods known to cause severe foodborne illness and death, such as eggs and comminuted meats, through daily oversight of the employees' routine monitoring of the cooking temperatures using appropriate temperature measuring devices properly scaled and calibrated as specified under 2 VAC 5-585-1180 and 2 VAC 5-585-1730 B;

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

8. Consumers who order raw or partially cooked ready-to-eat foods of animal origin are informed as specified under 2 VAC 5-585-930 that the food is not cooked sufficiently to ensure its safety;

9. Employees are properly sanitizing cleaned multiuse equipment and utensils before they are reused, through routine monitoring of solution temperature and exposure time for hot water sanitizing, and chemical concentration, pH, temperature, and exposure time for chemical sanitizing;

Proposed Regulations

10. Consumers are notified that clean tableware is to be used when they return to self-service areas such as salad bars and buffets as specified under 2 VAC 5-585-590;

11. Except when otherwise approved as specified in 2 VAC 5-585-450 B, employees are preventing cross-contamination of ready-to-eat food with bare hands by properly using suitable utensils such as deli tissue, spatulas, tongs, single-use gloves, or dispensing equipment; and

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

Article 2. Employee Health.

2 VAC 5-585-80. Responsibility of the person in charge to require reporting by food employees and applicants.*

The person in charge shall require food employee applicants to whom a conditional offer of employment is made and food employees to report to the person in charge, information about their health and activities as they relate to diseases that are transmissible through food. A food employee or applicant shall report the information in a manner that allows the person in charge to prevent the likelihood of foodborne disease transmission, including the date of onset of jaundice or of an illness specified in subdivision 3 of this section, if the food employee or applicant:

1. Is diagnosed with an illness due to:

- a. *Salmonella typhi*;
- b. *Shigella spp.*;
- c. Shiga toxin-producing *Escherichia coli*; or
- d. Hepatitis A virus;

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

a. Associated with an acute gastrointestinal illness such as:

- (1) Diarrhea;
- (2) Fever;
- (3) Vomiting;
- (4) Jaundice; or
- (5) Sore throat with fever; or

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

- (1) On the hands or wrists, unless an impermeable cover such as a finger cot or stall protects the lesion and a single-use glove is worn over the impermeable cover;
- (2) On exposed portions of the arms, unless the lesion is protected by an impermeable cover; or
- (3) On other parts of the body, unless the lesion is covered by a dry, durable, tight-fitting bandage;

3. Had a past illness from:

- a. *S. typhi* within the past three months;

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

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

d. Hepatitis A virus;

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

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

(1) Prepared food implicated in the outbreak;

(2) Consumed food implicated in the outbreak; or

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

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

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

2 VAC 5-585-90. Exclusions and restrictions.*

A. The person in charge shall exclude a food employee from a food establishment if the food employee is diagnosed with an infectious agent specified in subdivision 1 of 2 VAC 5-585-80.

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

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

2. Not experiencing a symptom of acute gastroenteritis specified in subdivision 2 a of 2 VAC 5-585-80, but has a stool that yields a specimen culture that is positive for *S. typhi*, *Shigella spp.*, or Shiga toxin-producing *Escherichia coli*.

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

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

2. Is not experiencing a symptom of acute gastroenteritis specified in subdivision 2 a of 2 VAC 5-585-80, but has a stool that yields a specimen culture that is positive for *S. typhi*, *Shigella spp.*, or Shiga toxin-producing *Escherichia coli*;

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

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

D. For a food employee who is jaundiced:

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

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

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

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

2 VAC 5-585-100. Removal of exclusions and restrictions.

A. The person in charge may remove an exclusion specified under 2 VAC 5-585-90 A if:

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

2. The person excluded as specified under 2 VAC 5-585-90 A provides to the person in charge written medical documentation from a physician licensed to practice medicine or, if allowed by law, a nurse practitioner or physician assistant, that specifies that the excluded person may work in an unrestricted capacity in a food establishment, including an establishment that serves a highly susceptible population, because the person is free of the infectious agent of concern as specified in 2 VAC 5-585-4070.

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

1. Subdivision B 1 of 2 VAC 5-585-90 if the restricted person:

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

b. Is suspected of causing foodborne illness but:

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

(2) Provides written medical documentation from a physician licensed to practice medicine or, if allowed by law, a nurse practitioner or physician assistant, stating that the restricted person is free of the infectious agent that is suspected of causing the person's symptoms or causing foodborne illness, as specified in 2 VAC 5-585-4070; or

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

2. Subdivision B 2 of 2 VAC 5-585-90 if the restricted person provides written medical documentation from a physician, licensed to practice medicine, or, if allowed by law, a nurse

practitioner or physician assistant, according to the criteria specified in 2 VAC 5-585-4070 that indicates the stools are free of *Salmonella typhi*, *Shigella* spp., or Shiga toxin-producing *Escherichia coli*, whichever is the infectious agent of concern.

C. The person in charge may remove an exclusion specified under 2 VAC 5-585-90 C if the excluded person provides written medical documentation from a physician licensed to practice medicine or, if allowed by law, a nurse practitioner or physician assistant:

1. That specifies that the person is free of the infectious agent of concern as specified in 2 VAC 5-585-4070; or

2. If the person is excluded under 2 VAC 5-585-90 C 1, that the symptoms experienced result from a chronic noninfectious condition such as Crohn's disease, irritable bowel syndrome, or ulcerative colitis.

D. The person in charge may remove an exclusion specified under 2 VAC 5-585-90 D 1 and 2 VAC 5-585-90 D 2 a and a restriction specified under 2 VAC 5-585-90 D 2 b if:

1. No foodborne illness occurs that may have been caused by the excluded or restricted person and the person provides written medical documentation from a physician licensed to practice medicine stating that the person is free of hepatitis A virus as specified in subdivision 4 a of 2 VAC 5-585-4070; or

2. The excluded or restricted person is suspected of causing foodborne illness and complies with subdivisions 4 a and 4 b of 2 VAC 5-585-4070.

2 VAC 5-585-110. Responsibility of a food employee or an applicant to report to the person in charge.*

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

1. In a manner specified under 2 VAC 5-585-80, report to the person in charge the information specified under subdivisions 1 through 4 of 2 VAC 5-585-80; and

2. Comply with exclusions and restrictions that are specified under subsections A through D of 2 VAC 5-585-90.

2 VAC 5-585-120. Reporting by the person in charge.*

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

Article 3.
Personal Cleanliness.

2 VAC 5-585-130. Clean condition of hands and arms.*

Food employees shall keep their hands and exposed portions of their arms clean.

2 VAC 5-585-140. Cleaning procedure of hands and arms.*

A. Except as specified in subsection B of this section, food employees shall clean their hands and exposed portions of their arms (or surrogate prosthetic devices for hands or arms) for at least 20 seconds, using a cleaning compound in a

Proposed Regulations

lavatory that is equipped as specified under 2 VAC 5-585-2190.

B. Food employees shall use the following cleaning procedure:

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

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

3. Immediately follow the cleaning procedure with thorough drying of cleaned hands and arms (or surrogate prosthetic devices) using a method as specified under 2 VAC 5-585-3030.

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

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

2 VAC 5-585-150. (Reserved.)

2 VAC 5-585-160. When to wash.*

Food employees shall clean their hands and exposed portions of their arms as specified under 2 VAC 5-585-140 immediately before engaging in food preparation including working with exposed food, clean equipment and utensils, and unwrapped single-service and single-use articles and:

1. After touching bare human body parts or hair other than clean hands and clean, exposed portions of arms;

2. After using the toilet room;

3. After caring for or handling support animals as allowed under 2 VAC 5-585-250 B;

4. Except as specified in 2 VAC 5-585-220 B, after coughing, sneezing, using a handkerchief or disposable tissue, using tobacco, eating, or drinking;

5. After handling soiled equipment or utensils;

6. During food preparation, as often as necessary to remove soil and contamination and to prevent cross contamination when changing tasks;

7. When switching between working with raw foods and working with ready-to-eat foods;

8. Before donning gloves for working with food;

9. Prior to donning single-use gloves if gloves are used; and

10. After engaging in other activities that contaminate the hands.

2 VAC 5-585-170. Where to wash.

Food employees shall clean their hands in a hand washing lavatory or approved automatic hand washing facility and may not clean their hands in a sink used for food preparation or

warewashing, or in a service sink or a curbed cleaning facility used for the disposal of mop water and similar liquid waste.

2 VAC 5-585-180. Hand sanitizers.

A. A hand sanitizer and a chemical hand sanitizing solution used as a hand dip shall:

1. Comply with one of the following:

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

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

2. Consist of components that are:

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

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

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

d. Permitted for such use by an effective Food Contact Substance Notification as defined by paragraph 409(h) of the FFDCA and listed in FDA's Inventory of Effective Premarket Notifications for Food Contact Substances; and

3. Be applied only to hands that are cleaned as specified under 2 VAC 5-585-140.

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

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

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

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

2 VAC 5-585-190. Maintenance of fingernails.

Food employees shall keep their fingernails trimmed, filed, and maintained so the edges and surfaces are cleanable and not rough. Unless wearing intact gloves in good repair, a food employee may not wear fingernail polish or artificial nails when working with exposed food.

2 VAC 5-585-200. Prohibition of jewelry.

While preparing food, food employees may not wear jewelry including medical information jewelry on their arms and hands.

This section does not apply to a plain ring such as a wedding band.

2 VAC 5-585-210. Clean condition of outer clothing.

Food employees shall wear clean outer clothing to prevent contamination of food equipment, utensils, linens, and single-service and single-use articles.

Article 4.
Hygienic Practices.

2 VAC 5-585-220. Eating, drinking, or using tobacco.*

A. Except as specified in subsection B of this section, an employee shall eat, drink, or use any form of tobacco only in designated areas where the contamination of exposed food; clean equipment, utensils, and linens; unwrapped single-service and single-use articles; or other items needing protection cannot result.

B. A food employee may drink from a closed beverage container with a straw if the container is handled to prevent contamination of:

- 1. The employee's hands;*
- 2. The container; and*
- 3. Exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles.*

2 VAC 5-585-230. Discharges from the eyes, nose, and mouth.*

Food employees experiencing persistent sneezing, coughing, or a runny nose that causes discharges from the eyes, nose, or mouth may not work with exposed food; clean equipment, utensils, and linens; or unwrapped single-service or single-use articles.

2 VAC 5-585-240. Effectiveness of hair restraints.

A. Except as provided in subsection B of this section, food employees shall wear hair restraints, such as hats, hair coverings or nets, beard restraints, and clothing that covers body hair, that are designed and worn to effectively keep their hair from contacting exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles.

B. This section does not apply to food employees such as counter staff who only serve beverages and wrapped or packaged foods, hostesses, and wait staff if they present a minimal risk of contaminating exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles.

2 VAC 5-585-250. Handling of animals prohibited.*

A. Except as specified in subsection B of this section, food employees may not care for or handle animals that may be present such as patrol dogs, support animals, or pets that are allowed in subdivisions B 2 through B 5 of 2 VAC 5-585-3310.

B. Food employees with support animals may handle or care for their support animals and food employees may handle or care for fish in aquariums or molluscan shellfish or crustacea

in display tanks if they wash their hands as specified under 2 VAC 5-585-140 and subdivision 3 of 2 VAC 5-585-160.

PART III.
FOOD.

Article 1.
Characteristics.

2 VAC 5-585-260. Safe, unadulterated, and honestly presented.*

Food shall be safe, unadulterated, and, as specified under 2 VAC 5-585-890, honestly presented.

Article 2.
Sources, Specifications, and Original Containers and Records.

2 VAC 5-585-270. Compliance with food law.*

A. Food shall be obtained from sources that comply with law.

B. Food prepared in a private home may not be used or offered for human consumption in a food establishment unless the home kitchen is inspected by the responsible regulatory authority.

C. Packaged food shall be labeled as specified in law, including 21 CFR Part 101, Food Labeling; 9 CFR Part 317, Labeling, Marking Devices, and Containers; and 9 CFR Part 381, Subpart N, Labeling and Containers; and as specified under 2 VAC 5-585-400 and 2 VAC 5-585-410.

D. Fish, other than molluscan shellfish, that are intended for consumption in their raw form and allowed as specified in 2 VAC 5-585-700 D 1 may be offered for sale or service if they are obtained from a supplier that freezes the fish as specified under 2 VAC 5-585-730, or frozen on the premises as specified under 2 VAC 5-585-730, and records are retained as specified under 2 VAC 5-585-740.

E. Whole-muscle, intact beef steaks that are intended for consumption in an undercooked form without a consumer advisory as specified in 2 VAC 5-585-700 C shall be:

1. Obtained from a food processing plant that, upon request by the purchaser, packages the steaks and labels them to indicate that they meet the definition of whole-muscle, intact beef; or

2. Deemed acceptable by the department based on other evidence, such as written buyer specifications or invoices, that indicates that the steaks meet the definition of whole-muscle, intact beef; and

3. If individually cut in a food establishment:

a. Cut from whole-muscle, intact beef that is labeled by a food processing plant as specified in subdivision 1 or identified as specified in subdivision 2 of this subsection;

b. Prepared so they remain intact; and

c. If packaged for undercooking in a food establishment, labeled to indicate that they meet the definition of whole-muscle, intact beef.

Proposed Regulations

F. Meat and poultry that are not a ready-to-eat food and are in a packaged form when offered for sale or otherwise offered for consumption shall be labeled to include safe handling instructions as specified in law, including 9 CFR 317.2(l) and 9 CFR 381.125(b).

G. Shell eggs that have not been specifically treated to destroy all viable Salmonellae shall be labeled to include safe handling instructions as specified in law, including 21 CFR 101.17(h).

2 VAC 5-585-280. Food in a hermetically sealed container.*

Food in a hermetically sealed container shall be obtained from a food processing plant that is regulated by the food regulatory agency that has jurisdiction over the plant.

2 VAC 5-585-290. Fluid milk and milk products.*

Fluid milk and milk products shall be obtained from sources that comply with Grade A standards as specified in law.

2 VAC 5-585-295. Juice treated.

Pre-packaged juice shall:

- 1. Be obtained from a processor with a HACCP system as specified in 21 CFR Part 120;*
- 2. Be obtained pasteurized or otherwise treated to attain a 5-log reduction of the most resistant microorganism of public health significance as specified in 21 CFR 120.24; or*
- 3. Bear a warning label as specified in 21 CFR 101.17(g).*

2 VAC 5-585-300. Fish.*

A. Fish that are received for sale or service shall be:

- 1. Commercially and legally caught or harvested; or*
- 2. Approved for sale or service by a regulatory authority.*

B. Molluscan shellfish that are recreationally caught may not be received for sale or service.

2 VAC 5-585-310. Molluscan shellfish.*

A. Molluscan shellfish shall be obtained from sources according to law and the requirements specified in the U.S. Department of Health and Human Services, Public Health Service, Food and Drug Administration, National Shellfish Sanitation Program Manual of Operations, Part II, Sanitation of the Harvesting, Processing and Distribution of Shellfish, 1995 Revision.

B. Molluscan shellfish received in interstate commerce shall be from sources that are listed in the Interstate Certified Shellfish Shippers List.

2 VAC 5-585-320. Wild mushrooms.*

A. Except as specified in subsection B of this section, mushroom species picked in the wild shall be obtained from sources where each mushroom is individually inspected and found to be safe by an approved mushroom identification expert.

B. This section does not apply to:

1. Cultivated wild mushroom species that are grown, harvested, and processed in an operation that is regulated by the food regulatory agency that has jurisdiction over the operation; or

2. Wild mushroom species if they are in packaged form and are the product of a food processing plant that is regulated by the food regulatory agency that has jurisdiction over the plant.

2 VAC 5-585-330. Game animals.*

A. If game animals are received for sale or service they shall be:

1. Commercially raised for food and:

a. Raised, slaughtered, and processed under a voluntary inspection program that is conducted by the agency that has animal health jurisdiction; or

b. Under a routine inspection program conducted by a regulatory agency other than the agency that has animal health jurisdiction; and

c. Raised, slaughtered, and processed according to:

(1) Laws governing meat and poultry as determined by the agency; and

(2) Requirements that are developed by the agency that has animal health jurisdiction and the agency that conducts the inspection program with consideration of factors such as the need for antemortem and postmortem examination by an approved veterinarian or veterinarian's designee;

2. Under a voluntary inspection program administered by the USDA for game animals such as exotic animals including animals (reindeer, elk, deer, antelope, water buffalo, or bison) that are "inspected and approved" in accordance with 9 CFR Part 352, Exotic Animals; Voluntary Inspection, or rabbits that are "inspected and certified" in accordance with 9 CFR Part 354, Voluntary Inspection of Rabbits and Edible Products Thereof;

3. As allowed by law, for wild game animals that are live-caught:

a. Under a routine inspection program conducted by a regulatory agency such as the agency that has animal health jurisdiction;

b. Slaughtered and processed according to:

(1) Laws governing meat and poultry as determined by the agency that has animal health jurisdiction and the agency that conducts the inspection program; and

(2) Requirements that are developed by the agency that has animal health jurisdiction and the agency that conducts the inspection program with consideration of factors such as the need for antemortem and postmortem examination by an approved veterinarian or veterinarian's designee; or

4. As allowed by law for field-dressed wild game animals under a routine inspection program that ensures the animals:

a. Receive a postmortem examination by an approved veterinarian or veterinarian's designee, or are field-dressed

and transported according to requirements specified by the agency that has animal health jurisdiction and the agency that conducts the inspection program; and

b. Are processed according to laws governing meat and poultry as determined by the agency that has animal health jurisdiction and the agency that conducts the inspection program.

B. A game animal may not be received for sale or service if it is a species of wildlife that is listed in 50 CFR Part 17, Endangered and Threatened Wildlife and Plants.

2 VAC 5-585-340. Temperature.*

A. Except as specified in subsection B of this section, refrigerated, potentially hazardous food shall be at a temperature of 41°F (5°C) or below when received.

B. If a temperature other than 41°F (5°C) for a potentially hazardous food is specified in law governing its distribution, such as laws governing milk, molluscan shellfish, and shell eggs, the food may be received at the specified temperature.

C. Raw shell eggs shall be received in refrigerated equipment that maintains an ambient air temperature of 45°F (7°C) or less.

D. Potentially hazardous food that is cooked to a temperature and for a time specified under 2 VAC 5-585-700 through 2 VAC 5-585-720 and received hot shall be at a temperature of 135°F (57°C) or above.

E. A food that is labeled frozen and shipped frozen by a food processing plant shall be received frozen.

F. Upon receipt, potentially hazardous food shall be free of evidence of previous temperature abuse.

2 VAC 5-585-350. Additives.*

Food may not contain unapproved food additives or additives that exceed amounts allowed in 21 CFR Parts 170-180 relating to food additives; generally recognized as safe or prior sanctioned substances that exceed amounts allowed in 21 CFR Parts 181-186; substances that exceed amounts specified in 9 CFR, Subpart C, 424.21(b), Approval of Substances for Use in the Preparation of Products; or pesticide residues that exceed provisions specified in 40 CFR Part 185, Tolerances for Pesticides in Food.

2 VAC 5-585-360. Shell eggs.*

Shell eggs shall be received clean and sound and may not exceed the restricted egg tolerances for U.S. Consumer Grade B as specified in 7 CFR Part 56, Regulations Governing the Grading of Shell Eggs and U.S. Standards, Grades, and Weight Classes for Shell Eggs, and 7 CFR Part 59, Regulations Governing the Inspection of Eggs and Egg Products.

2 VAC 5-585-370. Eggs and milk products, pasteurized.*

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

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

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

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

2 VAC 5-585-380. Package integrity.*

Food packages shall be in good condition and protect the integrity of the contents so that the food is not exposed to adulteration or potential contaminants.

2 VAC 5-585-390. Ice.*

Ice for use as a food or a cooling medium shall be made from drinking water.

2 VAC 5-585-400. Shucked shellfish, packaging and identification.

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

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

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

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

2 VAC 5-585-410. Shellstock identification.*

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

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

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

b. The date of harvesting;

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

d. The type and quantity of shellfish; and

Proposed Regulations

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

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

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

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

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

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

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

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

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

2 VAC 5-585-420. Shellstock; condition.

When received by a food establishment, shellstock shall be reasonably free of mud, dead shellfish, and shellfish with broken shells. Dead shellfish or shellstock with badly broken shells shall be discarded.

2 VAC 5-585-430. Molluscan shellfish; original container.

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

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

1. The source of the shellstock on display is identified as specified under 2 VAC 5-585-410 and recorded as specified under 2 VAC 5-585-440; and

2. The shellstock are protected from contamination.

C. Shucked shellfish may be removed from the container in which they were received and held in a display container from

which individual servings are dispensed upon a consumer's request if:

1. The labeling information for the shellfish on display as specified under 2 VAC 5-585-400 is retained and correlated to the date when, or dates during which, the shellfish are sold or served; and

2. The shellfish are protected from contamination.

2 VAC 5-585-440. Shellstock; maintaining identification.*

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

B. The identity of the source of shellstock that are sold or served shall be maintained by retaining shellstock tags or labels for 90 calendar days from the date the container is emptied by:

1. Using an approved recordkeeping system that keeps the tags or labels in chronological order correlated to the date when, or dates during which, the shellstock are sold or served; and

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

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

b. Ensuring that shellstock from one tagged or labeled container are not commingled with shellstock from another container being ordered by the consumer.

Article 3.

Protection from Contamination after Receiving.

2 VAC 5-585-450. Preventing contamination from hands.*

A. Food employees shall wash their hands as specified under 2 VAC 5-585-140.

B. Except when washing fruits and vegetables as specified under 2 VAC 5-585-510 or as specified in subsection C of this section, food employees may not contact exposed, ready-to-eat food with their bare hands and shall use suitable utensils such as deli tissue, spatulas, tongs, single-use gloves, or dispensing equipment.

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

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

2 VAC 5-585-460. Preventing contamination when tasting.*

A food employee may not use a utensil more than once to taste food that is to be sold or served.

2 VAC 5-585-470. Packaged and unpackaged food - separation, packaging, and segregation.*

A. Food shall be protected from cross contamination by:

1. Separating raw animal foods during storage, preparation, holding, and display from:

a. Raw ready-to-eat food including other raw animal food such as fish for sushi or molluscan shellfish, or other raw ready-to-eat food such as vegetables; and

b. Cooked ready-to-eat food;

2. Except when combined as ingredients, separating types of raw animal foods from each other such as beef, fish, lamb, pork, and poultry during storage, preparation, holding, and display by:

a. Using separate equipment for each type or arranging each type of food in equipment so that cross contamination of one type with another is prevented; and

b. Preparing each type of food at different times or in separate areas;

3. Cleaning equipment and utensils as specified under 2 VAC 5-585-1780 A and sanitizing as specified under 2 VAC 5-585-1900;

4. Except as specified in subsection B of this section, storing the food in packages, covered containers, or wrappings;

5. Cleaning hermetically sealed containers of food of visible soil before opening;

6. Protecting food containers that are received packaged together in a case or overwrap from cuts when the case or overwrap is opened;

7. Storing damaged, spoiled, or recalled food being held in the food establishment as specified under 2 VAC 5-585-3150; and

8. Separating fruits and vegetables before they are washed as specified under 2 VAC 5-585-510 from ready-to-eat food.

B. Subdivision A 4 of this section does not apply to:

1. Whole, uncut, raw fruits and vegetables and nuts in the shell, that require peeling or hulling before consumption;

2. Primal cuts, quarters, or sides of raw meat or slab bacon that are hung on clean, sanitized hooks or placed on clean, sanitized racks;

3. Whole, uncut, processed meats such as country hams, and smoked or cured sausages that are placed on clean, sanitized racks;

4. Food being cooled as specified under 2 VAC 5-585-810 B 2; or

5. Shellstock.

2 VAC 5-585-480. Food storage containers; identified with common name of food.

Working containers holding food or food ingredients that are removed from their original packages for use in the food establishment, such as cooking oils, flour, herbs, potato flakes, salt, spices, and sugar, shall be identified with the common name of the food (in English and the common language of the food workers) except that containers holding food that can be readily and unmistakably recognized such as dry pasta need not be identified.

2 VAC 5-585-490. Pasteurized eggs; substitute for raw shell eggs for certain recipes and populations.*

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

1. Cooked as specified under subdivisions A 1 or 2 of 2 VAC 5-585-700; or

2. Included in 2 VAC 5-585-700 D.

2 VAC 5-585-500. Protection from unapproved additives.*

A. As specified in 2 VAC 5-585-350, food shall be protected from contamination that may result from the addition of:

1. Unsafe or unapproved food or color additives; and

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

B. A food employee may not:

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

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

2 VAC 5-585-510. Washing fruits and vegetables.

A. Raw fruits and vegetables shall be thoroughly washed in water to remove soil and other contaminants before being cut, combined with other ingredients, cooked, served, or offered for human consumption in ready-to-eat form except as specified in subsection B of this section and except that whole, raw fruits and vegetables that are intended for washing by the consumer before consumption need not be washed before they are sold.

B. Fruits and vegetables may be washed by using chemicals as specified under 2 VAC 5-585-3390.

2 VAC 5-585-520. Ice used as exterior coolant prohibited as ingredient.

After use as a medium for cooling the exterior surfaces of food such as melons or fish, packaged foods such as canned beverages, or cooling coils and tubes of equipment, ice may not be used as food.

2 VAC 5-585-530. Storage or display of food in contact with water or ice.

A. Packaged food may not be stored in direct contact with ice or water if the food is subject to the entry of water because of the nature of its packaging, wrapping, or container or its positioning in the ice or water.

B. Except as specified in subsections C and D of this section, unpackaged food may not be stored in direct contact with undrained ice.

Proposed Regulations

C. Whole, raw fruits or vegetables; cut, raw vegetables such as celery or carrot sticks or cut potatoes; and tofu may be immersed in ice or water.

D. Raw chicken and raw fish that are received immersed in ice in shipping containers may remain in that condition while in storage awaiting preparation, display, service, or sale.

2 VAC 5-585-540. Food contact with equipment and utensils.*

Food shall only contact surfaces of equipment and utensils that are cleaned as specified under 2 VAC 5-585-1770 through 2 VAC 5-585-1870 and sanitized as specified under 2 VAC 5-585-1880 through 2 VAC 5-585-1900.

2 VAC 5-585-550. In-use utensils, between-use storage.

During pauses in food preparation or dispensing, food preparation and dispensing utensils shall be stored:

1. Except as specified under subdivision 2 of this section, in the food with their handles above the top of the food and the container;

2. In food that is not potentially hazardous with their handles above the top of the food within containers or equipment that can be closed, such as bins of sugar, flour, or cinnamon;

3. On a clean portion of the food preparation table or cooking equipment only if the in-use utensil and the food-contact surface of the food preparation table or cooking equipment are cleaned and sanitized at a frequency specified under 2 VAC 5-585-1780 and 2 VAC 5-585-1890;

4. In running water of sufficient velocity to flush particulates to the drain, if used with moist food such as ice cream or mashed potatoes;

5. In a clean, protected location if the utensils, such as ice scoops, are used only with a food that is not potentially hazardous; or

6. In a container of water if the water is maintained at a temperature of at least 135°F (57°C) and the container is cleaned at a frequency specified under 2 VAC 5-585-1780 D 7.

2 VAC 5-585-560. Linens and napkins, use limitation.

Linens and napkins may not be used in contact with food unless they are used to line a container for the service of foods and the linens and napkins are replaced each time the container is refilled for a new customer.

2 VAC 5-585-570. Wiping cloths, use limitation.

A. Cloths that are in use for wiping food spills shall be used for no other purpose.

B. Cloths used for wiping food spills shall be:

1. Dry and used for wiping food spills from tableware and carry-out containers; or

2. Wet and cleaned as specified under 2 VAC 5-585-1920 D, stored in a chemical sanitizer at a concentration specified in 2 VAC 5-585-1700, and used for wiping spills from food-contact and nonfood-contact surfaces of equipment.

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

D. Wet wiping cloths used with a freshly made sanitizing solution and dry wiping cloths shall be free of food debris and visible soil.

E. Working containers of sanitizing solutions for storage of in-use wiping cloths may be placed above the floor and used in a manner to prevent contamination of food, equipment, utensils, linens, single-service or single-use articles.

2 VAC 5-585-580. Gloves, use limitation.

A. If used, single-use gloves shall be used for only one task such as working with ready-to-eat food or with raw animal food, used for no other purpose, and discarded when damaged or soiled, or when interruptions occur in the operation.

B. Except as specified in subsection C of this section, slash-resistant gloves that are used to protect the hands during operations requiring cutting shall be used in direct contact only with food that is subsequently cooked as specified under 2 VAC 5-585-700 through 2 VAC 5-585-765 such as frozen food or a primal cut of meat.

C. Slash-resistant gloves may be used with ready-to-eat food that will not be subsequently cooked if the slash-resistant gloves have a smooth, durable, and nonabsorbent outer surface; or if the slash-resistant gloves are covered with a smooth, durable, nonabsorbent glove, or a single-use glove.

D. Cloth gloves may not be used in direct contact with food unless the food is subsequently cooked as required under 2 VAC 5-585-700 through 2 VAC 5-585-765 such as frozen food or a primal cut of meat.

2 VAC 5-585-590. Using clean tableware for second portions and refills.

A. Except for refilling a consumer's drinking cup or container without contact between the pouring utensil and the lip contact area of the drinking cup or container, food employees may not use tableware, including single-service articles, soiled by the consumer to provide second portions or refills.

B. Except as specified in subsection C of this section, self-service consumers may not be allowed to use soiled tableware, including single-service articles, to obtain additional food from the display and serving equipment.

C. Cups and glasses may be reused by self-service consumers or food employees if refilling is a contamination-free process as specified under subdivisions 1, 2 and 4 of 2 VAC 5-585-1230.

2 VAC 5-585-600. Refilling returnables.

A. A take-home food container returned to a food establishment may not be refilled at a food establishment with a potentially hazardous food.

B. Except as specified in subsection C of this section, a take-home food container refilled with food that is not potentially

hazardous shall be cleaned as specified under 2 VAC 5-585-1870 B.

C. Personal take-out beverage containers, such as thermally insulated bottles, nonspill coffee cups and promotional beverage glasses, may be refilled by employees or the consumer if refilling is a contamination-free process as specified under subdivisions 1, 2 and 4 of 2 VAC 5-585-1230.

2 VAC 5-585-610. Food storage.

A. Except as specified in subsections B and C of this section, food shall be protected from contamination by storing the food:

1. In a clean, dry location;
2. Where it is not exposed to splash, dust, or other contamination; and
3. At least six inches (15 cm) above the floor.

B. Food in packages and working containers may be stored less than six inches (15 cm) above the floor on case lot handling equipment as specified under 2 VAC 5-585-1420.

C. Pressurized beverage containers, cased food in waterproof containers such as bottles or cans, and milk containers in plastic crates may be stored on a floor that is clean and not exposed to floor moisture.

2 VAC 5-585-620. Food storage; prohibited areas.

Food may not be stored:

1. In locker rooms;
2. In toilet rooms or their vestibules;
3. In dressing rooms;
4. In garbage rooms;
5. In mechanical rooms;
6. Under sewer lines that are not shielded to intercept potential drips;
7. Under leaking water lines, including leaking automatic fire sprinkler heads, or under lines on which water has condensed;
8. Under open stairwells; or
9. Under other sources of contamination.

2 VAC 5-585-630. Vended potentially hazardous food; original container.

Potentially hazardous food dispensed through a vending machine shall be in the package in which it was placed at the food establishment or food processing plant at which it was prepared.

2 VAC 5-585-640. Food preparation.

During preparation, unpackaged food shall be protected from environmental sources of contamination.

2 VAC 5-585-650. Food display.

Except for nuts in the shell and whole, raw fruits and vegetables that are intended for hulling, peeling, or washing by the consumer before consumption, food on display shall be protected from contamination by the use of packaging; counter, service line, or salad bar food guards; display cases; or other effective means.

2 VAC 5-585-660. Condiments; protection.

A. Condiments shall be protected from contamination by being kept in dispensers that are designed to provide protection, protected food displays provided with the proper utensils, original containers designed for dispensing, or individual packages or portions.

B. Condiments at a vending machine location shall be in individual packages or provided in dispensers that are filled at a location that is approved by the department, such as the food establishment that provides food to the vending machine location, a food processing plant that is regulated by the agency that has jurisdiction over the operation, or a properly equipped facility that is located on the site of the vending machine location.

2 VAC 5-585-670. Consumer self-service operations.*

A. Raw, unpackaged animal food, such as beef, lamb, pork, poultry, and fish may not be offered for consumer self-service. This subsection does not apply to:

1. Consumer self-service of ready-to-eat foods at buffets or salad bars that serve foods such as sushi or raw shellfish;
2. Ready-to-cook individual portions for immediate cooking and consumption on the premises such as consumer-cooked meats or consumer-selected ingredients for Mongolian barbecue; or
3. Raw, frozen, shell-on shrimp or lobster.

B. Consumer self-service operations for ready-to-eat foods shall be provided with suitable utensils or effective dispensing methods that protect the food from contamination.

C. Consumer self-service operations such as buffets and salad bars shall be monitored by food employees trained in safe operating procedures.^N

2 VAC 5-585-680. Returned food and reservice of food.*

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

B. A container of food that is not potentially hazardous may be transferred from one consumer to another if:

1. The food is dispensed so that it is protected from contamination and the container is closed between uses such as a narrow-neck bottle containing catsup, steak sauce, or wine; or
2. The food, such as crackers, salt or pepper, is in an unopened original package and maintained in sound condition.

Proposed Regulations

2 VAC 5-585-690. Miscellaneous sources of contamination.

Food shall be protected from contamination that may result from a factor or source not specified under 2 VAC 5-585-450 through 2 VAC 5-585-680.

Article 4.

Destruction of Organisms of Public Health Concern.

2 VAC 5-585-700. Raw animal foods.*

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

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

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

b. Except as specified under subdivisions A 2 and 3 and subsection B of this section, fish and meat including game animals commercially raised for food as specified under 2 VAC 5-585-330 A 1 and game animals under a voluntary inspection program as specified under 2 VAC 5-585-330 A 2;

2. 155°F (68°C) for 15 seconds or the temperature specified in the following chart that corresponds to the holding time for ratites and injected meats; the following if they are comminuted: fish, meat, game animals commercially raised for food as specified under 2 VAC 5-585-330 A 1, and game animals under a voluntary inspection program as specified under 2 VAC 5-585-330 A 2; and raw eggs that are not prepared as specified under subdivision A 1 a of this section:

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

3. 165°F (74°C) or above for 15 seconds for poultry, wild game animals as specified under 2 VAC 5-585-330 A 3, stuffed fish, stuffed meat, stuffed pasta, stuffed poultry, stuffed ratites, or stuffing containing fish, meat, or poultry.

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

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

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

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

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

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

¹Holding time may include postoven heat rise

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

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

2. The steak is labeled, as specified under 2 VAC 5-585-270 E, to indicate that it meets the definition of "whole-muscle, intact beef"; and

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

D. A raw animal food such as raw egg, raw fish, raw-marinated fish, raw molluscan shellfish, or steak tartare, or a partially cooked food such as lightly cooked fish, soft cooked eggs, or rare meat other than whole-muscle, intact beef steaks as specified in subsection C of this section, may be served or offered for sale in a ready-to-eat form if:

1. As specified under subdivisions 3 a and 3 b of 2 VAC 5-585-950, the food establishment serves a population that is not a highly susceptible population; and

2. The consumer is informed as specified under 2 VAC 5-585-930 that to ensure its safety, the food should be cooked as specified under subsection A or B of this section; or

3. The department grants a variance from subsection A or B of this section as specified in 2 VAC 5-585-3540 based on a HACCP plan that:

a. Is submitted by the operator and approved as specified under 2 VAC 5-585-3541;

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

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

2 VAC 5-585-710. Microwave cooking.*

Raw animal foods cooked in a microwave oven shall be:

1. Rotated or stirred throughout or midway during cooking to compensate for uneven distribution of heat;
2. Covered to retain surface moisture;
3. Heated to a temperature of at least 165°F (74°C) in all parts of the food; and
4. Allowed to stand covered for two minutes after cooking to obtain temperature equilibrium.

2 VAC 5-585-720. Plant food cooking for hot holding.

Fruits and vegetables that are cooked for hot holding shall be cooked to a temperature of 135°F (57°C).

2 VAC 5-585-730. Parasite destruction.*

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

1. Frozen and stored at a temperature of -4°F (-20°C) or below for 168 hours (seven days) in a freezer; or
2. Frozen at -31°F (-35°C) or below until solid and stored at -31°F (-35°C) for 15 hours.

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

2 VAC 5-585-740. Records; creation and retention.

A. Except as specified in 2 VAC 5-585-730 B and subsection B of this section, if raw, marinated, raw-marinated, partially cooked, or marinated-partially cooked fish are served or sold in ready-to-eat form, the person in charge shall record the freezing temperature and time to which the fish are subjected and shall retain the records at the food establishment for 90 calendar days beyond the time of service or sale of the fish.

B. If the fish are frozen by a supplier, a written agreement or statement from the supplier stipulating that the fish supplied are frozen to a temperature and for a time specified under 2 VAC 5-585-730 may substitute for the records specified under subsection A of this section.

2 VAC 5-585-750. Reheating; preparation for immediate service.

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

2 VAC 5-585-760. Reheating for hot holding.*

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

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

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

D. Reheating for hot holding shall be done rapidly and the time the food is between the temperature specified under 2 VAC 5-585-820 A 2 and 165°F (74°C) may not exceed two hours.

E. Remaining unsliced portions of roasts that are cooked as specified under 2 VAC 5-585-700 B may be reheated for hot holding using the oven parameters and minimum time and temperature conditions specified under 2 VAC 5-585-700 B.

2 VAC 5-585-765. Treating juice.

Juice packaged in a food establishment shall be:

1. Treated under a HACCP plan as specified in subdivisions 2 through 5 of 2 VAC 5-585-3610 to attain a 5-log reduction, which is equal to a 99.999% reduction, of the most resistant microorganism of public health significance; or

2. Labeled, if not treated to yield a 5-log reduction of the most resistant microorganism of public health significance:

a. As specified under 2 VAC 5-585-900; and

b. As specified in 21 CFR 101.17(g) with the phrase, "WARNING: This product has not been pasteurized and, therefore, may contain harmful bacteria that can cause serious illness in children, the elderly, and persons with weakened immune systems."

Article 5.

Limitation of Growth of Organisms of Public Health Concern.

2 VAC 5-585-770. Frozen food.

Stored frozen foods shall be maintained frozen.

2 VAC 5-585-780. Potentially hazardous food, slacking.

Frozen potentially hazardous food that is slacked to moderate the temperature shall be held:

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

2. At any temperature if the food remains frozen.

Proposed Regulations

2 VAC 5-585-790. Thawing.

Except as specified in subdivision 4 of this section, potentially hazardous food shall be thawed:

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

2. Completely submerged under running water:

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

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

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

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

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

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

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

a. Cooked as specified under 2 VAC 5-585-700 A or B or 2 VAC 5-585-710; or

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

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

2 VAC 5-585-800. Cooling.*

A. Cooked potentially hazardous food shall be cooled:

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

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

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

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

D. Raw shell eggs shall be received as specified under 2 VAC 5-585-340 C and immediately placed in refrigerated equipment that maintains an ambient air temperature of 45°F (7°C) or less.

2 VAC 5-585-810. Cooling methods.

A. Cooling shall be accomplished in accordance with the time and temperature criteria specified under 2 VAC 5-585-800 by using one or more of the following methods based on the type of food being cooled:

1. Placing the food in shallow pans;

2. Separating the food into smaller or thinner portions;

3. Using rapid cooling equipment;

4. Stirring the food in a container placed in an ice water bath;

5. Using containers that facilitate heat transfer;

6. Adding ice as an ingredient; or

7. Other effective methods.

B. When placed in cooling or cold holding equipment, food containers in which food is being cooled shall be:

1. Arranged in the equipment to provide maximum heat transfer through the container walls; and

2. Loosely covered, or uncovered if protected from overhead contamination as specified under 2 VAC 5-585-610 A 2, during the cooling period to facilitate heat transfer from the surface of the food.

2 VAC 5-585-820. Potentially hazardous food; hot and cold holding.*

A. Except during preparation, cooking, or cooling, or when time is used as the public health control as specified under 2 VAC 5-585-850, potentially hazardous food shall be maintained:

1. At 135°F (57°C) or above, except that roasts cooked to a temperature and for a time specified in 2 VAC 5-585-700 B or reheated as specified in 2 VAC 5-585-760 E may be held at a temperature of 130°F (54°C) or above; or

2. At a temperature specified in the following:

a. 41°F (5°C) or less; or

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

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

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

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

2 VAC 5-585-830. Ready-to-eat, potentially hazardous food; date marking.*

A. Except as specified in subsection D of this section, refrigerated, ready-to-eat, potentially hazardous food prepared and held in a food establishment for more than 24 hours shall be clearly marked to indicate the date or day by which the food shall be consumed on the premises, sold, or discarded based on the temperature and time combinations specified below. The day of preparation shall be counted as Day 1.

1. 41°F (5°C) or less for a maximum of seven days; or
2. 45°F (7°C) or between 41°F (5°C) and 45°F (7°C) for a maximum of four days in existing refrigeration equipment that is not capable of maintaining the food at 41°F (5°C) or less if:
 - a. The equipment is in place and in use in the food establishment; and
 - b. Before January 1, 2012, the equipment is upgraded or replaced to maintain food at a temperature of 41°F (5°C) or less.

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

1. The day the original container is opened in the food establishment shall be counted as Day 1; and
2. The day or date marked by the food establishment may not exceed a manufacturer's use-by date if the manufacturer determined the use-by date based on food safety.

C. A refrigerated, ready-to-eat potentially hazardous food that is frequently rewrapped, such as lunchmeat or a roast, or for which date marking is impractical, such as soft serve mix or milk in a dispensing machine, may be marked as specified in subsection A or B of this section, or by an alternative method acceptable to the department.

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

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

1. Fermented sausages produced in a federally inspected food processing plant that are not labeled "Keep Refrigerated" and that retain the original casing on the product;
2. Shelf stable, dry, fermented sausages; and
3. Shelf stable salt-cured products such as prosciutto and Parma (ham) produced in a federally inspected food processing plant that are not labeled "Keep Refrigerated."

F. A refrigerated, ready-to-eat, potentially hazardous food ingredient or a portion of a refrigerated, ready-to-eat,

potentially hazardous food that is subsequently combined with additional ingredients or portions of food shall retain the date marking of the earliest-prepared or first-prepared ingredient.

2 VAC 5-585-840. Ready-to-eat, potentially hazardous food; disposition.*

A. A food specified in 2 VAC 5-585-830 A or B shall be discarded if it:

1. Exceeds either of the temperature and time combinations specified in 2 VAC 5-585-830 A, except time that the product is frozen;
2. Is in a container or package that does not bear a date or day; or
3. Is appropriately marked with a date or day that exceeds a temperature and time combination as specified in 2 VAC 5-585-830 A.

B. Refrigerated, ready-to-eat, potentially hazardous food prepared in a food establishment and dispensed through a vending machine with an automatic shutoff control shall be discarded if it exceeds a temperature and time combination as specified in 2 VAC 5-585-830 A.

2 VAC 5-585-850. Time as a public health control.*

A. Except as specified under subsection B of this section, if time only, rather than time in conjunction with temperature, is used as the public health control for a working supply of potentially hazardous food before cooking, or for ready-to-eat potentially hazardous food that is displayed or held for service for immediate consumption:

1. The food shall be marked or otherwise identified to indicate the time that is four hours past the point in time when the food is removed from temperature control;
2. The food shall be cooked and served, served if ready-to-eat, or discarded, within four hours from the point in time when the food is removed from temperature control;
3. The food in unmarked containers or packages or marked to exceed a four-hour limit shall be discarded; and
4. Written procedures shall be maintained in the food establishment and made available to the department upon request, that ensure compliance with:

a. Subdivisions 1 through 4 of this subsection; and

b. 2 VAC 5-585-800 for food that is prepared, cooked, and refrigerated before time is used as a public health control.

B. In a food establishment that serves a highly susceptible population, time only, rather than time in conjunction with temperature, may not be used as the public health control for raw eggs.

2 VAC 5-585-860. Variance requirement.*

A food establishment shall obtain a variance from the department as specified in 2 VAC 5-585-3540 and 2 VAC 5-585-3541 before:

1. Smoking food as a method of food preservation rather than as a method of flavor enhancement;

Proposed Regulations

2. Curing food;

3. Using food additives or adding components such as vinegar:

a. As a method of food preservation rather than as a method of flavor enhancement; or

b. To render a food so that it is not potentially hazardous;

4. Packaging food using a reduced oxygen packaging method except as specified under 2 VAC 5-585-870 where a barrier to *Clostridium botulinum* in addition to refrigeration exists;

5. Operating a molluscan shellfish life-support system display tank used to store and display shellfish that are offered for human consumption;

6. Custom processing animals that are for personal use as food and not for sale or service in a food establishment; or

7. Preparing food by another method that is determined by the department to require a variance.

2 VAC 5-585-870. Reduced oxygen packaging; criteria.*

A. Except for a food establishment that obtains a variance as specified under 2 VAC 5-585-860, a food establishment that packages food using a reduced oxygen packaging method and *Clostridium botulinum* is identified as a microbiological hazard in the final packaged form shall ensure that there are at least two barriers in place to control the growth and toxin formation of *Clostridium botulinum*.

B. A food establishment that packages food using a reduced oxygen packaging method and *Clostridium botulinum* is identified as a microbiological hazard in the final packaged form shall have a HACCP plan that contains the information specified under subdivision 4 of 2 VAC 5-585-3630 and that:

1. Identifies the food to be packaged;

2. Limits the food packaged to a food that does not support the growth of *Clostridium botulinum* because it complies with one of the following:

a. Has an a_w of 0.91 or less;

b. Has a pH of 4.6 or less;

c. Is a meat or poultry product cured at a food processing plant regulated by the USDA using substances specified in 9 CFR 424.21, Use of Food Ingredients and Sources of Radiation, and is received in an intact package; or

d. Is a food with a high level of competing organisms such as raw meat or raw poultry;

3. Specifies methods for maintaining food at 41°F (5°C) or below;

4. Describes how the packages shall be prominently and conspicuously labeled on the principal display panel in bold type on a contrasting background, with instructions to:

a. Maintain the food at 41°F (5°C) or below; and

b. For food held at refrigeration temperatures, discard the food if within 14 calendar days of its packaging it is not served for

on-premises consumption, or consumed if served or sold for off-premises consumption;

5. Limits the refrigerated shelf life to no more than 14 calendar days from packaging to consumption, except the time the product is maintained frozen, or the original manufacturer's "sell by" or "use by" date, whichever occurs first;

6. Includes operational procedures that:

a. Prohibit contacting food with bare hands;

b. Identify a designated area and the method by which:

(1) Physical barriers or methods of separation of raw foods and ready-to-eat foods minimize cross contamination; and

(2) Access to the processing equipment is restricted to responsible trained personnel familiar with the potential hazards of the operation; and

c. Delineate cleaning and sanitization procedures for food-contact surfaces; and

7. Describes the training program that ensures that the individual responsible for the reduced oxygen packaging operation understands the:

a. Concepts required for a safe operation;

b. Equipment and facilities; and

c. Procedures specified under subdivision 6 of this subsection and subdivision 4 of 2 VAC 5-585-3630.

C. Except for fish that is frozen before, during, and after packaging, a food establishment may not package fish using a reduced oxygen packaging method.

Article 6.

Food Identity, Presentation, and On-Premises Labeling.

2 VAC 5-585-880. Standards of identity.

Packaged food shall comply with standard of identity requirements in 21 CFR Parts 131-169 and 9 CFR Part 319, Definitions and Standards of Identity or Composition, and the general requirements in 21 CFR Part 130, Food Standards: General, and 9 CFR Part 319, Subpart A, General.

2 VAC 5-585-890. Honestly presented.

A. Food shall be offered for human consumption in a way that does not mislead or misinform the consumer.

B. Food or color additives, colored overwraps, or lights may not be used to misrepresent the true appearance, color, or quality of a food.

2 VAC 5-585-900. Food labels.

A. Food packaged in a food establishment shall be labeled as specified in law, including 21 CFR Part 101, Food Labeling, and 9 CFR Part 317, Labeling, Marking Devices, and Containers.

B. Label information shall include:

1. The common name of the food, or absent a common name, an adequately descriptive identity statement;

2. If made from two or more ingredients, a list of ingredients in descending order of predominance by weight, including a declaration of artificial color or flavor and chemical preservatives, if contained in the food;

3. An accurate declaration of the quantity of contents;

4. The name and place of business of the manufacturer, packer, or distributor; and

5. Except as exempted in the Federal Food, Drug, and Cosmetic Act 21 USC § 343(q) (3) through (5), nutrition labeling as specified in 21 CFR Part 101, Food Labeling, and 9 CFR Part 317, Subpart B, Nutrition Labeling.

6. For any salmonid fish containing canthaxanthin as a color additive, the labeling of the bulk fish container, including a list of ingredients, displayed on the retail container or by other written means, such as a counter card, that discloses the use of canthaxanthin.

C. Bulk food that is available for consumer self-dispensing shall be prominently labeled with the following information in plain view of the consumer:

1. The manufacturer's or processor's label that was provided with the food; or

2. A card, sign, or other method of notification that includes the information specified under subdivisions B 1, 2 and 5 of this section.

D. Bulk, unpackaged foods such as bakery products and unpackaged foods that are portioned to consumer specification need not be labeled if:

1. A health, nutrient content, or other claim is not made;

2. There are no state or local laws requiring labeling; and

3. The food is manufactured or prepared on the premises of the food establishment or at another food establishment or a food processing plant that is owned by the same person and is regulated by the food regulatory agency that has jurisdiction.

2 VAC 5-585-910. Other forms of information.

A. If required by law, consumer warnings shall be provided.

B. Food establishment or manufacturers' dating information on foods may not be concealed or altered.

2 VAC 5-585-920. (Reserved.)

2 VAC 5-585-930. Consumer advisory; consumption of animal foods that are raw, undercooked, or not otherwise processed to eliminate pathogens.*

A. Except as specified in 2 VAC 5-585-700 C and 2 VAC 5-585-700 D 3 and under subdivision 3 of 2 VAC 5-585-950, if an animal food such as beef, eggs, fish, lamb, milk, pork, poultry, or shellfish is served or sold raw, undercooked, or without otherwise being processed to eliminate pathogens, either in ready-to-eat form or as an ingredient in another ready-to-eat food, the person in charge shall inform consumers of the significantly increased risk of consuming such foods by way of a disclosure and reminder, as specified

in subsections B and C of this section, using brochures, deli case or menu advisories, label statements, table tents, placards, or other effective written means.

B. Disclosure shall include:

1. A description of the animal-derived foods, such as "oysters on the half shell (raw oysters)," "raw-egg Caesar salad," and "hamburgers (can be cooked to order)"; or

2. Identification of the animal-derived foods by asterisking them to a footnote that states that the items are served raw or undercooked, or contain (or may contain) raw or undercooked ingredients.

C. Reminder shall include asterisking the animal-derived foods requiring disclosure to a footnote that states:

1. Regarding the safety of these items, written information is available upon request:

2. Consuming raw or undercooked meats, poultry, seafood, shellfish, or eggs may increase your risk of foodborne illness; or

3. Consuming raw or undercooked meats, poultry, seafood, shellfish, or eggs may increase your risk of foodborne illness, especially if you have certain medical conditions.

Article 7. Contaminated Food.

2 VAC 5-585-940. Discarding or reconditioning unsafe, adulterated, or contaminated food.*

A. A food that is unsafe, adulterated, or not honestly presented as specified under 2 VAC 5-585-260 shall be reconditioned according to an approved procedure or discarded.

B. Food that is not from an approved source as specified under 2 VAC 5-585-270 through 2 VAC 5-585-330 shall be discarded.

C. Ready-to-eat food that may have been contaminated by an employee who has been restricted or excluded as specified under 2 VAC 5-585-90 shall be discarded.

D. Food that is contaminated by food employees, consumers, or other persons through contact with their hands, bodily discharges, such as nasal or oral discharges, or other means shall be discarded.

Article 8. Special Requirements for Highly Susceptible Populations.

2 VAC 5-585-950. Pasteurized foods and prohibited food.*

In a food establishment that serves a highly susceptible population:

1. The following criteria apply to juice:

a. For the purposes of subdivision 1 of this section only, children who are age 9 or less and receive food in a school, day care setting or similar facility that provides custodial care are included as highly susceptible populations;

Proposed Regulations

b. Prepackaged juice or a prepackaged beverage containing juice, that bears a warning label as specified in 21 CFR 101.17(g), Food Labeling, or packaged juice or beverage containing juice, that bears a warning label as specified under subdivision 2 of 2 VAC 5-585-765 may not be served or offered for sale; and

c. Unpackaged juice that is prepared on the premises for service or sale in a ready-to-eat form shall be processed under a HACCP plan that contains the information specified in subdivisions 2 through 5 of 2 VAC 5-585-3630 and as specified under 21 CFR Part 120, Hazard Analysis And Critical Control Point (HACCP) Systems, Subpart B, Pathogen Reduction, 120.24, Process Controls.

2. Pasteurized shell eggs or pasteurized liquid, frozen, or dry eggs or egg products shall be substituted for raw shell eggs in the preparation of:

a. Foods such as Caesar salad, hollandaise or béarnaise sauce, mayonnaise, and egg-fortified beverages; and

b. Except as specified in subdivision 5 of this section, recipes in which more than one egg is broken and the eggs are combined.

3. The following foods may not be served or offered for sale in a ready-to-eat form:

a. Raw animal foods such as raw fish, raw-marinated fish, raw molluscan shellfish, and steak tartare;

b. A partially cooked animal food such as lightly cooked fish, rare meat, soft-cooked eggs that are made from raw shell eggs, and meringue; and

c. Raw seed sprouts.

4. Food employees may not contact ready-to-eat food as specified in 2 VAC 5-585-450 B.

5. Subdivision 2 b of this section does not apply if:

a. The raw eggs are combined immediately before cooking for one consumer's serving at a single meal, cooked as specified under 2 VAC 5-585-700 A 1, and served immediately, such as an omelet, soufflé, or scrambled eggs;

b. The raw eggs are combined as an ingredient immediately before baking and the eggs are thoroughly cooked to a ready-to-eat form, such as a cake, muffin, or bread; or

c. The preparation of the food is conducted under a HACCP plan that:

(1) Identifies the food to be prepared;

(2) Prohibits contacting ready-to-eat food with bare hands;

(3) Includes specifications and practices that ensure:

(a) Salmonella Enteritidis growth is controlled before and after cooking; and

(b) Salmonella Enteritidis is destroyed by cooking the eggs according to the temperature and time specified in 2 VAC 5-585-700 A 2;

(4) Contains the information specified under subdivision 4 of 2 VAC 5-585-3630 including procedures that:

(a) Control cross contamination of ready-to-eat food with raw eggs; and

(b) Delineate cleaning and sanitization procedures for food-contact surfaces; and

(5) Describes the training program that ensures that the food employee responsible for the preparation of the food understands the procedures to be used.

PART IV. EQUIPMENT, UTENSILS, AND LINENS.

Article 1. Materials for Construction and Repair.

2 VAC 5-585-960. Multiuse, characteristics.*

Materials that are used in the construction of utensils and food-contact surfaces of equipment may not allow the migration of deleterious substances or impart colors, odors, or tastes to food and under normal use conditions shall be:

1. Safe;

2. Durable, corrosion-resistant, and nonabsorbent,^N

3. Sufficient in weight and thickness to withstand repeated warewashing,^N

4. Finished to have a smooth, easily cleanable surface,^N and

5. Resistant to pitting, chipping, crazing, scratching, scoring, distortion, and decomposition.^N

2 VAC 5-585-970. Cast iron, use limitation.

A. Except as specified in subsections B and C of this section, cast iron may not be used for utensils or food-contact surfaces of equipment.

B. Cast iron may be used as a surface for cooking.

C. Cast iron may be used in utensils for serving food if the utensils are used only as part of an uninterrupted process from cooking through service.

2 VAC 5-585-980. Lead in ceramic, china, and crystal utensils, use limitation.

Ceramic, china, crystal utensils, and decorative utensils such as hand-painted ceramic or china that are used in contact with food shall be lead-free or contain levels of lead not exceeding the limits of the following utensil categories:

Utensil Category	Description	Maximum Lead (mg/L)
Hot Beverage Mugs	Coffee Mugs	0.5
Large Hollowware	Bowls 1.1 L (1.16 qt)	1.0
Small Hollowware	Bowls <1.1 L (1.16 qt)	2.0
Flat Utensils	Plates, Saucers	3.0

2 VAC 5-585-990. Copper, use limitation.*

A. Except as specified in subsections B and C of this section, copper and copper alloys such as brass may not be used in contact with a food that has a pH below 6 such as vinegar, fruit juice, or wine or for a fitting or tubing installed between a backflow prevention device and a carbonator.

B. Copper and copper alloys may be used in contact with beer brewing ingredients that have a pH below 6 in the prefermentation and fermentation steps of a beer brewing operation such as a brewpub or microbrewery.

C. Copper and copper alloys may be used in contact with apple butter and molasses that have a pH below 6 during the typical processing times (i.e., mixing, cooking and cooling) for these products, as long as laboratory analysis does not reveal excessive levels of copper or other heavy metals in the finished product. Apple butter and molasses may not be held or stored in copper or copper alloys for time periods any longer than the typical processing times for these products.

2 VAC 5-585-1000. Galvanized metal, use limitation.*

Galvanized metal may not be used for utensils or food-contact surfaces of equipment that are used in contact with acidic food.

2 VAC 5-585-1010. Sponges, use limitation.

Sponges may not be used in contact with cleaned and sanitized or in-use food-contact surfaces.

2 VAC 5-585-1020. Lead in pewter alloys, use limitation.

Pewter alloys containing lead in excess of 0.05% may not be used as a food-contact surface.

2 VAC 5-585-1030. Lead in solder and flux, use limitation.

Solder and flux containing lead in excess of 0.2% may not be used as a food-contact surface.

2 VAC 5-585-1040. Wood, use limitation.

A. Except as specified in subsections B, C, and D of this section, wood and wood wicker may not be used as a food-contact surface.

B. Hard maple or an equivalently hard, close-grained wood may be used for:

1. Cutting boards; cutting blocks; bakers' tables; and utensils such as rolling pins, doughnut dowels, salad bowls, and chopsticks; and

2. Wooden paddles used in confectionery operations for pressure scraping kettles when manually preparing confections at a temperature of 230°F (110°C) or above.

C. Whole, uncut, raw fruits and vegetables, and nuts in the shell may be kept in the wood shipping containers in which they were received, until the fruits, vegetables, or nuts are used.

D. If the nature of the food requires removal of rinds, peels, husks, or shells before consumption, the whole, uncut, raw food may be kept in:

1. Untreated wood containers; or

2. Treated wood containers if the containers are treated with a preservative that meets the requirements specified in 21 CFR 178.3800.

2 VAC 5-585-1050. Nonstick coatings, use limitation.

Multiuse kitchenware such as frying pans, griddles, sauce pans, cookie sheets, and waffle bakers that have a perfluorocarbon resin coating shall be used with nonscoring or nonscratching utensils and cleaning aids.

2 VAC 5-585-1060. Nonfood-contact surfaces.

Nonfood-contact surfaces of equipment that are exposed to splash, spillage, or other food soiling or that require frequent cleaning shall be constructed of a corrosion-resistant, nonabsorbent, and smooth material.

2 VAC 5-585-1070. Single-service and single-use, characteristics.*

Materials that are used to make single-service and single-use articles:

1. May not:

a. Allow the migration of deleterious substances; or

b. Impart colors, odors, or tastes to food.^N

2. Shall be:

a. Safe; and

b. Clean.^N

Article 2.
Design and Construction.

2 VAC 5-585-1080. Equipment and utensils.

Equipment and utensils shall be designed and constructed to be durable and to retain their characteristic qualities under normal use conditions.

2 VAC 5-585-1090. Food temperature measuring devices.*

Food temperature measuring devices may not have sensors or stems constructed of glass, except that thermometers with glass sensors or stems that are encased in a shatterproof coating such as candy thermometers may be used.

2 VAC 5-585-1100. Food-contact surfaces; cleanability.*

A. Multiuse food-contact surfaces shall be:

1. Smooth;

2. Free of breaks, open seams, cracks, chips, pits, and similar imperfections;

3. Free of sharp internal angles, corners, and crevices;

4. Finished to have smooth welds and joints; and

Proposed Regulations

5. Accessible for cleaning and inspection by one of the following methods:

- a. Without being disassembled;
- b. By disassembling without the use of tools; or
- c. By easy disassembling with the use of handheld tools commonly available to maintenance and cleaning personnel such as screwdrivers, pliers, open-end wrenches, and Allen wrenches.

B. Subdivision A 5 of this section does not apply to cooking oil storage tanks, distribution lines for cooking oils or beverage syrup lines or tubes.

2 VAC 5-585-1110. CIP equipment.

A. CIP equipment shall meet the characteristics specified under 2 VAC 5-585-1100 and shall be designed and constructed so that:

1. Cleaning and sanitizing solutions circulate throughout a fixed system and contact all interior food-contact surfaces; and
2. The system is self-draining or capable of being completely drained of cleaning and sanitizing solutions.

B. CIP equipment that is not designed to be disassembled for cleaning shall be designed with inspection access points to ensure that all interior food-contact surfaces throughout the fixed system are being effectively cleaned.

2 VAC 5-585-1120. "V" threads, use limitation.

"V" type threads may not be used on food-contact surfaces. This section does not apply to hot oil cooking or filtering equipment.

2 VAC 5-585-1130. Hot oil filtering equipment.

Hot oil filtering equipment shall meet the characteristics specified under 2 VAC 5-585-1100 or 2 VAC 5-585-1110 and shall be readily accessible for filter replacement and cleaning of the filter.

2 VAC 5-585-1140. Can openers.

Cutting or piercing parts of can openers shall be readily removable for cleaning and for replacement.

2 VAC 5-585-1150. Nonfood-contact surfaces.

Nonfood-contact surfaces shall be free of unnecessary ledges, projections, and crevices, and designed and constructed to allow easy cleaning and to facilitate maintenance.

2 VAC 5-585-1160. Kick plates; removable.

Kick plates shall be designed so that the areas behind them are accessible for inspection and cleaning by being:

1. Removable by one of the methods specified under 2 VAC 5-585-1100 A 5 or capable of being rotated open; and
2. Removable or capable of being rotated open without unlocking equipment doors.

2 VAC 5-585-1170. Ventilation hood systems; filters.

Filters or other grease extracting equipment shall be designed to be readily removable for cleaning and replacement if not designed to be cleaned in place.

2 VAC 5-585-1180. Temperature measuring devices; food.

A. Food temperature measuring devices that are scaled only in Fahrenheit or dually scaled in Fahrenheit and Celsius shall be scaled in 2°F increments and accurate to ±2°F in the intended range of use.

B. Food temperature measuring devices that are scaled only in Celsius shall be scaled in 1°C increments accurate to ±1°C in the intended range of use.

2 VAC 5-585-1190. Temperature measuring devices; ambient air and water.

A. Ambient air and water temperature measuring devices that are scaled in Fahrenheit or dually scaled in Fahrenheit and Celsius and shall be designed to be easily readable and scaled in 3°F increments and accurate to ±3°F in the intended range of use.

B. Ambient air and water temperature measuring devices that are scaled only in Celsius shall be scaled in 1.5°C increments and accurate to ±1.5°C in the intended range of use.

2 VAC 5-585-1200. Pressure measuring devices, mechanical warewashing equipment.

Pressure measuring devices that display the pressures in the water supply line for the fresh hot water sanitizing rinse shall have increments of one pound per square inch (seven kilopascals) or smaller and shall be accurate to ± two pounds per square inch (± 14 kilopascals) in the 15-25 pounds per square inch (100-170 kilopascals) range.

2 VAC 5-585-1210. Ventilation hood systems, drip prevention.

Exhaust ventilation hood systems in food preparation and warewashing areas including components such as hoods, fans, guards, and ducting shall be designed to prevent grease or condensation from draining or dripping onto food, equipment, utensils, linens, and single-service and single-use articles.

2 VAC 5-585-1220. Equipment openings, closures and deflectors.

A. A cover or lid for equipment shall overlap the opening and be sloped to drain.

B. An opening located within the top of a unit of equipment that is designed for use with a cover or lid shall be flanged upward at least two-tenths of an inch (five millimeters).

C. Except as specified under subsection D of this section, fixed piping, temperature measuring devices, rotary shafts, and other parts extending into equipment shall be provided with a watertight joint at the point where the item enters the equipment.

D. If a watertight joint is not provided:

1. The piping, temperature measuring devices, rotary shafts, and other parts extending through the openings shall be equipped with an apron designed to deflect condensation, drips, and dust from openings into the food; and

2. The opening shall be flanged as specified under subsection B of this section.

2 VAC 5-585-1230. Dispensing equipment, protection of equipment and food.

In equipment that dispenses or vends liquid food or ice in unpackaged form:

1. The delivery tube, chute, orifice, and splash surfaces directly above the container receiving the food shall be designed in a manner, such as with barriers, baffles, or drip aprons, so that drips from condensation and splash are diverted from the opening of the container receiving the food;

2. The delivery tube, chute, and orifice shall be protected from manual contact such as by being recessed;

3. The delivery tube or chute and orifice of equipment used to vend liquid food or ice in unpackaged form to self-service consumers shall be designed so that the delivery tube or chute and orifice are protected from dust, insects, rodents, and other contamination by a self-closing door if the equipment is:

a. Located in an outside area that does not otherwise afford the protection of an enclosure against the rain, windblown debris, insects, rodents, and other contaminants that are present in the environment; or

b. Available for self-service during hours when it is not under the full-time supervision of a food employee; and

4. The dispensing equipment actuating lever or mechanism and filling device of consumer self-service beverage dispensing equipment shall be designed to prevent contact with the lip-contact surface of glasses or cups that are refilled.

2 VAC 5-585-1240. Vending machine, vending stage closure.

The dispensing compartment of a vending machine including a machine that is designed to vend prepackaged snack food that is not potentially hazardous such as chips, party mixes, and pretzels shall be equipped with a self-closing door or cover if the machine is:

1. Located in an outside area that does not otherwise afford the protection of an enclosure against the rain, windblown debris, insects, rodents, and other contaminants that are present in the environment; or

2. Available for self-service during hours when it is not under the full-time supervision of a food employee.

2 VAC 5-585-1250. Bearings and gear boxes, leakproof.

Equipment containing bearings and gears that require lubricants shall be designed and constructed so that the lubricant cannot leak, drip, or be forced into food or onto food-contact surfaces.

2 VAC 5-585-1260. Beverage tubing, separation.

Beverage tubing and cold-plate beverage cooling devices may not be installed in contact with stored ice. This section does not apply to cold plates that are constructed integrally with an ice storage bin.

2 VAC 5-585-1270. Ice units, separation of drains.

Liquid waste drain lines may not pass through an ice machine or ice storage bin.

2 VAC 5-585-1280. Condenser unit, separation.

If a condenser unit is an integral component of equipment, the condenser unit shall be separated from the food and food storage space by a dustproof barrier.

2 VAC 5-585-1290. Can openers on vending machines.

Cutting or piercing parts of can openers on vending machines shall be protected from manual contact, dust, insects, rodents, and other contamination.

2 VAC 5-585-1300. Molluscan shellfish tanks.

A. Except as specified under subsection B of this section, molluscan shellfish life support system display tanks may not be used to display shellfish that are offered for human consumption.

B. Molluscan shellfish life-support system display tanks that are used to store and display shellfish that are offered for human consumption shall be operated and maintained in accordance with a variance granted by the department as specified in 2 VAC 5-585-3540 and a HACCP plan that:

1. Is submitted by the person in charge and approved as specified under 2-VAC 5-585-3541; and

2. Ensures that:

a. Water used with fish other than molluscan shellfish does not flow into the molluscan tank;

b. The safety and quality of the shellfish as they were received are not compromised by the use of the tank; and

c. The identity of the source of the shellstock is retained as specified under 2 VAC 5-585-440.

2 VAC 5-585-1310. Vending machines, automatic shutoff.*

A. A machine vending potentially hazardous food shall have an automatic control that prevents the machine from vending food:

1. If there is a power failure, mechanical failure, or other condition that results in an internal machine temperature that cannot maintain food temperatures as specified under Part III (2 VAC 5-585-260 et seq.) of this chapter; and

2. If a condition specified under subdivision 1 of this subsection occurs, until the machine is serviced and restocked with food that has been maintained at temperatures specified under Part III.

B. When the automatic shutoff within a machine vending potentially hazardous food is activated:

Proposed Regulations

1. In a refrigerated vending machine, the ambient temperature may not exceed 41°F (5°C) or 45°F (7°C) as specified under 2 VAC 5-585-820 A 2 for more than 30 minutes immediately after the machine is filled, serviced, or restocked; or

2. In a hot holding vending machine, the ambient temperature may not be less than 135°F (57°C) for more than 120 minutes immediately after the machine is filled, serviced, or restocked.

2 VAC 5-585-1320. Temperature measuring devices.

A. In a mechanically refrigerated or hot food storage unit, the sensor of a temperature measuring device shall be located to measure the air temperature or a simulated product temperature in the warmest part of a mechanically refrigerated unit and in the coolest part of a hot food storage unit.

B. Except as specified in subsection C of this section, cold or hot holding equipment used for potentially hazardous food shall be designed to include and shall be equipped with at least one integral or affixed temperature measuring device that is located to allow easy viewing of the device's temperature display.

C. Subsection B of this section does not apply to equipment for which the placement of a temperature measuring device is not a practical means for measuring the ambient air surrounding the food because of the design, type, and use of the equipment, such as calrod units, heat lamps, cold plates, bainmaries, steam tables, insulated food transport containers, and salad bars.

D. Temperature measuring devices shall be designed to be easily readable.

E. Food temperature measuring devices and water temperature measuring devices on warewashing machines shall have a numerical scale, printed record, or digital readout in increments no greater than 2°F or 1°C in the intended range of use.

2 VAC 5-585-1330. Warewashing machine, data plate operating specifications.

A warewashing machine shall be provided with an easily accessible and readable data plate affixed to the machine by the manufacturer that indicates the machine's design and operating specifications including the:

1. Temperatures required for washing, rinsing, and sanitizing;
2. Pressure required for the fresh water sanitizing rinse unless the machine is designed to use only a pumped sanitizing rinse; and
3. Conveyor speed for conveyor machines or cycle time for stationary rack machines.

2 VAC 5-585-1340. Warewashing machines, internal baffles.

Warewashing machine wash and rinse tanks shall be equipped with baffles, curtains, or other means to minimize internal cross contamination of the solutions in wash and rinse tanks.

2 VAC 5-585-1350. Warewashing machines, temperature measuring devices.

A warewashing machine shall be equipped with a temperature measuring device that indicates the temperature of the water:

1. In each wash and rinse tank; and
2. As the water enters the hot water sanitizing final rinse manifold or in the chemical sanitizing solution tank.

2 VAC 5-585-1360. Manual warewashing equipment, heaters and baskets.

If hot water is used for sanitization in manual warewashing operations, the sanitizing compartment of the sink shall be:

1. Designed with an integral heating device that is capable of maintaining water at a temperature not less than 171°F (77°C); and
2. Provided with a rack or basket to allow complete immersion of equipment and utensils into the hot water.

2 VAC 5-585-1370. Warewashing machines, automatic dispensing of detergents and sanitizers.

A. A warewashing machine that is installed after the adoption of this regulation by the board shall be equipped to:

1. Automatically dispense detergents and sanitizers; and
2. Incorporate a visual means to verify that detergents and sanitizers are delivered or a visual or audible alarm to signal if the detergents and sanitizers are not delivered to the respective washing and sanitizing cycles.

B. Before January 1, 2012, existing warewashing equipment shall be upgraded or replaced to meet the requirements of subsection A of this section.

2 VAC 5-585-1380. Warewashing machines, flow pressure device.

A. Warewashing machines that provide a fresh hot water sanitizing rinse shall be equipped with a pressure gauge or similar device such as a transducer that measures and displays the water pressure in the supply line immediately before entering the warewashing machine.

B. If the flow pressure measuring device is upstream of the fresh hot water sanitizing rinse control valve, the device shall be mounted in a one-fourth inch or 6.4 millimeter Iron Pipe Size (IPS) valve.

C. Subsections A and B of this section do not apply to a machine that uses only a pumped or recirculated sanitizing rinse.

2 VAC 5-585-1390. Warewashing sinks and drainboards, self-draining.

Sinks and drainboards of warewashing sinks and machines shall be self-draining.

2 VAC 5-585-1400. Equipment compartments, drainage.

Equipment compartments that are subject to accumulation of moisture due to conditions such as condensation, food or

beverage drip, or water from melting ice shall be sloped to an outlet that allows complete draining.

2 VAC 5-585-1410. Vending machines, liquid waste products.

A. Vending machines designed to store beverages that are packaged in containers made from paper products shall be equipped with diversion devices and retention pans or drains for container leakage.

B. Vending machines that dispense liquid food in bulk shall be:

1. Provided with an internally mounted waste receptacle for the collection of drip, spillage, overflow, or other internal wastes; and

2. Equipped with an automatic shutoff device that will place the machine out of operation before the waste receptacle overflows.

C. Shutoff devices specified under subdivision B 2 of this section shall prevent water or liquid food from continuously running if there is a failure of a flow control device in the water or liquid food system or waste accumulation that could lead to overflow of the waste receptacle.

2 VAC 5-585-1420. Case lot handling equipment, movability.

Equipment, such as dollies, pallets, racks, and skids used to store and transport large quantities of packaged foods received from a supplier in a cased or overwrapped lot, shall be designed to be moved by hand or by conveniently available equipment such as hand trucks and forklifts.

2 VAC 5-585-1430. Vending machine doors and openings.

A. Vending machine doors and access opening covers to food and container storage spaces shall be tight-fitting so that the space along the entire interface between the doors or covers and the cabinet of the machine, if the doors or covers are in a closed position, is no greater than one-sixteenth inch or 1.5 millimeters by:

1. Being covered with louvers, screens, or materials that provide an equivalent opening of not greater than one-sixteenth inch or 1.5 millimeters. Screening of 12 mesh to one inch (12 or more mesh to 2.5 centimeters) meets this requirement;

2. Being effectively gasketed;

3. Having interface surfaces that are at least one-half inch wide or 13 millimeters; or

4. Jambs or surfaces used to form an L-shaped entry path to the interface.

B. Vending machine service connection openings through an exterior wall of a machine shall be closed by sealants, clamps, or grommets so that the openings are no larger than 1.5 millimeters or one-sixteenth inch.

2 VAC 5-585-1440. Food equipment, certification and classification.

Food equipment that is certified or classified for sanitation by an American National Standards Institute (ANSI)-accredited certification program will be deemed to comply with Articles 1 (2 VAC 5-585-960 et seq.) and 2 (2 VAC 5-585-1080 et seq.) of this part.

Article 3.
Numbers and Capacities.

2 VAC 5-585-1450. Cooling, heating, and holding capacities.

Equipment for cooling and heating food, and holding cold and hot food, shall be sufficient in number and capacity and capable of providing food temperatures as specified under Part III (2 VAC 5-585-260 et seq.) of this chapter.

2 VAC 5-585-1460. Manual warewashing, sink compartment requirements.

A. Except as specified in subsection C of this section, a sink with at least three compartments shall be provided for manually washing, rinsing, and sanitizing equipment and utensils.

B. Sink compartments shall be large enough to accommodate immersion of the largest equipment and utensils. If equipment or utensils are too large for the warewashing sink, a warewashing machine or alternative equipment as specified in subsection C of this section shall be used.

C. Alternative manual warewashing equipment may be used when there are special cleaning needs or constraints and its use is approved. Alternative manual warewashing equipment may include:

1. High-pressure detergent sprayers;

2. Low- or line-pressure spray detergent foamers;

3. Other task-specific cleaning equipment;

4. Brushes or other implements;

5. Two-compartment sinks as specified under subsections D and E of this section; or

6. Receptacles that substitute for the compartments of a multicompartment sink.

D. Before a two-compartment sink is used:

1. The operator shall have its use approved; and

2. The person in charge shall limit the number of kitchenware items cleaned and sanitized in the two-compartment sink, and shall limit warewashing to batch operations for cleaning kitchenware such as between cutting one type of raw meat and another or cleanup at the end of a shift, and shall:

a. Make up the cleaning and sanitizing solutions immediately before use and drain them immediately after use; and

b. Use a detergent-sanitizer to sanitize and apply the detergent-sanitizer in accordance with the manufacturer's

Proposed Regulations

label instructions and as specified under 2 VAC 5-585-1710; or

c. Use a hot water sanitization immersion step as specified under subdivision 3 of 2 VAC 5-585-1860.

E. A two-compartment sink may not be used for warewashing operations where cleaning and sanitizing solutions are used for a continuous or intermittent flow of kitchenware or tableware in an ongoing warewashing process.

2 VAC 5-585-1470. Drainboards.

Drainboards, utensil racks, or tables large enough to accommodate all soiled and cleaned items that may accumulate during hours of operation shall be provided for necessary utensil holding before cleaning and after sanitizing.

2 VAC 5-585-1480. Ventilation hood systems, adequacy.

Ventilation hood systems and devices shall be sufficient in number and capacity to prevent grease or condensation from collecting on walls and ceilings.

2 VAC 5-585-1490. Clothes washers and dryers.

A. Except as specified in subsection B of this section, if work clothes or linens are laundered on the premises, a mechanical clothes washer and dryer shall be provided and used.

B. If on-premises laundering is limited to wiping cloths intended to be used moist, or wiping cloths are air-dried as specified under 2 VAC 5-585-1970, a mechanical clothes washer and dryer need not be provided.

2 VAC 5-585-1500. Utensils, consumer self-service.

A food dispensing utensil shall be available for each container displayed at a consumer self-service unit such as a buffet or salad bar.

2 VAC 5-585-1510. Food temperature measuring devices.

A. Food temperature measuring devices shall be provided and readily accessible for use in ensuring attainment and maintenance of food temperatures as specified under Part III (2 VAC 5-585-260 et seq.) of this chapter.

B. A temperature measuring device with a suitable small-diameter probe that is designed to measure the temperature of thin masses shall be provided and readily accessible to accurately measure the temperature in thin foods such as meat patties and fish fillets.

2 VAC 5-585-1520. Temperature measuring devices, manual warewashing.

In manual warewashing operations, a temperature measuring device shall be provided and readily accessible for frequently measuring the washing and sanitizing temperatures.

2 VAC 5-585-1530. Sanitizing solutions, testing devices.

A test kit or other device that accurately measures the concentration in mg/L (ppm) of sanitizing solutions shall be provided and readily accessible for use.

Article 4. Location and Installation.

2 VAC 5-585-1540. Equipment, clothes washers and dryers, and storage cabinets, contamination prevention.

A. Except as specified in subsection B of this section, equipment, cabinets used for the storage of food, or cabinets used to store cleaned and sanitized equipment, utensils, laundered linens, and single-service and single-use articles may not be located:

1. In locker rooms;
2. In toilet rooms or vestibules;
3. In garbage rooms;
4. In mechanical rooms;
5. Under sewer lines that are not shielded to intercept potential drips;
6. Under leaking water lines including leaking automatic fire sprinkler heads or under lines on which water has condensed;
7. Under open stairwells; or
8. Under other sources of contamination.

B. A storage cabinet used for linens or single-service or single-use articles may be stored in a locker room.

C. If a mechanical clothes washer or dryer is provided, it shall be located only where there is no exposed food; clean equipment, utensils, and linens; unwrapped single-service and single-use articles; and so that the washer or dryer is protected from contamination.

2 VAC 5-585-1550. Fixed equipment, spacing or sealing.

A. Equipment that is fixed because it is not easily movable shall be installed so that it is:

1. Spaced to allow access for cleaning along the sides, behind, and above the equipment;
2. Spaced from adjoining equipment, walls, and ceilings a distance of not more than 1/32 inch or one millimeter; or
3. Sealed to adjoining equipment or walls, if the equipment is exposed to spillage or seepage.

B. Table-mounted equipment that is not easily movable shall be installed to allow cleaning of the equipment and areas underneath and around the equipment by being:

1. Sealed to the table; or
2. Elevated on legs as specified under 2 VAC 5-585-1560 D.

2 VAC 5-585-1560. Fixed equipment, elevation or sealing.

A. Except as specified in subsection B and C of this section, floor-mounted equipment that is not easily movable shall be sealed to the floor or elevated on legs that provide at least a six-inch (15-centimeter) clearance between the floor and the equipment.

B. If no part of the floor under the floor-mounted equipment is more than six inches (15 centimeters) from the point of

cleaning access, the clearance space may be only four inches (10 centimeters).

C. This section does not apply to display shelving units, display refrigeration units, and display freezer units located in the consumer shopping areas of a retail food store, if the floor under the units is maintained clean.

D. Except as specified in subsection E of this section, table-mounted equipment that is not easily movable shall be elevated on legs that provide at least a four-inch (10-centimeter) clearance between the table and the equipment.

E. The clearance space between the table and table-mounted equipment may be:

1. Three inches (7.5 centimeters) if the horizontal distance of the table top under the equipment is no more than 20 inches (50 centimeters) from the point of access for cleaning; or

2. Two inches (5 centimeters) if the horizontal distance of the table top under the equipment is no more than three inches (7.5 centimeters) from the point of access for cleaning.

Article 5.
Maintenance and Operation.

2 VAC 5-585-1570. Good repair and proper adjustment.

A. Equipment shall be maintained in a state of repair and condition that meets the requirements specified under Articles 1 (2 VAC 5-585-960 et seq.) and 2 (2 VAC 5-585-1080 et seq.) of this part. Unused or nonfunctioning equipment shall be removed from the premises.

B. Equipment components such as doors, seals, hinges, fasteners, and kick plates shall be kept intact, tight, and adjusted in accordance with manufacturer's specifications.

C. Cutting or piercing parts of can openers shall be kept sharp to minimize the creation of metal fragments that can contaminate food when the container is opened.

2 VAC 5-585-1580. Cutting surfaces.

Surfaces such as cutting blocks and boards that are subject to scratching and scoring shall be resurfaced if they can no longer be effectively cleaned and sanitized, or discarded if they are not capable of being resurfaced.

2 VAC 5-585-1590. Microwave ovens.

Microwave ovens shall meet the safety standards specified in 21 CFR 1030.10.

2 VAC 5-585-1600. Warewashing equipment, cleaning frequency.

A warewashing machine; the compartments of sinks, basins, or other receptacles used for washing and rinsing equipment, utensils, or raw foods, or laundering wiping cloths; and drainboards or other equipment used to substitute for drainboards as specified under 2 VAC 5-585-1470 shall be cleaned:

1. Before use;

2. Throughout the day at a frequency necessary to prevent recontamination of equipment and utensils and to ensure that the equipment performs its intended function; and

3. If used, at least every 24 hours.

2 VAC 5-585-1610. Warewashing machines, manufacturers' operating instructions.

A. A warewashing machine and its auxiliary components shall be operated in accordance with the machine's data plate and other manufacturer's instructions.

B. A warewashing machine's conveyor speed or automatic cycle times shall be maintained accurately timed in accordance with manufacturer's specifications.

2 VAC 5-585-1620. Warewashing sinks, use limitation.

A. A warewashing sink may not be used for handwashing as specified under 2-VAC 5-585-170.

B. If a warewashing sink is used to wash wiping cloths, wash produce, or thaw food, the sink shall be cleaned as specified under 2 VAC 5-585-1600 before and after each time it is used to wash wiping cloths or wash produce or thaw food. Sinks used to wash or thaw food shall be sanitized as specified under Article 7 (2 VAC 5-585-1880 et seq.) of this part before and after using the sink to wash produce or thaw food.

2 VAC 5-585-1630. Warewashing equipment, cleaning agents.

When used for warewashing, the wash compartment of a sink, mechanical warewasher, or wash receptacle of alternative manual warewashing equipment as specified in 2 VAC 5-585-1460 C, shall contain a wash solution of soap, detergent, acid cleaner, alkaline cleaner, degreaser, abrasive cleaner, or other cleaning agent according to the cleaning agent manufacturer's label instructions.

2 VAC 5-585-1640. Warewashing equipment, clean solutions.

The wash, rinse, and sanitize solutions shall be maintained clean.

2 VAC 5-585-1650. Manual warewashing equipment, wash solution temperature.

The temperature of the wash solution in manual warewashing equipment shall be maintained at not less than 110°F (43°C) or the temperature specified on the cleaning agent manufacturer's label instructions.

2 VAC 5-585-1660. Mechanical warewashing equipment, wash solution temperature.

A. The temperature of the wash solution in spray type warewashers that use hot water to sanitize may not be less than:

1. For a stationary rack, single temperature machine, 165°F (74°C);

2. For a stationary rack, dual temperature machine, 150°F (66°C);

Proposed Regulations

3. For a single tank, conveyor, dual temperature machine, 160°F (71°C); or

4. For a multitank, conveyor, multitemperature machine, 150°F (66°C).

B. The temperature of the wash solution in spray-type warewashers that use chemicals to sanitize may not be less than 120°F (49°C).

2 VAC 5-585-1670. Manual warewashing equipment, hot water sanitization temperatures.*

If immersion in hot water is used for sanitizing in a manual operation, the temperature of the water shall be maintained at 171°F (77°C) or above.

2 VAC 5-585-1680. Mechanical warewashing equipment, hot water sanitization temperatures.

A. Except as specified in subsection B of this section, in a mechanical operation, the temperature of the fresh hot water sanitizing rinse as it enters the manifold may not be more than 194°F (90°C), or less than:

1. For a stationary rack, single temperature machine, 165°F (74°C); or

2. For all other machines, 180°F (82°C).

B. The maximum temperature specified under subsection A of this section does not apply to the high pressure and temperature systems with wand-type, hand-held, spraying devices used for the in-place cleaning and sanitizing of equipment such as meat saws.

2 VAC 5-585-1690. Mechanical warewashing equipment, sanitization pressure.

The flow pressure of the fresh hot water sanitizing rinse in a warewashing machine may not be less than 15 pounds per square inch (100 kilopascals) or more than 25 pounds per square inch (170 kilopascals) as measured in the water line immediately downstream or upstream from the fresh hot water sanitizing rinse control valve.

2 VAC 5-585-1700. Manual and mechanical warewashing equipment, chemical sanitization - temperature, pH, concentration, and hardness.*

A chemical sanitizer used in a sanitizing solution for a manual or mechanical operation at exposure times specified under subdivision 3 of 2 VAC 5-585-1900 shall be listed in 21 CFR 178.1010, Sanitizing Solutions, shall be used in accordance with the EPA-approved manufacturer's label use instructions, and shall be used as follows:

1. A chlorine solution shall have a minimum temperature based on the concentration and pH of the solution as listed in the following chart;

Minimum Concentration mg/L (ppm)	Minimum Temperature	
	pH 10 or less °F (°C)	pH 8 or less °F (°C)
25	120 (49)	120 (49)
50	100 (38)	75 (24)

100	55 (13)	55 (13)
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2. An iodine solution shall have a:

a. Minimum temperature of 75°F (24°C);

b. pH of 5.0 or less or a pH no higher than the level for which the manufacturer specifies the solution is effective; and

c. Concentration between 12.5 mg/L(ppm) and 25 mg/L (ppm);

3. A quaternary ammonium compound solution shall:

a. Have a minimum temperature of 75°F (24°C);

b. Have a concentration as specified under 2 VAC 5-585-3380 and as indicated by the manufacturer's use directions included in the labeling; and

c. Be used only in water with 500 mg/L hardness or less or in water having a hardness no greater than specified by the manufacturer's label;

4. If another solution of a chemical specified under subdivisions 1 through 3 of this section is used, the person in charge shall demonstrate to the department that the solution achieves sanitization and the use of the solution shall be approved; or

5. If a chemical sanitizer other than chlorine, iodine, or a quaternary ammonium compound is used, it shall be applied in accordance with the manufacturer's use directions included in the labeling.

2 VAC 5-585-1710. Manual warewashing equipment, chemical sanitization using detergent-sanitizers.

If a detergent-sanitizer is used to sanitize in a cleaning and sanitizing procedure where there is no distinct water rinse between the washing and sanitizing steps, the agent applied in the sanitizing step shall be the same detergent-sanitizer that is used in the washing step.

2 VAC 5-585-1720. Warewashing equipment, determining chemical sanitizer concentration.

Concentration of the sanitizing solution shall be accurately determined by using a test kit or other device.

2 VAC 5-585-1730. Good repair and calibration.

A. Utensils shall be maintained in a state of repair or condition that complies with the requirements specified under Articles 1 (2 VAC 5-585-960 et seq.) and 2 (2 VAC 5-585-1080 et seq.) of this part or shall be discarded.

B. Food temperature measuring devices shall be calibrated in accordance with manufacturer's specifications as necessary to ensure their accuracy.

C. Ambient air temperature, water pressure, and water temperature measuring devices shall be maintained in good repair and be accurate within the intended range of use.

2 VAC 5-585-1740. Single-service and single-use articles, required use.*

A food establishment without facilities specified under Articles 6 (2 VAC 5-585-1770 et seq.) and 7 (2 VAC 5-585-1880 et seq.) of this part for cleaning and sanitizing kitchenware and tableware shall provide only single-use kitchenware, single-service articles, and single-use articles for use by food employees and single-service articles for use by consumers.

2 VAC 5-585-1750. Single-service and single-use articles, use limitation.

- A. Single-service and single-use articles may not be reused.
- B. The bulk milk container dispensing tube shall be cut on the diagonal leaving no more than one inch protruding from the chilled dispensing head.

2 VAC 5-585-1760. Shells, use limitation.

Mollusk and crustacea shells may not be used more than once as serving containers.

Article 6.
Cleaning of Equipment and Utensils.

2 VAC 5-585-1770. Equipment, food-contact surfaces, nonfood-contact surfaces, and utensils.*

- A. Equipment food-contact surfaces and utensils shall be clean to sight and touch.
- B. The food-contact surfaces of cooking equipment and pans shall be kept free of encrusted grease deposits and other soil accumulations.^N
- C. Nonfood-contact surfaces of equipment shall be kept free of an accumulation of dust, dirt, food residue, and other debris.^N

2 VAC 5-585-1780. Equipment food-contact surfaces and utensils.*

- A. Equipment food-contact surfaces and utensils shall be cleaned:
 - 1. Except as specified in subsection B of this section, before each use with a different type of raw animal food such as beef, fish, lamb, pork, or poultry;
 - 2. Each time there is a change from working with raw foods to working with ready-to-eat foods;
 - 3. Between uses with raw fruits and vegetables and with potentially hazardous food;
 - 4. Before using or storing a food temperature measuring device; and
 - 5. At any time during the operation when contamination may have occurred.
- B. Subdivision A 1 of this section does not apply if the food contact surface or utensil is in contact with a succession of different raw animal foods each requiring a higher cooking temperature as specified under 2 VAC 5-585-700 than the previous food, such as preparing raw fish followed by cutting raw poultry on the same cutting board.

C. Except as specified in subsection D of this section, if used with potentially hazardous food, equipment food-contact surfaces and utensils shall be cleaned throughout the day at least every four hours.

D. Surfaces of utensils and equipment contacting potentially hazardous food may be cleaned less frequently than every four hours if:

- 1. In storage, containers of potentially hazardous food and their contents are maintained at temperatures specified under Part III (2 VAC 5-585-260 et seq.) of this chapter and the containers are cleaned when they are empty;
- 2. Utensils and equipment are used to prepare food in a refrigerated room or area that is maintained at one of the temperatures in the following chart and:
 - a. The utensils and equipment are cleaned at the frequency in the following chart that corresponds to the temperature; and

Temperature	Cleaning Frequency
41°F (5.0°C) or less	24 hours
>41°F - 45°F (>5.0°C - 7.2°C)	20 hours
>45°F - 50°F (>7.2°C - 10.0°C)	16 hours
>50°F - 55°F (>10.0°C - 12.8°C)	10 hours

- b. The cleaning frequency based on the ambient temperature of the refrigerated room or area is documented in the food establishment.
- 3. Containers in serving situations such as salad bars, delis, and cafeteria lines hold ready-to-eat potentially hazardous food that is maintained at the temperatures specified under Part III, are intermittently combined with additional supplies of the same food that is at the required temperature, and the containers are cleaned at least every 24 hours;
- 4. Temperature measuring devices are maintained in contact with food, such as when left in a container of deli food or in a roast, held at temperatures specified under Part III;
- 5. Equipment is used for storage of packaged or unpackaged food such as a reach-in refrigerator and the equipment is cleaned at a frequency necessary to preclude accumulation of soil residues; or
- 6. The cleaning schedule is approved based on consideration of:
 - a. Characteristics of the equipment and its use;
 - b. The type of food involved;
 - c. The amount of food residue accumulation; and
 - d. The temperature at which the food is maintained during the operation and the potential for the rapid and progressive multiplication of pathogenic or toxigenic microorganisms that are capable of causing foodborne disease; or

Proposed Regulations

7. In-use utensils are intermittently stored in a container of water in which the water is maintained at 135°F (57°C) or more and the utensils and container are cleaned at least every 24 hours or at a frequency necessary to preclude accumulation of soil residues.

E. Except when dry cleaning methods are used as specified under 2 VAC 5-585-1810, surfaces of utensils and equipment contacting food that is not potentially hazardous shall be cleaned.^N

1. At any time when contamination may have occurred;
2. At least every 24 hours for iced tea dispensers and consumer self-service utensils such as tongs, scoops, or ladles;
3. Before restocking consumer self-service equipment and utensils such as condiment dispensers and display containers;
4. Equipment such as ice bins and beverage dispensing nozzles and enclosed components of equipment such as ice makers, beverage dispensing lines or tubes, coffee bean grinders, and water vending equipment:

- a. At a frequency specified by the manufacturer; or
- b. Absent manufacturer specifications, at a frequency necessary to preclude accumulation of soil or mold.

2 VAC 5-585-1790. Cooking and baking equipment.

A. The food-contact surfaces of in-use cooking and baking equipment shall be cleaned at least every 24 hours. This section does not apply to hot oil cooking and filtering equipment if it is cleaned as specified in 2 VAC 5-585-1780 D 6.

B. The cavities and door seals of microwave ovens shall be cleaned at least every 24 hours by using the manufacturer's recommended cleaning procedure.

2 VAC 5-585-1800. Nonfood-contact surfaces.

Nonfood-contact surfaces of equipment shall be cleaned at a frequency necessary to preclude accumulation of soil residues.

2 VAC 5-585-1810. Dry cleaning.

A. If used, dry cleaning methods such as brushing, scraping, and vacuuming shall contact only surfaces that are soiled with dry food residues that are not potentially hazardous.

B. Cleaning equipment used in dry cleaning food-contact surfaces may not be used for any other purpose.

2 VAC 5-585-1820. Precleaning.

A. Food debris on equipment and utensils shall be scraped over a waste disposal unit or garbage receptacle or shall be removed in a warewashing machine with a prewash cycle.

B. If necessary for effective cleaning, utensils and equipment shall be preflushed, presoaked, or scrubbed with abrasives.

2 VAC 5-585-1830. Loading of soiled items, warewashing machines.

Soiled items to be cleaned in a warewashing machine shall be loaded into racks, trays, or baskets or onto conveyors in a position that:

1. Exposes the items to the unobstructed spray from all cycles; and
2. Allows the items to drain.

2 VAC 5-585-1840. Wet cleaning.

A. Equipment food-contact surfaces and utensils shall be effectively washed to remove or completely loosen soils by using the manual or mechanical means necessary such as the application of detergents containing wetting agents and emulsifiers; acid, alkaline, or abrasive cleaners; hot water; brushes; scouring pads; high-pressure sprays; or ultrasonic devices.

B. The washing procedures selected shall be based on the type and purpose of the equipment or utensil, and on the type of soil to be removed.

2 VAC 5-585-1850. Washing, procedures for alternative manual warewashing equipment.

If washing in sink compartments or a warewashing machine is impractical such as when the equipment is fixed or the utensils are too large, washing shall be done by using alternative manual warewashing equipment as specified in 2 VAC 5-585-1460 C in accordance with the following procedures:

1. Equipment shall be disassembled as necessary to allow access of the detergent solution to all parts;
2. Equipment components and utensils shall be scraped or rough cleaned to remove food particle accumulation; and
3. Equipment and utensils shall be washed as specified under 2 VAC 5-585-1840 A.

2 VAC 5-585-1860. Rinsing procedures.

Washed utensils and equipment shall be rinsed so that abrasives are removed and cleaning chemicals are removed or diluted through the use of water or a detergent-sanitizer solution by using one of the following procedures:

1. Use of a distinct, separate water rinse after washing and before sanitizing if using:
 - a. A three-compartment sink;
 - b. Alternative manual warewashing equipment equivalent to a three-compartment sink as specified in 2 VAC 5-585-1460 C; or
 - c. A three-step washing, rinsing, and sanitizing procedure in a warewashing system for CIP equipment;
2. Use of a detergent-sanitizer as specified under 2 VAC 5-585-1710 if using:

a. Alternative warewashing equipment as specified in 2 VAC 5-585-1460 C that is approved for use with a detergent-sanitizer; or

b. A warewashing system for CIP equipment;

3. Use of a nondistinct water rinse that is integrated in the hot water sanitization immersion step of a two-compartment sink operation;

4. If using a warewashing machine that does not recycle the sanitizing solution as specified under subdivision 5 of this section, or alternative manual warewashing equipment such as sprayers, use of a nondistinct water rinse that is:

a. Integrated in the application of the sanitizing solution; and

b. Wasted immediately after each application; or

5. If using a warewashing machine that recycles the sanitizing solution for use in the next wash cycle, use of a nondistinct water rinse that is integrated in the application of the sanitizing solution.

2 VAC 5-585-1870. Returnables, cleaning for refilling.*

A. Except as specified in subsections B and C of this section, returned empty containers intended for cleaning and refilling with food shall be cleaned and refilled in a regulated food processing plant.

B. A food-specific container for beverages may be refilled at a food establishment if:

1. Only a beverage that is not a potentially hazardous food is used as specified under 2 VAC 5-585-600 A;

2. The design of the container and of the rinsing equipment and the nature of the beverage, when considered together, allow effective cleaning at home or in the food establishment;

3. Facilities for rinsing before refilling returned containers with fresh, hot water that is under pressure and not recirculated are provided as part of the dispensing system;

4. The consumer-owned container returned to the food establishment for refilling is refilled for sale or service only to the same consumer; and

5. The container is refilled by:

a. An employee of the food establishment; or

b. The owner of the container if the beverage system includes a contamination-free transfer process that cannot be bypassed by the container owner.

C. Consumer-owned containers that are not food-specific may be filled at a water vending machine or system.

Article 7.

Sanitization of Equipment and Utensils.

2 VAC 5-585-1880. Food-contact surfaces and utensils.

Equipment food-contact surfaces and utensils shall be sanitized.

2 VAC 5-585-1890. Before use after cleaning.*

Utensils and food-contact surfaces of equipment shall be sanitized before use after cleaning.

2 VAC 5-585-1900. Hot water and chemical.*

After being cleaned, equipment food-contact surfaces and utensils shall be sanitized in:

1. Hot water manual operations by immersion for at least 30 seconds as specified under 2 VAC 5-585-1670;

2. Hot water mechanical operations by being cycled through equipment that is set up as specified under 2 VAC 5-585-1610, 2 VAC 5-585-1680, and 2 VAC 5-585-1690 and achieving a utensil surface temperature of 160°F (71°C) as measured by an irreversible registering temperature indicator; or

3. Chemical manual or mechanical operations, including the application of sanitizing chemicals by immersion, manual swabbing, brushing, or pressure spraying methods, using a solution as specified under 2 VAC 5-585-1700 by providing:

a. Except as specified under subdivision 3 b of this section, an exposure time of at least 10 seconds for a chlorine solution specified under subdivision 1 of 2 VAC 5-585-1700;

b. An exposure time of at least 7 seconds for a chlorine solution of 50 mg/L that has a pH of 10 or less and a temperature of at least 100°F (38°C) or a pH of 8 or less and a temperature of at least 75°F (24°C);

c. An exposure time of at least 30 seconds for other chemical sanitizing solutions; or

d. An exposure time used in relationship with a combination of temperature, concentration, and pH that, when evaluated for efficacy, yields sanitization as defined in 2 VAC 5-585-40.

Article 8. Laundering.

2 VAC 5-585-1910. Clean linens.

Clean linens shall be free from food residues and other soiling matter.

2 VAC 5-585-1920. Specifications.

A. Linens that do not come in direct contact with food shall be laundered between operations if they become wet, sticky, or visibly soiled.

B. Cloth gloves used as specified in 2 VAC 5-585-580 D shall be laundered before being used with a different type of raw animal food such as beef, lamb, pork, and fish.

C. Linens and napkins that are used as specified under 2 VAC 5-585-560 and cloth napkins shall be laundered between each use.

D. Wet wiping cloths shall be laundered daily.

E. Dry wiping cloths shall be laundered as necessary to prevent contamination of food and clean serving utensils.

Proposed Regulations

2 VAC 5-585-1930. Storage of soiled linens.

Soiled linens shall be kept in clean, nonabsorbent receptacles or clean, washable laundry bags and stored and transported to prevent contamination of food, clean equipment, clean utensils, and single-service and single-use articles.

2 VAC 5-585-1940. Mechanical washing.

A. Except as specified in subsection B of this section, linens shall be mechanically washed.

B. In food establishments in which only wiping cloths are laundered as specified in 2 VAC 5-585-1490 B, the wiping cloths may be laundered in a mechanical washer, sink designated only for laundering wiping cloths, or a warewashing or food preparation sink that is cleaned as specified under 2 VAC 5-585-1600.

2 VAC 5-585-1950. Use of laundry facilities.

A. Except as specified in subsection B of this section, laundry facilities on the premises of a food establishment shall be used only for the washing and drying of items used in the operation of the establishment.

B. Separate laundry facilities located on the premises for the purpose of general laundering such as for institutions providing boarding and lodging may also be used for laundering food establishment items.

Article 9.

Protection of Clean Items.

2 VAC 5-585-1960. Equipment and utensils, air-drying required.

After cleaning and sanitizing, equipment and utensils:

1. Shall be air dried or used after adequate draining as specified in 21 CFR 178.1010(a) before contact with food; and
2. May not be cloth dried except that utensils that have been air-dried may be polished with cloths that are maintained clean and dry.

2 VAC 5-585-1970. Wiping cloths, air-drying locations.

Wiping cloths laundered in a food establishment that does not have a mechanical clothes dryer as specified in 2 VAC 5-585-1490 B shall be air-dried in a location and in a manner that prevents contamination of food, equipment, utensils, linens, and single-service and single-use articles and the wiping cloths. This section does not apply if wiping cloths are stored after laundering in a sanitizing solution as specified under 2 VAC 5-585-1700.

2 VAC 5-585-1980. Food-contact surfaces.

Lubricants shall be applied to food-contact surfaces that require lubrication in a manner that does not contaminate food-contact surfaces.

2 VAC 5-585-1990. Equipment.

Equipment shall be reassembled so that food-contact surfaces are not contaminated.

2 VAC 5-585-2000. Equipment, utensils, linens, and single-service and single-use articles.

A. Except as specified in subsection D of this section, cleaned equipment and utensils, laundered linens, and single-service and single-use articles shall be stored:

1. In a clean, dry location;
2. Where they are not exposed to splash, dust, or other contamination; and
3. At least six inches (15 cm) above the floor.

B. Clean equipment and utensils shall be stored as specified under subsection A of this section and shall be stored:

1. In a self-draining position that allows air drying; and
2. Covered or inverted.

C. Single-service and single-use articles shall be stored as specified under subsection A of this section and shall be kept in the original protective package or stored by using other means that afford protection from contamination until used.

D. Items that are kept in closed packages may be stored less than six inches (15 cm) above the floor on dollies, pallets, racks, and skids that are designed as provided under 2 VAC 5-585-1420.

2 VAC 5-585-2010. Prohibitions.

A. Except as specified in subsection B of this section, cleaned and sanitized equipment, utensils, laundered linens, and single-service and single-use articles may not be stored:

1. In locker rooms;
2. In toilet rooms or vestibules;
3. In garbage rooms;
4. In mechanical rooms;
5. Under sewer lines that are not shielded to intercept potential drips;
6. Under leaking water lines including leaking automatic fire sprinkler heads or under lines on which water has condensed;
7. Under open stairwells; or
8. Under other sources of contamination.

B. Laundered linens and single-service and single-use articles that are packaged or in a facility such as a cabinet may be stored in a locker room.

2 VAC 5-585-2020. Kitchenware and tableware.

A. Single-service and single-use articles and cleaned and sanitized utensils shall be handled, displayed, and dispensed so that contamination of food- and lip-contact surfaces is prevented.

B. Knives, forks, and spoons that are not prewrapped shall be presented so that only the handles are touched by employees and by consumers if consumer self-service is provided.

C. Except as specified under subsection B of this section, single-service articles that are intended for food- or lip-contact shall be furnished for consumer self-service with the original individual wrapper intact or from an approved dispenser.

2 VAC 5-585-2030. Soiled and clean tableware.

Soiled tableware shall be removed from consumer eating and drinking areas and handled so that clean tableware is not contaminated.

2 VAC 5-585-2040. Preset tableware.

If tableware is preset:

1. It shall be protected from contamination by being wrapped, covered, or inverted;
2. Exposed, unused settings shall be removed when a consumer is seated; or
3. Exposed, unused settings shall be cleaned and sanitized before further use if the settings are not removed when a consumer is seated.

PART V.
WATER, PLUMBING, AND WASTE.

Article 1.
Water.

2 VAC 5-585-2050. Approved system.*

Drinking water shall be obtained from an approved source that is:

1. A public water system; or
2. A nonpublic water system that is constructed, maintained, and operated according to law.

2 VAC 5-585-2060. System flushing and disinfection.*

A drinking water system shall be flushed and disinfected before being placed in service after construction, repair, or modification and after an emergency situation, such as a flood, that may introduce contaminants to the system.

2 VAC 5-585-2070. Bottled drinking water.*

Bottled drinking water used or sold in a food establishment shall be obtained from approved sources in accordance with 21 CFR Part 129, Processing and Bottling of Bottled Drinking Water.

2 VAC 5-585-2080. Quality standards.*

Except as specified under 2 VAC 5-585-2090:

1. Water from a public water system shall meet the applicable standards found in the Virginia Waterworks Regulations (12 VAC 5-590).
2. Water from a nonpublic water system shall meet state drinking water quality standards.

2 VAC 5-585-2090. Nondrinking water.*

A. A nondrinking water supply shall be used only if its use is approved.

B. Nondrinking water shall be used only for nonculinary purposes such as air conditioning, nonfood equipment cooling, fire protection, and irrigation.

2 VAC 5-585-2100. Sampling.

Except when used as specified under 2 VAC 5-585-2090, water from a nonpublic water system shall be sampled and tested at least annually and as required by state water quality regulations.

2 VAC 5-585-2110. Sample report.

The most recent sample report for the nonpublic water system shall be retained on file in the food establishment or the report shall be maintained as specified by state water quality regulations.

2 VAC 5-585-2120. Capacity.*

A. The water source and system shall be of sufficient capacity to meet the water demands of the food establishment.

B. Hot water generation and distribution systems shall be sufficient to meet the peak hot water demands throughout the food establishment.

2 VAC 5-585-2130. Pressure.

Water under pressure shall be provided to all fixtures, equipment, and nonfood equipment that are required to use water except that water supplied as specified under subdivisions 1 and 2 of 2 VAC 5-585-2160 to a temporary food establishment or in response to a temporary interruption of a water supply need not be under pressure.

2 VAC 5-585-2140. (Reserved.)

2 VAC 5-585-2150. Distribution, delivery, and retention system.

Water shall be received from the source through the use of:

1. An approved public water main; or
2. One or more of the following that shall be constructed, maintained, and operated according to law:
 - a. Nonpublic water main, water pumps, pipes, hoses, connections, and other appurtenances;
 - b. Water transport vehicles; and
 - c. Water containers.

2 VAC 5-585-2160. Alternative water supply.

Water meeting the requirements specified under 2 VAC 5-585-2050 through 2 VAC 5-585-2130 shall be made available for a mobile facility, for a temporary food establishment without a permanent water supply, and for a food establishment with a temporary interruption of its water supply through:

1. A supply of containers of commercially bottled drinking water;
2. One or more closed portable water containers;
3. An enclosed vehicular water tank;

Proposed Regulations

- 4. An on-premises water storage tank; or
- 5. Piping, tubing, or hoses connected to an adjacent approved source.

Article 2.
Plumbing System.

2 VAC 5-585-2170. Approved materials.*

A. A plumbing system and hoses conveying water shall be constructed and repaired with approved materials according to law.

B. A water filter shall be made of safe materials.

2 VAC 5-585-2180. Approved system and cleanable fixtures.*

A. A plumbing system shall be designed, constructed, and installed according to law.

B. A plumbing fixture such as a handwashing lavatory, toilet, or urinal shall be easily cleanable.^N

2 VAC 5-585-2190. Handwashing facility, installation.

A. A handwashing lavatory shall be equipped to provide water at a temperature of at least 100°F (38°C) through a mixing valve or combination faucet.

B. A steam mixing valve may not be used at a handwashing lavatory.

C. A self-closing, slow-closing, or metering faucet shall provide a flow of water for at least 15 seconds without the need to reactivate the faucet.

2 VAC 5-585-2200. Backflow prevention, air gap.*

An air gap between the water supply inlet and the flood level rim of the plumbing fixture, equipment, or nonfood equipment shall be at least twice the diameter of the water supply inlet and may not be less than one inch (25 mm).

2 VAC 5-585-2210. Backflow prevention device, design standard.

A backflow or backsiphonage prevention device installed on a water supply system shall comply with the Virginia Statewide Building Code (13 VAC 5-63) for construction, installation, maintenance, inspection, and testing for that specific application and type of device.

2 VAC 5-585-2220. Conditioning device, design.

A water filter, screen, and other water conditioning device installed on water lines shall be designed to facilitate disassembly for periodic servicing and cleaning. A water filter element shall be of the replaceable type.

2 VAC 5-585-2230. Handwashing facilities.*

A. Except as specified in subsections B and C of this section, at least one handwashing lavatory, or the number of handwashing lavatories necessary for their convenient use by employees in areas specified under 2 VAC 5-585-2280, and not fewer than the number of handwashing lavatories required by law shall be provided.

B. If approved and capable of removing the types of soils encountered in the food operations involved, automatic handwashing facilities may be substituted for handwashing lavatories in a food establishment that has at least one handwashing lavatory.

C. If approved, when food exposure is limited and handwashing lavatories are not conveniently available, such as in some mobile or temporary food establishments or at some vending machine locations, employees may use chemically-treated towelettes for handwashing.

2 VAC 5-585-2240. Toilets and urinals.*

At least one toilet and not fewer than the toilets required by law shall be provided. If authorized by law and urinals are substituted for toilets, the substitution shall be done as specified in law.

2 VAC 5-585-2250. Service sink.

At least one service sink or one curbed cleaning facility equipped with a floor drain shall be provided and conveniently located for the cleaning of mops or similar wet floor cleaning tools and for the disposal of mop water and similar liquid waste.

2 VAC 5-585-2260. Backflow prevention device, when required.*

A plumbing system shall be installed to preclude backflow of a solid, liquid, or gas contaminant into the water supply system at each point of use at the food establishment, including on a hose bibb (threaded faucet) if a hose is attached or on a hose bibb if a hose is not attached and backflow prevention is required by law by:

1. Providing an air gap as specified under 2 VAC 5-585-2200; or
2. Installing an approved backflow prevention device as specified under 2 VAC 5-585-2210.

2 VAC 5-585-2270. Backflow prevention device, carbonator.*

A. If not provided with an air gap as specified under 2 VAC 5-585-2200, a double check valve with an intermediate vent preceded by a screen of not less than 100 mesh to one inch (100 mesh to 25.4mm) shall be installed upstream from a carbonating device and downstream from any copper in the water supply line.

B. A single or double check valve attached to the carbonator need not be of the vented type if an air gap or vented backflow prevention device has been otherwise provided as specified under subsection A of this section.

2 VAC 5-585-2280. Handwashing facilities.*

A handwashing facility shall be located:

1. To be readily accessible for use by employees in food preparation, food dispensing, and warewashing areas; and
2. In, or immediately adjacent to, toilet rooms.

2 VAC 5-585-2290. Backflow prevention device, location.

A backflow prevention device shall be located so that it may be serviced and maintained.

2 VAC 5-585-2300. Conditioning device, location.

A water filter, screen, and other water conditioning device installed on water lines shall be located to facilitate disassembly for periodic servicing and cleaning.

2 VAC 5-585-2310. Using a handwashing facility.

A. A handwashing facility shall be maintained so that it is accessible at all times for employee use.

B. A handwashing facility may not be used for purposes other than handwashing.

C. An automatic handwashing facility shall be used in accordance with manufacturer's instructions.

2 VAC 5-585-2320. Prohibiting a cross connection.*

A. Except as specified in 9 CFR 308.3(d) for firefighting, a person may not create a cross connection by connecting a pipe or conduit between the drinking water system and a nondrinking water system or a water system of unknown quality.

B. The piping of a nondrinking water system shall be durably identified so that it is readily distinguishable from piping that carries drinking water.^N

2 VAC 5-585-2330. Scheduling inspection and service for a water system device.

A device such as a water treatment device or backflow preventer shall be scheduled for inspection and service, in accordance with manufacturer's instructions and as necessary to prevent device failure based on local water conditions, and records demonstrating inspection and service shall be maintained by the person in charge.

2 VAC 5-585-2340. Water reservoir of fogging devices, cleaning.*

A. A reservoir that is used to supply water to a device such as a produce fogger shall be:

1. Maintained in accordance with manufacturer's specifications; and
2. Cleaned in accordance with manufacturer's specifications or according to the procedures specified under subsection B of this section, whichever is more stringent.

B. Cleaning procedures shall include at least the following steps and shall be conducted at least once a week:

1. Draining and complete disassembly of the water and aerosol contact parts;
2. Brush-cleaning the reservoir, aerosol tubing, and discharge nozzles with a suitable detergent solution;
3. Flushing the complete system with water to remove the detergent solution and particulate accumulation; and

4. Rinsing by immersing, spraying, or swabbing the reservoir, aerosol tubing, and discharge nozzles with at least 50 mg/L (ppm) hypochlorite solution.

2 VAC 5-585-2350. System maintained in good repair.*

A plumbing system shall be:

1. Repaired according to law; and
2. Maintained in good repair.^S

Article 3.

Mobile Water Tank and Mobile Food Establishment Water Tank.

2 VAC 5-585-2360. Approved materials.

Materials that are used in the construction of a mobile water tank, mobile food establishment water tank, and appurtenances shall be:

1. Safe;
2. Durable, corrosion resistant, and nonabsorbent; and
3. Finished to have a smooth, easily cleanable surface.

2 VAC 5-585-2370. Enclosed system, sloped to drain.

A mobile water tank shall be:

1. Enclosed from the filling inlet to the discharge outlet; and
2. Sloped to an outlet that allows complete drainage of the tank.

2 VAC 5-585-2380. Inspection and cleaning port, protected and secured.

If a water tank is designed with an access port for inspection and cleaning, the opening shall be in the top of the tank and:

1. Flanged upward at least one-half inch (13 mm); and
2. Equipped with a port cover assembly that is:
 - a. Provided with a gasket and a device for securing the cover in place; and
 - b. Flanged to overlap the opening and sloped to drain.

2 VAC 5-585-2390. "V" type threads, use limitation.

A fitting with "V" type threads on a water tank inlet or outlet shall be allowed only when a hose is permanently attached.

2 VAC 5-585-2400. Tank vent, protected.

If provided, a water tank vent shall terminate in a downward direction and shall be covered with:

1. 16 mesh to one-inch (16 mesh to 25.4-mm) screen or equivalent when the vent is in a protected area; or
2. A protective filter when the vent is in an area that is not protected from windblown dirt and debris.

2 VAC 5-585-2410. Inlet and outlet, sloped to drain.

A. A water tank and its inlet and outlet shall be sloped to drain.

Proposed Regulations

B. A water tank inlet shall be positioned so that it is protected from contaminants such as waste discharge, road dust, oil, or grease.

2 VAC 5-585-2420. Hose, construction and identification.

A hose used for conveying drinking water from a water tank shall be:

- 1. Safe;*
- 2. Durable, corrosion resistant, and nonabsorbent;*
- 3. Resistant to pitting, chipping, crazing, scratching, scoring, distortion, and decomposition;*
- 4. Finished with a smooth interior surface; and*
- 5. Clearly and durably identified as to its use if not permanently attached.*

2 VAC 5-585-2430. Filter, compressed air.

A filter that does not pass oil or oil vapors shall be installed in the air supply line between the compressor and drinking water system when compressed air is used to pressurize the water tank system.

2 VAC 5-585-2440. Protective cover or device.

A cap and keeper chain, closed cabinet, closed storage tube, or other approved protective cover or device shall be provided for a water inlet, outlet, and hose.

2 VAC 5-585-2450. Mobile food establishment tank inlet.

A mobile food establishment's water tank inlet shall be:

- 1. Three-fourths inch (19.1 mm) in inner diameter or less; and*
- 2. Provided with a hose connection of a size or type that will prevent its use for any other service.*

2 VAC 5-585-2460. System flushing and disinfection.*

A water tank, pump, and hoses shall be flushed and sanitized before being placed in service after construction, repair, modification, and periods of nonuse.

2 VAC 5-585-2470. Using a pump and hoses, backflow prevention.

A person shall operate a water tank, pump, and hoses so that backflow and other contamination of the water supply are prevented.

2 VAC 5-585-2480. Protecting inlet, outlet, and hose fitting.

If not in use, a water tank and hose inlet and outlet fitting shall be protected using a cover or device as specified under 2 VAC 5-585-2440.

2 VAC 5-585-2490. Tank, pump, and hoses, dedication.

A. Except as specified in subsection B of this section, a water tank, pump, and hoses used for conveying drinking water shall be used for no other purpose.

B. Water tanks, pumps, and hoses approved for liquid foods may be used for conveying drinking water if they are cleaned and sanitized before they are used to convey water.

Article 4.

Sewage, Other Liquid Waste, and Rainwater.

2 VAC 5-585-2500. Mobile holding tank capacity and drainage.

A sewage holding tank in a mobile food establishment shall be:

- 1. Sized 15% larger in capacity than the water supply tank; and*
- 2. Sloped to a drain that is one inch (25 mm) in inner diameter or greater, equipped with a shut-off valve.*

2 VAC 5-585-2510. Establishment drainage system.

Food establishment drainage systems, including grease traps, that convey sewage shall be designed and installed as specified under 2 VAC 5-585-2180 A.

2 VAC 5-585-2520. Backflow prevention.*

A. Except as specified in subsections B and C of this section, a direct connection may not exist between the sewage system and a drain originating from equipment in which food, portable equipment, or utensils are placed.

B. If allowed by law, a warewashing machine may have a direct connection between its waste outlet and a floor drain when the machine is located within five feet (1.5 m) of a trapped floor drain and the machine outlet is connected to the inlet side of a properly vented floor drain trap.

C. If allowed by law, a warewashing or culinary sink may have a direct connection.

2 VAC 5-585-2530. Grease trap.

If used, a grease trap shall be located to be easily accessible for cleaning.

2 VAC 5-585-2540. Conveying sewage.*

Sewage shall be conveyed to the point of disposal through an approved sanitary sewage system or other system, including use of sewage transport vehicles, waste retention tanks, pumps, pipes, hoses, and connections that are constructed, maintained, and operated according to law.

2 VAC 5-585-2550. Removing mobile food establishment wastes.

Sewage and other liquid wastes shall be removed from a mobile food establishment at an approved waste servicing area or by a sewage transport vehicle in such a way that a public health hazard or nuisance is not created.

2 VAC 5-585-2560. Flushing a waste retention tank.

A tank for liquid waste retention shall be thoroughly flushed and drained in a sanitary manner during the servicing operation.

2 VAC 5-585-2570. Approved sewage disposal system.*

Sewage shall be disposed through an approved facility that is:

1. A public sewage treatment plant; or
2. An individual sewage disposal system that is sized, constructed, maintained, and operated according to law.

2 VAC 5-585-2580. Other liquid wastes and rainwater.

Condensate drainage and other nonsewage liquids and rainwater shall be drained from point of discharge to disposal according to law.

Article 5.

Refuse, Recyclables, and Returnables.

2 VAC 5-585-2590. Indoor storage area.

If located within the food establishment, a storage area for refuse, recyclables, and returnables shall meet the requirements specified under 2 VAC 5-585-2790, 2 VAC 5-585-2810 through 2 VAC 5-585-2880, 2 VAC 5-585-2930, and 2 VAC 5-585-2940.

2 VAC 5-585-2600. Outdoor storage surface.

An outdoor storage surface for refuse, recyclables, and returnables shall be constructed of nonabsorbent material such as concrete or asphalt and shall be smooth, durable, and sloped to drain.

2 VAC 5-585-2610. Outdoor enclosure.

If used, an outdoor enclosure for refuse, recyclables, and returnables shall be constructed of durable and cleanable materials.

2 VAC 5-585-2620. Receptacles.

A. Except as specified in subsection B of this section, receptacles and waste handling units for refuse, recyclables, and returnables and for use with materials containing food residue shall be durable, cleanable, insect- and rodent-resistant, leakproof, and nonabsorbent.

B. Plastic bags and wet strength paper bags may be used to line receptacles for storage inside the food establishment, or within closed outside receptacles.

2 VAC 5-585-2630. Receptacles in vending machines.

A refuse receptacle may not be located within a vending machine, except that a receptacle for beverage bottle crown closures may be located within a vending machine.

2 VAC 5-585-2640. Outside receptacles.

A. Receptacles and waste handling units for refuse, recyclables, and returnables used with materials containing food residue and used outside the food establishment shall be designed and constructed to have tight-fitting lids, doors, or covers.

B. Receptacles and waste handling units for refuse and recyclables such as an on-site compactor shall be installed so that accumulation of debris and insect and rodent attraction and harborage are minimized and effective cleaning is

facilitated around and, if the unit is not installed flush with the base pad, under the unit.

2 VAC 5-585-2650. Storage areas, rooms, and receptacles, capacity and availability.

A. An inside storage room and area and outside storage area and enclosure, and receptacles shall be of sufficient capacity to hold refuse, recyclables, and returnables that accumulate.

B. A receptacle shall be provided in each area of the food establishment or premises where refuse is generated or commonly discarded, or where recyclables or returnables are placed.

C. If disposable towels are used at handwashing lavatories, a waste receptacle shall be located at each lavatory or group of adjacent lavatories.

2 VAC 5-585-2660. Toilet room receptacle, covered.

A toilet room used by females shall be provided with a covered receptacle for sanitary napkins.

2 VAC 5-585-2670. Cleaning implements and supplies.

A. Except as specified in subsection B of this section, suitable cleaning implements and supplies such as high pressure pumps, hot water, steam, and detergent shall be provided as necessary for effective cleaning of receptacles and waste handling units for refuse, recyclables, and returnables.

B. If approved, off-premises-based cleaning services may be used if on-premises cleaning implements and supplies are not provided.

2 VAC 5-585-2680. Storage areas, redeeming machines, receptacles and waste handling units, location.

A. An area designated for refuse, recyclables, returnables, and, except as specified in subsection B of this section, a redeeming machine for recyclables or returnables shall be located so that it is separate from food, equipment, utensils, linens, and single-service and single-use articles and a public health hazard or nuisance is not created.

B. A redeeming machine may be located in the packaged food storage area or consumer area of a food establishment if food, equipment, utensils, linens, and single-service and single-use articles are not subject to contamination from the machines and a public health hazard or nuisance is not created.

C. The location of receptacles and waste handling units for refuse, recyclables, and returnables may not create a public health hazard or nuisance or interfere with the cleaning of adjacent space.

2 VAC 5-585-2690. Storing refuse, recyclables, and returnables.

Refuse, recyclables, and returnables shall be stored in receptacles or waste handling units so that they are inaccessible to insects and rodents.

Proposed Regulations

2 VAC 5-585-2700. Areas, enclosures, and receptacles, good repair.

Storage areas, enclosures, and receptacles for refuse, recyclables, and returnables shall be maintained in good repair.

2 VAC 5-585-2710. Outside storage prohibitions.

A. Except as specified in subsection B of this section, refuse receptacles not meeting the requirements specified under 2 VAC 5-585-2620 A, such as receptacles that are not rodent-resistant, unprotected plastic bags and paper bags, or baled units that contain materials with food residue may not be stored outside.

B. Cardboard or other packaging material that does not contain food residues and that is awaiting regularly scheduled delivery to a recycling or disposal site may be stored outside without being in a covered receptacle if it is stored so that it does not create a rodent harborage problem.

2 VAC 5-585-2720. Covering receptacles.

Receptacles and waste handling units for refuse, recyclables, and returnables shall be kept covered:

1. Inside the food establishment if the receptacles and units:
 - a. Contain food residue and are not in continuous use; or
 - b. After they are filled; and
2. With tight-fitting lids or doors if kept outside the food establishment.

2 VAC 5-585-2730. Using drain plugs.

Drains in receptacles and waste handling units for refuse, recyclables, and returnables shall have drain plugs in place.

2 VAC 5-585-2740. Maintaining refuse areas and enclosures.

A storage area and enclosure for refuse, recyclables, or returnables shall be maintained free of unnecessary items, as specified under 2 VAC 5-585-3300, and clean.

2 VAC 5-585-2750. Cleaning receptacles.

A. Receptacles and waste handling units for refuse, recyclables, and returnables shall be thoroughly cleaned in a way that does not contaminate food, equipment, utensils, linens, or single-service and single-use articles, and waste water shall be disposed of as specified under 2 VAC 5-585-2550.

B. Soiled receptacles and waste handling units for refuse, recyclables, and returnables shall be cleaned at a frequency necessary to prevent them from developing a buildup of soil or becoming attractants for insects and rodents.

2 VAC 5-585-2760. Removal frequency.

Refuse, recyclables, and returnables shall be removed from the premises at a frequency that will minimize the development of objectionable odors and other conditions that attract or harbor insects and rodents.

2 VAC 5-585-2770. Receptacles or vehicles.

Refuse, recyclables, and returnables shall be removed from the premises by way of:

1. Portable receptacles that are constructed and maintained according to law; or
2. A transport vehicle that is constructed, maintained, and operated according to law.

2 VAC 5-585-2780. Community or individual facility.

Solid waste not disposed of through the sewage system such as through grinders and pulpers shall be recycled or disposed of in an approved public or private community recycling or refuse facility; or solid waste shall be disposed of in an individual refuse facility such as a landfill or incinerator which is sized, constructed, maintained, and operated according to law.

PART VI. PHYSICAL FACILITIES.

Article 1. Materials for Construction and Repair.

2 VAC 5-585-2790. Indoor areas; surface characteristics.

A. Except as specified in subsection B of this section, materials for indoor floor, wall, and ceiling surfaces under conditions of normal use shall be:

1. Smooth, durable, and easily cleanable for areas where food establishment operations are conducted;
2. Closely woven and easily cleanable carpet for carpeted areas; and
3. Nonabsorbent for areas subject to moisture such as food preparation areas, walk-in refrigerators, warewashing areas, toilet rooms, mobile food establishment servicing areas, and areas subject to flushing or spray cleaning methods.

B. In a temporary food establishment:

1. A floor may be concrete, if graded to drain, machine-laid asphalt, or dirt or gravel if it is covered with mats, removable platforms, duckboards, or other suitable approved materials that are effectively treated to control dust and mud; and
2. Walls and ceilings may be constructed of a material that protects the interior from the weather and windblown dust and debris.

2 VAC 5-585-2800. Outdoor areas; surface characteristics.

A. The outdoor walking and driving areas shall be surfaced with concrete, asphalt, or gravel or other materials that have been effectively treated to minimize dust, facilitate maintenance, and prevent muddy conditions.

B. Exterior surfaces of buildings and mobile food establishments shall be of weather-resistant materials and shall comply with law.

C. Outdoor storage areas for refuse, recyclables, or returnables shall be of materials specified under 2 VAC 5-585-2600 and 2 VAC 5-585-2610.

Article 2.
Design, Construction, and Installation.

2 VAC 5-585-2810. Floors, walls, and ceilings - cleanability.

Except as specified under 2 VAC 5-585-2840, the floors, floor coverings, walls, wall coverings, and ceilings shall be designed, constructed, and installed so they are smooth and easily cleanable, except that antislip floor coverings or applications may be used for safety reasons.

2 VAC 5-585-2820. Floors, walls, and ceilings, utility lines.

A. Utility service lines and pipes may not be unnecessarily exposed.

B. Exposed utility service lines and pipes shall be installed so they do not obstruct or prevent cleaning of the floors, walls, or ceilings.

C. Exposed horizontal utility service lines and pipes may not be installed on the floor.

2 VAC 5-585-2830. Floor and wall junctures, coved, and enclosed or sealed.

A. In food establishments in which cleaning methods other than water flushing are used for cleaning floors, the floor and wall junctures shall be coved and closed to no larger than 1/32 inch (one mm).

B. The floors in food establishments in which water flush cleaning methods are used shall be provided with drains and be graded to drain, and the floor and wall junctures shall be coved and sealed.

2 VAC 5-585-2840. Floor carpeting, restrictions and installation.

A. A floor covering such as carpeting or similar material may not be installed as a floor covering in food preparation areas, walk-in refrigerators, warewashing areas, toilet room areas where handwashing lavatories, toilets, and urinals are located, refuse storage rooms, or other areas where the floor is subject to moisture, flushing, or spray cleaning methods.

B. If carpeting is installed as a floor covering in areas other than those specified under subsection A of this section, it shall be:

1. Securely attached to the floor with a durable mastic, by using a stretch and tack method, or by another method; and
2. Installed tightly against the wall under the coving or installed away from the wall with a space between the carpet and the wall and with the edges of the carpet secured by metal stripping or some other means.

2 VAC 5-585-2850. Floor covering, mats and duckboards.

Mats and duckboards shall be designed to be removable and easily cleanable.

2 VAC 5-585-2860. Wall and ceiling coverings and coatings.

A. Wall and ceiling covering materials shall be attached so that they are easily cleanable.

B. Except in areas used only for dry storage, concrete, porous blocks, or bricks used for indoor wall construction shall be finished and sealed to provide a smooth, nonabsorbent, easily cleanable surface.

2 VAC 5-585-2870. Walls and ceilings, attachments.

A. Except as specified in subsection B of this section, attachments to walls and ceilings such as light fixtures, mechanical room ventilation system components, vent covers, wall mounted fans, decorative items, and other attachments shall be easily cleanable.

B. In a consumer area, wall and ceiling surfaces and decorative items and attachments that are provided for ambiance need not meet this requirement if they are kept clean.

2 VAC 5-585-2880. Walls and ceilings, studs, joists, and rafters.

Studs, joists, and rafters may not be exposed in areas subject to moisture. This requirement does not apply to temporary food establishments.

2 VAC 5-585-2890. Light bulbs, protective shielding.

A. Except as specified in subsection B of this section, light bulbs shall be shielded, coated, or otherwise shatter-resistant in areas where there is exposed food; clean equipment, utensils, and linens; or unwrapped single-service and single-use articles.

B. Shielded, coated, or otherwise shatter-resistant bulbs need not be used in areas used only for storing food in unopened packages, if:

1. The integrity of the packages cannot be affected by broken glass falling onto them; and
2. The packages are capable of being cleaned of debris from broken bulbs before the packages are opened.

C. An infrared or other heat lamp shall be protected against breakage by a shield surrounding and extending beyond the bulb so that only the face of the bulb is exposed.

2 VAC 5-585-2900. Heating, ventilating, air conditioning system vents.

Heating, ventilating, and air conditioning systems shall be designed and installed so that make-up air intake and exhaust vents do not cause contamination of food, food-contact surfaces, equipment, or utensils.

2 VAC 5-585-2910. Insect control devices, design and installation.

A. Insect control devices that are used to electrocute or stun flying insects shall be designed to retain the insect within the device.

B. Insect control devices shall be installed so that:

1. The devices are not located over a food preparation area; and
2. Dead insects and insect fragments are prevented from being impelled onto or falling on exposed food; clean

Proposed Regulations

equipment, utensils, and linens; and unwrapped single-service and single-use articles.

2 VAC 5-585-2920. Toilet rooms, enclosed.

A toilet room located on the premises shall be completely enclosed and provided with a tight-fitting and self-closing door except that this requirement does not apply to a toilet room that is located outside a food establishment and does not open directly into the food establishment such as a toilet room that is provided by the management of a shopping mall.

2 VAC 5-585-2930. Outer openings, protected.

A. Except as specified in subsections B through E of this section, outer openings of a food establishment shall be protected against the entry of insects and rodents by:

1. Filling or closing holes and other gaps along floors, walls and ceilings;
2. Closed, tight-fitting windows; and
3. Solid self-closing, tight-fitting doors.

B. Subsection A of this section does not apply if a food establishment opens into a larger structure, such as a mall, airport, or office building, or into an attached structure, such as a porch, and the outer openings from the larger or attached structure are protected against the entry of insects and rodents.

C. Exterior doors used as exits need not be self-closing if they are:

1. Solid and tight-fitting;
2. Designated for use only when an emergency exists, by the fire protection authority that has jurisdiction over the food establishment; and
3. Restricted so they are not used for entrance or exit from the building for purposes other than the designated emergency exit use.

D. Except as specified in subsections B and E of this section, if the windows or doors of a food establishment, or of a larger structure within which a food establishment is located, are kept open for ventilation or other purposes, the openings shall be protected against the entry of insects and rodents by:

1. 16 mesh to one-inch (16 mesh to 25.4-mm) screens;
2. Properly designed and installed air curtains to control flying insects; or
3. Other effective means.

E. Subsection D of this section does not apply if flying insects and other pests are absent due to the location of the establishment, the weather, or other limiting condition.

2 VAC 5-585-2940. Exterior walls and roofs, protective barrier.

Perimeter walls and roofs of a food establishment shall effectively protect the establishment from the weather and the entry of insects, rodents, and other animals.

2 VAC 5-585-2950. Outdoor food vending areas, overhead protection.

If located outside, a machine used to vend food shall be provided with overhead protection except that machines vending canned beverages need not meet this requirement.

2 VAC 5-585-2960. Outdoor servicing areas, overhead protection.

Servicing areas shall be provided with overhead protection except that areas used only for the loading of water or the discharge of sewage and other liquid waste, through the use of a closed system of hoses, need not be provided with overhead protection.

2 VAC 5-585-2970. Outdoor walking and driving surfaces, graded to drain.

Exterior walking and driving surfaces shall be graded to drain.

2 VAC 5-585-2980. Outdoor refuse areas, curbed and graded to drain.

Outdoor refuse areas shall be constructed in accordance with law and shall be curbed and graded to drain to collect and dispose of liquid waste that results from the refuse and from cleaning the area and waste receptacles.

2 VAC 5-585-2990. Private homes and living or sleeping quarters, use prohibition.

A room used as sleeping quarters may not be used for conducting food establishment operations.

2 VAC 5-585-3000. Living or sleeping quarters, separation.

Sleeping quarters located on the premises of a food establishment shall be separated from rooms and areas used for food establishment operations by complete partitioning and solid self-closing doors.

Article 3. Numbers and Capacities.

2 VAC 5-585-3010. Handwashing lavatories, minimum number.

Handwashing lavatories shall be provided as specified under 2 VAC 5-585-2230.

2 VAC 5-585-3020. Handwashing cleanser, availability.

Each handwashing lavatory or group of two adjacent lavatories shall be provided with a supply of hand cleaning liquid, powder, or bar soap.

2 VAC 5-585-3030. Hand drying provision.

Each handwashing lavatory or group of adjacent lavatories shall be provided with:

1. Individual, disposable towels;
2. A continuous towel system that supplies the user with a clean towel; or
3. A heated-air hand drying device.

2 VAC 5-585-3040. Handwashing aids and devices, use restrictions.

A sink used for food preparation or utensil washing may not be provided with the handwashing aids and devices required for a handwashing lavatory as specified under 2 VAC 5-585-3020 and 2 VAC 5-585-3030 and 2 VAC 5-585-2650 C.

2 VAC 5-585-3045. Handwashing signage.

A sign or poster that notifies food employees to wash their hands shall be provided at all handwashing lavatories used by food employees and shall be clearly visible to food employees.

2 VAC 5-585-3050. Disposable towels, waste receptacle.

A handwashing lavatory or group of adjacent lavatories that is provided with disposable towels shall be provided with a waste receptacle as specified under 2 VAC 5-585-2650 C.

2 VAC 5-585-3060. Toilets and urinals, minimum number.

Toilets and urinals shall be provided as specified under 2 VAC 5-585-2240.

2 VAC 5-585-3070. Toilet tissue, availability.

A supply of toilet tissue shall be available at each toilet.

2 VAC 5-585-3080. Lighting, intensity.

The light intensity shall be:

1. At least 10 foot candles (110 lux) at a distance of 30 inches (75 cm) above the floor, in walk-in refrigeration units and dry food storage areas and in other areas and rooms during periods of cleaning;

2. At least 20 foot candles (220 lux):

a. At a surface where food is provided for consumer self-service such as buffets and salad bars or where fresh produce or packaged foods are sold or offered for consumption;

b. Inside equipment such as reach-in and under-counter refrigerators;

c. At a distance of 30 inches (75 cm) above the floor in areas used for handwashing, warewashing, and equipment and utensil storage, and in toilet rooms; and

3. At least 50 foot candles (540 lux) at a surface where a food employee is working with food or working with utensils or equipment such as knives, slicers, grinders, or saws where employee safety is a factor.

2 VAC 5-585-3090. Ventilation, mechanical.

If necessary to keep rooms free of excessive heat, steam, condensation, vapors, obnoxious odors, smoke, and fumes, mechanical ventilation of sufficient capacity shall be provided.

2 VAC 5-585-3100. Dressing areas and lockers, designation.

A. Dressing rooms or dressing areas shall be designated if employees routinely change their clothes in the establishment.

B. Lockers or other suitable facilities shall be provided for the orderly storage of employees' clothing and other possessions.

2 VAC 5-585-3110. Service sinks, availability.

A service sink or curbed cleaning facility shall be provided as specified under 2 VAC 5-585-2250.

Article 4.
Location and Placement.

2 VAC 5-585-3120. Handwashing lavatories, conveniently located.

Handwashing lavatories shall be conveniently located as specified under 2 VAC 5-585-2280.

2 VAC 5-585-3130. Toilet rooms, convenience and accessibility.

Toilet rooms shall be conveniently located and accessible to employees during all hours of operation. Toilet rooms intended for use by customers shall not necessitate travel through food preparation or handling areas.

2 VAC 5-585-3140. Employee accommodations, designated areas.

A. Areas designated for employees to eat, drink, and use tobacco shall be located so that food, equipment, linens, and single-service and single-use articles are protected from contamination.

B. Lockers or other suitable facilities shall be located in a designated room or area where contamination of food, equipment, utensils, linens, and single-service and single-use articles cannot occur.

2 VAC 5-585-3150. Distressed merchandise, segregation and location.

Products that are held by the person in charge for credit, redemption, or return to the distributor, such as damaged, spoiled, or recalled products, shall be segregated and held in designated areas that are separated from food, equipment, utensils, linens, and single-service and single-use articles.

2 VAC 5-585-3160. Refuse, recyclables, and returnables - receptacles, waste handling units, and designated storage areas.

Units, receptacles, and areas designated for storage of refuse and recyclable and returnable containers shall be located as specified under 2 VAC 5-585-2680.

Article 5.
Maintenance and Operation.

2 VAC 5-585-3170. Repairing.

The physical facilities shall be maintained in good repair.

2 VAC 5-585-3180. Cleaning, frequency and restrictions.

A. The physical facilities shall be cleaned as often as necessary to keep them clean.

B. Cleaning shall be done during periods when the least amount of food is exposed such as after closing. This requirement does not apply to cleaning that is necessary due to a spill or other accident.

Proposed Regulations

2 VAC 5-585-3190. Cleaning floors, dustless methods.

A. Except as specified in subsection B of this section, only dustless methods of cleaning shall be used, such as wet cleaning, vacuum cleaning, mopping with treated dust mops, or sweeping using a broom and dust-arresting compounds.

B. Spills or drippage on floors that occur between normal floor cleaning times may be cleaned:

1. Without the use of dust-arresting compounds; and
2. In the case of liquid spills or drippage, with the use of a small amount of absorbent compound such as sawdust or diatomaceous earth applied immediately before spot cleaning.

2 VAC 5-585-3200. Cleaning ventilation systems, nuisance and discharge prohibition.

A. Intake and exhaust air ducts shall be cleaned and filters changed so they are not a source of contamination by dust, dirt, and other materials.

B. If vented to the outside, ventilation systems may not create a public health hazard or nuisance or unlawful discharge.

2 VAC 5-585-3210. Cleaning maintenance tools, preventing contamination.*

Food preparation sinks, handwashing lavatories, and warewashing equipment may not be used for the cleaning of maintenance tools, the preparation or holding of maintenance materials, or the disposal of mop water and similar liquid wastes.

2 VAC 5-585-3220. Drying mops.

After use, mops shall be placed in a position that allows them to air-dry without soiling walls, equipment, or supplies.

2 VAC 5-585-3230. Absorbent materials on floors, use limitation.

Except as specified in 2 VAC 5-585-3190 B, sawdust, wood shavings, granular salt, baked clay, diatomaceous earth, or similar materials may not be used on floors.

2 VAC 5-585-3240. Maintaining and using handwashing lavatories.

Handwashing lavatories shall be kept clean, and maintained and used as specified under 2 VAC 5-585-2310.

2 VAC 5-585-3250. Closing toilet room doors.

Toilet room doors as specified under 2 VAC 5-585-2920 shall be kept closed except during cleaning and maintenance operations unless otherwise required by other regulations or law.

2 VAC 5-585-3260. Using dressing rooms and lockers.

A. Dressing rooms shall be used by employees if the employees regularly change their clothes in the establishment.

B. Lockers or other suitable facilities shall be used for the orderly storage of employee clothing and other possessions.

2 VAC 5-585-3270. Controlling pests.*

The presence of insects, rodents, and other pests shall be controlled to minimize their presence on the premises by:

1. Routinely inspecting incoming shipments of food and supplies;^N
2. Routinely inspecting the premises for evidence of pests;^N
3. Using methods, if pests are found, such as trapping devices or other means of pest control as specified under 2 VAC 5-585-3360, 2 VAC 5-585-3440, and 2 VAC 5-585-3450; and
4. Eliminating harborage conditions.^N

2 VAC 5-585-3280. Removing dead or trapped birds, insects, rodents, and other pests.

Dead or trapped birds, insects, rodents, and other pests shall be removed from control devices and the premises at a frequency that prevents their accumulation, decomposition, or the attraction of pests.

2 VAC 5-585-3290. Storing maintenance tools.

Maintenance tools such as brooms, mops, vacuum cleaners, and similar items shall be:

1. Stored so they do not contaminate food, equipment, utensils, linens, and single-service and single-use articles; and
2. Stored in an orderly manner that facilitates cleaning the area used for storing the maintenance tools.

2 VAC 5-585-3300. Maintaining premises, unnecessary items and litter.

The premises shall be free of:

1. Items that are unnecessary to the operation or maintenance of the establishment such as equipment that is nonfunctional or no longer used; and
2. Litter.

2 VAC 5-585-3310. Prohibiting animals.*

A. Except as specified in subsections B and C of this section, live animals may not be allowed on the premises of a food establishment.

B. Live animals may be allowed in the following situations if the contamination of food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles cannot result:

1. Edible fish or decorative fish in aquariums, shellfish or crustacea on ice or under refrigeration, and shellfish and crustacea in display tank systems;
2. Patrol dogs accompanying police or security officers in offices and dining, sales, and storage areas, and sentry dogs running loose in outside fenced areas;
3. In areas that are not used for food preparation and that are usually open for customers, such as dining and sales areas, service animals that are controlled by the disabled employee or person, if a health or safety hazard will not result from the presence or activities of the service animal;

4. *Pets in the common dining areas of institutional care facilities such as nursing homes, assisted living facilities, group homes, or residential care facilities at times other than during meals if:*

a. *Effective partitioning and self-closing doors separate the common dining areas from food storage or food preparation areas;*

b. *Condiments, equipment, and utensils are stored in enclosed cabinets or removed from the common dining areas when pets are present; and*

c. *Dining areas including tables, countertops, and similar surfaces are effectively cleaned before the next meal service; and*

5. *In areas that are not used for food preparation, storage, sales, display, or dining, in which there are caged animals or animals that are similarly restricted, such as in a variety store that sells pets or a tourist park that displays animals.*

C. *Live or dead fish bait may be stored if contamination of food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles cannot result.*

PART VII.
POISONOUS OR TOXIC MATERIALS.

Article 1.
Labeling and Identification.

2 VAC 5-585-3320. Original containers - identifying information, prominence.*

Containers of poisonous or toxic materials and personal care items shall bear a legible manufacturer's label.

2 VAC 5-585-3330. Working containers - common name.*

Working containers used for storing poisonous or toxic materials such as cleaners and sanitizers taken from bulk supplies shall be clearly and individually identified with the common name of the material.

Article 2.
Operational Supplies and Applications.

2 VAC 5-585-3340. Storage, separation.*

Poisonous or toxic materials shall be stored so they cannot contaminate food, equipment, utensils, linens, and single-service and single-use articles by:

1. *Separating the poisonous or toxic materials by spacing or partitioning;^S and*

2. *Locating the poisonous or toxic materials in an area that is not above food, equipment, utensils, linens, and single-service or single-use articles. This subsection does not apply to equipment and utensil cleaners and sanitizers that are stored in warewashing areas for availability and convenience if the materials are stored to prevent contamination of food, equipment, utensils, linens, and single-service and single-use articles; and*

3. *Detergents, sanitizers, related cleaning or drying agents and caustics, acids, polishes and other chemicals shall be stored separately from insecticides and rodenticides.*

2 VAC 5-585-3350. Presence and use restriction.*

A. *Only those poisonous or toxic materials that are required for the operation and maintenance of a food establishment, such as for the cleaning and sanitizing of equipment and utensils and the control of insects and rodents, shall be allowed in a food establishment.^S*

B. *Subsection A of this section does not apply to packaged poisonous or toxic materials that are for retail sale.*

2 VAC 5-585-3360. Conditions of use.*

A. *Poisonous or toxic materials shall be:*

1. *Used according to:*

a. *Law and this chapter;*

b. *Manufacturer's use directions included in labeling, and, for a pesticide, manufacturer's label instructions that state that use is allowed in a food establishment;*

c. *The conditions of certification, if certification is required, for use of the pest control materials; and*

d. *Additional conditions that may be established by the department; and*

2. *Applied so that:*

a. *A hazard to employees or other persons is not constituted; and*

b. *Contamination including toxic residues due to drip, drain, fog, splash or spray on food, equipment, utensils, linens, and single-service and single-use articles is prevented, and for a restricted-use pesticide, this is achieved by:*

(1) *Removing the items;*

(2) *Covering the items with impermeable covers; or*

(3) *Taking other appropriate preventive actions; and*

(4) *Cleaning and sanitizing equipment and utensils after the application.*

B. *A restricted use pesticide shall be applied only by an applicator certified as defined in §§ 3.1-249.51, 3.1-249.52, and 3.1-249.53 E of the Code of Virginia (Virginia Pesticide Control Act) or a person under the direct supervision of a certified applicator.*

2 VAC 5-585-3370. Poisonous or toxic material containers.*

A container previously used to store poisonous or toxic materials may not be used to store, transport, or dispense food.

2 VAC 5-585-3380. Sanitizers, criteria.*

Chemical sanitizers and other chemical antimicrobials applied to food-contact surfaces shall meet the requirements specified in 21 CFR 178.1010.

Proposed Regulations

2 VAC 5-585-3390. Chemicals for washing fruits and vegetables, criteria.*

Chemicals used to wash or peel raw, whole fruits and vegetables shall meet the requirements specified in 21 CFR 173.315.

2 VAC 5-585-3400. Boiler water additives, criteria.*

Chemicals used as boiler water additives shall meet the requirements specified in 21 CFR 173.310.

2 VAC 5-585-3410. Drying agents, criteria.*

Drying agents used in conjunction with sanitization shall:

1. Contain only components that are listed as one of the following:

a. Generally recognized as safe for use in food as specified in 21 CFR Part 182, Substances Generally Recognized as Safe, or 21 CFR Part 184, Direct Food Substances Affirmed as Generally Recognized as Safe;

b. Generally recognized as safe for the intended use as specified in 21 CFR Part 186, Indirect Food Substances Affirmed as Generally Recognized as Safe;

c. Approved for use as a drying agent under a prior sanction specified in 21 CFR Part 181, Prior-Sanctioned Food Ingredients;

d. Specifically regulated as an indirect food additive for use as a drying agent as specified in 21 CFR Parts 175-178; or

e. Approved for use as a drying agent under the threshold of regulation process established by 21 CFR 170.39, Threshold of Regulation for Substances Used in Food-Contact Articles; and

2. When sanitization is with chemicals, the approval required under subdivisions 1 c or 1 e of this section or the regulation as an indirect food additive required under subdivision 1 d of this section, shall be specifically for use with chemical sanitizing solutions.

2 VAC 5-585-3420. Lubricants - incidental food contact, criteria.*

Lubricants shall meet the requirements specified in 21 CFR 178.3570 if they are used on food-contact surfaces, on bearings and gears located on or within food-contact surfaces, or on bearings and gears that are located so that lubricants may leak, drip, or be forced into food or onto food-contact surfaces.

2 VAC 5-585-3430. Restricted use pesticides, criteria.*

Restricted use pesticides specified under subsection B of 2 VAC 5-585-3360 shall meet the requirements specified in 40 CFR Part 152, Subpart I, Classification of Pesticides.

2 VAC 5-585-3440. Rodent bait stations.*

Rodent bait shall be contained in a covered, tamper-resistant bait station.

2 VAC 5-585-3450. Tracking powders, pest control and monitoring.*

A. A tracking powder pesticide may not be used in a food establishment.

B. If used, a nontoxic tracking powder such as talcum or flour may not contaminate food, equipment, utensils, linens, and single-service and single-use articles.^N

2 VAC 5-585-3460. Medicines - restriction and storage.*

A. Only those medicines that are necessary for the health of employees shall be allowed in a food establishment. This section does not apply to medicines that are stored or displayed for retail sale.

B. Medicines that are in a food establishment for the employees' use shall be labeled as specified under 2 VAC 5-585-3320 and located to prevent the contamination of food, equipment, utensils, linens, and single-service and single-use articles.

2 VAC 5-585-3470. Refrigerated medicines, storage.*

Medicines belonging to employees or to children in a day care center that require refrigeration and are stored in a food refrigerator shall be:

1. Stored in a package or container and kept inside a covered, leakproof container that is identified as a container for the storage of medicines; and

2. Located so they are inaccessible to children.

2 VAC 5-585-3480. First aid supplies, storage.*

First aid supplies that are in a food establishment for the employees' use shall be:

1. Labeled as specified under 2 VAC 5-585-3320;^S and

2. Stored in a kit or a container that is located to prevent the contamination of food, equipment, utensils, and linens, and single-service and single-use articles.^S

2 VAC 5-585-3490. Other personal care items, storage.

Except as specified under 2 VAC 5-585-3470 and 2 VAC 5-585-3480, employees shall store their personal care items in facilities as specified under 2 VAC 5-585-3100 B.

Article 3.

Stock and Retail Sale.

2 VAC 5-585-3500. Storage and display, separation.*

Poisonous or toxic materials shall be stored and displayed for retail sale so they cannot contaminate food, equipment, utensils, linens, and single-service and single-use articles by:

1. Separating the poisonous or toxic materials by spacing or partitioning;^S and

2. Locating the poisonous or toxic materials in an area that is not above food, equipment, utensils, linens, and single-service or single-use articles.

PART VIII.
COMPLIANCE AND ENFORCEMENT.

Article 1.
Applicability of Chapter.

2 VAC 5-585-3510. Public health protection.

A. The department shall apply this regulation to promote its underlying purpose, as specified in 2 VAC 5-585-20, of safeguarding public health and ensuring that food is safe and unadulterated when offered to the consumer.

B. In enforcing the provisions of this regulation, the department shall assess existing facilities or equipment that were in use before the effective date of this regulation based on the following considerations:

1. Whether the facilities or equipment are in good repair and capable of being maintained in a sanitary condition;
2. Whether food-contact surfaces comply with 2 VAC 5-585-960 through 2 VAC 5-585-1060;
3. Whether the capacities of cooling, heating, and holding equipment are sufficient to comply with 2 VAC 5-585-1450; and
4. The existence of a documented agreement with the establishment operator that the facilities or equipment will be replaced or upgraded as specified in the following:

a. Except as specified under subdivision B 4 b of this section, replace existing facilities and equipment specified in this section with facilities and equipment that comply with this regulation if:

- (1) The department directs the replacement because the facilities and equipment constitute a public health hazard or nuisance or no longer comply with the criteria upon which the facilities and equipment were accepted;
- (2) The department directs the replacement of the facilities and equipment because of a change of ownership; or
- (3) The facilities and equipment are replaced in the normal course of operation;

b. Upgrade or replace refrigeration equipment as specified under 2 VAC 5-585-820 A 2 b, if the circumstances specified under subdivision B 4 a of this section do not occur first.

2 VAC 5-585-3520. Preventing health hazards, provision for conditions not addressed.

A. If necessary to protect against public health hazards or nuisances, the department may impose specific requirements in addition to the requirements contained in this regulation that are authorized by law.

B. The department shall document the conditions that necessitate the imposition of additional requirements and the underlying public health rationale. The documentation shall be provided to the establishment operator or person in charge and a copy shall be maintained in the department's file for the food establishment.

2 VAC 5-585-3530. (Reserved.)

2 VAC 5-585-3540. Variances, modifications and waivers.

The department may grant a variance by modifying or waiving the requirements of this regulation if in the opinion of the department a health hazard or nuisance will not result from the variance. If a variance is granted, the department shall retain the information specified under 2 VAC 5-585-3541 in its records for the food establishment.

2 VAC 5-585-3541. Documentation of proposed variance and justification.

Before a variance from a requirement of this regulation is approved, the information that shall be provided by the person requesting the variance and retained in the department's file on the food establishment includes:

1. A statement of the proposed variance of the regulation requirement citing relevant regulation section numbers;
2. An analysis of the rationale for how the potential public health hazards and nuisances addressed by the relevant regulation sections will be alternatively addressed by the proposal; and
3. A HACCP plan if required as specified under 2 VAC 5-585-3620 A that includes the information specified under 2 VAC 5-585-3630 as it is relevant to the variance requested.

2 VAC 5-585-3542. Conformance with approved procedures.*

If the department grants a variance as specified in 2 VAC 5-585-3540, or a HACCP plan is otherwise required as specified under 2 VAC 5-585-3620, the operator shall:

1. Comply with the HACCP plans and procedures that are submitted as specified under 2 VAC 5-585-3630 and approved as a basis for the modification or waiver; and
2. Maintain and provide to the department, upon request, records specified under subdivisions 4 and 5 of 2 VAC 5-585-3630 that demonstrate that the following are routinely employed:
 - a. Procedures for monitoring critical control points;
 - b. Monitoring of the critical control points;
 - c. Verification of the effectiveness of an operation or process; and
 - d. Necessary corrective actions if there is failure at a critical control point.

2 VAC 5-585-3550 through 2 VAC 5-585-3590. (Reserved.)

Article 2.
Plan Submission and Approval.

2 VAC 5-585-3600. Facility and operating plans - when plans are required.

An operator shall submit to the department properly prepared plans and specifications for review and approval when appropriate or when requested by the department. Such instances shall include:

Proposed Regulations

1. The construction of a food establishment;
2. The conversion of an existing structure for use as a food establishment; or
3. The remodeling of a food establishment or a change of type of food establishment or food operation if the department determines that plans and specifications are necessary to ensure compliance with this regulation.

2 VAC 5-585-3610. Contents of the plans and specifications.

The plans and specifications for a food establishment, including a food establishment specified under 2 VAC 5-585-3620, shall include, as required by the department based on the type of operation, type of food preparation, and foods prepared, the following information to demonstrate conformance with the provisions of this chapter:

1. Intended menu;
2. Anticipated volume of food to be stored, prepared, and sold or served;
3. Proposed layout, mechanical schematics, construction materials, and finish schedules;
4. Proposed equipment types, manufacturers, model numbers, locations, dimensions, performance capacities, and installation specifications;
5. Evidence that standard procedures ensuring compliance with the requirements of this chapter are developed or are being developed; and
6. Other information that may be required by the department for the proper review of the proposed construction, conversion or modification, and procedures for operating a food establishment.

2 VAC 5-585-3620. When a HACCP plan is required.

A. Before engaging in an activity that requires a HACCP plan, an operator shall submit to the department for approval a properly prepared HACCP plan as specified under 2 VAC 5-585-3630 and the relevant provisions of this chapter if:

1. Submission of a HACCP plan is required according to law;
2. A variance is required as specified under 2 VAC 5-585-860, 2 VAC 5-585-1300 B, or subdivision 2 VAC 5-585-700 D 3; or
3. The department determines that a food preparation or processing method requires a variance based on a plan submittal specified under 2 VAC 5-585-3610, an inspectional finding, or a variance request.

B. An operator shall have a properly prepared HACCP plan as specified under 2 VAC 5-585-870.

2 VAC 5-585-3630. Contents of a HACCP plan.

For a food establishment that is required under 2 VAC 5-585-3620 to have a HACCP plan, the plan and specifications shall indicate:

1. A categorization of the types of potentially hazardous foods that are specified in the menu such as soups and sauces,

salads, and bulk, solid foods such as meat roasts, or of other foods that are specified by the department;

2. A flow diagram by specific food or category type identifying critical control points and providing information on the following:

- a. Ingredients, materials, and equipment used in the preparation of that food; and

- b. Formulations or recipes that delineate methods and procedural control measures that address the food safety concerns involved;

3. Food employee and supervisory training plan that addresses the food safety issues of concern;

4. A statement of standard operating procedures for the plan under consideration including clearly identifying:

- a. Each critical control point;

- b. The critical limits for each critical control point;

- c. The method and frequency for monitoring and controlling each critical control point by the food employee designated by the person in charge;

- d. The method and frequency for the person in charge to routinely verify that the food employee is following standard operating procedures and monitoring critical control points;

- e. Action to be taken by the person in charge if the critical limits for each critical control point are not met; and

- f. Records to be maintained by the person in charge to demonstrate that the HACCP plan is properly operated and managed; and

5. Additional scientific data or other information, as required by the department, supporting the determination that food safety is not compromised by the proposal.

2 VAC 5-585-3640. Confidentiality - trade secrets.

The department shall treat as confidential in accordance with law, information that meets the criteria specified in law for a trade secret and is contained on inspection report forms and in the plans and specifications submitted as specified under 2 VAC 5-585-3610 and 2 VAC 5-585-3630.

2 VAC 5-585-3650. Preoperational inspections.

The department shall conduct one or more preoperational inspections to verify that the food establishment is constructed and equipped in accordance with the approved plans and approved modifications of those plans, has established standard operating procedures as specified under subdivision 5 of 2 VAC 5-585-3610 and is in compliance with law and this chapter.

Article 3. (Reserved.)

Article 4.

Inspection and Correction of Violations.

2 VAC 5-585-3800. Frequency, establishing inspection interval.

Food establishments shall be inspected by the designee of the commissioner. Inspections of food establishments shall be performed as often as necessary for the enforcement of this part in accordance with the following:

1. Except as specified in subdivisions 2 and 3 of this section, the department shall inspect a food establishment at least once every six months.
2. The department may increase the interval between inspections beyond six months if:
 - a. The food establishment is fully operating under an approved and validated HACCP plan as specified under 2 VAC 5-585-3630 and subdivisions 1 and 2 of 2 VAC 5-585-3542.
 - b. The food establishment is assigned a less frequent inspection frequency based on a written risk-based inspection schedule that is being uniformly applied throughout the jurisdiction.
 - c. The establishment's operation involves only coffee service and other unpackaged or prepackaged food that is not potentially hazardous such as carbonated beverages and snack food such as chips, nuts, popcorn, and pretzels.
3. The department shall periodically inspect a temporary food establishment that prepares, sells, or serves unpackaged potentially hazardous food and that:
 - a. Has improvised rather than permanent facilities or equipment for accomplishing functions such as handwashing, food preparation and protection, food temperature control, warewashing, providing drinking water, waste retention and disposal, and insect and rodent control; or
 - b. Has inexperienced food employees.

2 VAC 5-585-3810. Performance- and risk-based inspections.

Within the parameters specified in 2 VAC 5-585-3800, the department shall prioritize, and conduct more frequent inspections based upon its assessment of a food establishment's history of compliance with this chapter and the establishment's potential as a vector of foodborne illness by evaluating:

1. Past performance for nonconformance with this chapter or HACCP plan requirements that are critical;
2. Past performance for numerous or repeat violations of this chapter or HACCP plan requirements that are noncritical;
3. Past performance for complaints investigated and found to be valid;
4. The hazards associated with the particular foods that are prepared, stored, or served;

5. The type of operation including the methods and extent of food storage, preparation, and service;

6. The number of people served; and

7. Whether the population served is a highly susceptible population.

2 VAC 5-585-3815. Competency of personnel.

An authorized representative of the commissioner who inspects a food establishment or conducts plan review for compliance with this regulation shall have the knowledge, skills, and ability to adequately perform the required duties.

2 VAC 5-585-3820. Access allowed at reasonable times.

After the authorized representative of the commissioner presents official credentials and identifies the purpose of, and an intent to conduct, an inspection, the person in charge shall allow the authorized representative to determine if the food establishment is in compliance with this chapter by allowing access to the establishment, allowing inspection, and providing information and records specified in this chapter and to which the department is entitled according to law, during the food establishment's hours of operation and other reasonable times.

2 VAC 5-585-3830. Refusal, notification of right to access, and final request for access.

If a person denies access to the authorized representative of the commissioner, the authorized representative shall:

1. Inform the person that:
 - a. The person is required to allow access to the authorized representative as specified under 2 VAC 5-585-3820;
 - b. If access is denied, the department will refer the matter to the Commonwealth's Attorney for handling in accordance with applicable sections of the Code of Virginia; and
2. Make a final request for access.

2 VAC 5-585-3840. Refusal, reporting.

If after the authorized representative of the commissioner presents credentials and identifies the purpose of and the intent to conduct an inspection as specified under 2 VAC 5-585-3820, explains the authority upon which access is requested, and makes a final request for access as specified in 2 VAC 5-585-3830, the person in charge continues to refuse access, the authorized representative shall provide details of the denial of access on an inspection report form.

2 VAC 5-585-3850. Inspection order to gain access.

If denied access to a food establishment for an authorized purpose and after complying with 2 VAC 5-585-3830, the department may apply for the issuance of an inspection order to gain access as provided in law.

2 VAC 5-585-3860. Documenting information and observations.

The authorized representative of the commissioner shall document on an inspection report form:

Proposed Regulations

1. Administrative information about the food establishment's legal identity, street and mailing addresses, type of establishment and operation, inspection date, and other information such as type of water supply and sewage disposal, and personnel certificates that may be required; and

2. Specific factual observations of violative conditions or other deviations from this chapter that require correction by the establishment operator including:

a. Failure of the person in charge to demonstrate the knowledge of foodborne illness prevention, application of HACCP principles, and the requirements of this chapter specified under 2 VAC 5-585-60;

b. Failure of food employees and the person in charge to demonstrate their knowledge of their responsibility to report a disease or medical condition as specified under 2 VAC 5-585-110 and 2 VAC 5-585-120;

c. Nonconformance with critical items of this chapter;

d. Failure of the appropriate food employees to demonstrate their knowledge of, and ability to perform in accordance with, the procedural, monitoring, verification, and corrective action practices required by the department as specified under 2 VAC 5-585-60;

e. Failure of the person in charge to provide records required by the department for determining conformance with a HACCP plan as specified under subdivision 4 f of 2 VAC 5-585-3630; and

f. Nonconformance with critical limits of a HACCP plan.

2 VAC 5-585-3870. Specifying time frame for corrections.

The authorized representative of the commissioner shall specify on the inspection report form the time frame for correction of the violations as specified under 2 VAC 5-585-3910, 2 VAC 5-585-3930, and 2 VAC 5-585-3950.

2 VAC 5-585-3880. Issuing report and obtaining acknowledgment of receipt.

At the conclusion of the inspection and according to law, the authorized representative of the commissioner shall provide a copy of the completed inspection report and the notice to correct violations to the person in charge, and request a signed acknowledgment of receipt.

2 VAC 5-585-3890. Refusal to sign acknowledgment.

The authorized representative of the commissioner shall:

1. Inform a person who declines to sign an acknowledgment of receipt of inspectional findings as specified in 2 VAC 5-585-3880 that:

a. An acknowledgment of receipt is not an agreement with findings;

b. Refusal to sign an acknowledgment of receipt will not affect the operator's obligation to correct the violations noted in the inspection report within the time frames specified; and

c. A refusal to sign an acknowledgment of receipt is noted in the inspection report and conveyed to the department's historical record for the food establishment; and

2. Make a final request that the person in charge sign an acknowledgment receipt of inspectional findings.

2 VAC 5-585-3900. Public information.

Except as specified in 2 VAC 5-585-3640, the department shall treat the inspection report as a public document and shall make it available for disclosure to a person who requests it as provided in law.

2 VAC 5-585-3910. Imminent health hazard, ceasing operations and reporting.

A. Except as specified in subsection B of this section, an operator shall immediately discontinue operations and notify the department if an imminent health hazard may exist because of an emergency such as a fire, flood, extended interruption of electrical or water service, sewage backup, misuse of poisonous or toxic materials, onset of an apparent foodborne illness outbreak, gross insanitary occurrence or condition, or other circumstance that may endanger public health.

B. An operator need not discontinue operations in an area of an establishment that is unaffected by the imminent health hazard.

2 VAC 5-585-3920. Resumption of operations.

If operations are discontinued as specified under 2 VAC 5-585-3910 or otherwise according to law, the operator shall obtain approval from the department before resuming operations.

2 VAC 5-585-3930. Critical violation, timely correction.

A. Except as specified in subsection B of this section, an operator or person in charge shall at the time of inspection correct a critical violation of this chapter and implement corrective actions for a HACCP plan provision that is not in compliance with its critical limit.

B. Considering the nature of the potential hazard involved and the complexity of the corrective action needed, the department may agree to or specify a longer time frame, not to exceed 10 calendar days after the inspection, for the operator or person in charge to correct critical violations or HACCP plan deviations.

2 VAC 5-585-3940. Verification and documentation of correction.

A. After observing at the time of inspection a correction of a critical violation or deviation, the authorized representative of the commissioner shall enter the violation and information about the corrective action on the inspection report.

B. As specified under 2 VAC 5-585-3930 B, the authorized representative shall verify correction of the critical violation or deviation during the next scheduled inspection of the establishment and shall document the information on an inspection report, and enter the report in the department's records.

2 VAC 5-585-3950. Noncritical violation, time frame for correction.

A. Except as specified in subsection B of this section, the operator or person in charge shall correct noncritical violations by a date and time agreed to or specified by the department but no later than 90 calendar days after the inspection.

B. The department may approve a compliance schedule that extends beyond the time limits specified under subsection A of this section if a written schedule of compliance is submitted by the operator and no health hazard exists or will result from allowing an extended schedule for compliance.

2 VAC 5-585-3960 through 2 VAC 5-585-4030. (Reserved.)

Article 5.
Prevention of Foodborne Disease Transmission by Employees.

2 VAC 5-585-4040. Investigation and control, obtaining information: personal history of illness, medical examination, and specimen analysis.

The department shall act when it has reasonable cause to believe that a food employee has possibly transmitted disease; may be infected with a disease in a communicable form that is transmissible through food; may be a carrier of infectious agents that cause a disease that is transmissible through food; or is affected with a boil, an infected wound, or acute respiratory infection, by:

1. Securing a confidential medical history of the employee suspected of transmitting disease or making other investigations as deemed appropriate; and
2. Requiring appropriate medical examinations, including collection of specimens for laboratory analysis, of a suspected employee and other employees.

2 VAC 5-585-4050. Restriction or exclusion of food employee.

Based on the findings of an investigation related to a food employee who is suspected of being infected or diseased, the department may request that the suspected food employee or operator institute one of the following control measures:

1. Restricting the food employee; or
2. Excluding the food employee.

2 VAC 5-585-4060. Restriction or exclusion request: information required.

Based on the findings of the investigation as specified in 2 VAC 5-585-4040 and to control disease transmission, the department may make a request to the suspected food employee or the operator regarding restriction or exclusion if the request:

1. States the reasons for the restriction or exclusion that is requested;
2. States the evidence that the food employee or operator shall provide in order to demonstrate that the reasons for the restriction or exclusion are eliminated.

2 VAC 5-585-4070. Release of food employee from restriction or exclusion.

The department shall release a food employee from restriction or exclusion according to law and the following conditions:

1. A food employee who was infected with *Salmonella typhi* if the food employee's stools are negative for *S. typhi* based on testing of at least three consecutive stool specimen cultures that are taken:
 - a. Not earlier than one month after onset;
 - b. At least 48 hours after discontinuance of antibiotics; and
 - c. At least 24 hours apart; and
2. If one of the cultures taken as specified in subdivision 1 of this section is positive, repeat cultures are taken at intervals of one month until at least three consecutive negative stool specimen cultures are obtained.
3. A food employee who was infected with *Shigella* spp. or Shiga toxin-producing *Escherichia coli* if the employee's stools are negative for *Shigella* spp. or Shiga toxin-producing *Escherichia coli* based on testing of two consecutive stool specimen cultures that are taken:
 - a. Not earlier than 48 hours after discontinuance of antibiotics; and
 - b. At least 24 hours apart.
4. A food employee who was infected with hepatitis A virus if:
 - a. Symptoms cease; or
 - b. At least two blood tests show falling liver enzymes.

NOTICE: The forms used in administering 2 VAC 5-585, Retail Food Establishment 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 Agriculture and Consumer Services, 102 Governor Street, Suite 349, Richmond, Virginia, or at the office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia.

FORMS

- Food Safety and Security Program, Inspection Report.*
- Food Safety and Security Program, Record of Complaint.*
- Food Safety and Security Program, Record of Complaint, FBI.*
- Food Safety and Security Program, Sample Collection Report.*

DOCUMENTS INCORPORATED BY REFERENCE

Approved Drug Products with Therapeutic Equivalence Evaluations, 25th Edition, available from the U.S. Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research, Office of Pharmaceutical Science, Office of Generic Drugs at <http://www.fda.gov/cder/ob/default.htm>.

Proposed Regulations

7 CFR Parts 56 and 59, January 2006, published by the U.S. Government Printing Office, 732 North Capitol St., NW, Washington, DC 20401.

9 CFR Parts 301, 308, 317, 319, 352, 354, 362, 381, 424, and 590, January 2006, published by the U.S. Government Printing Office, 732 North Capitol St., NW, Washington, DC 20401.

21 CFR Parts 101, 113, 114, 120, 129 – 186, 21 CFR 1030.10, and 1240.60(d), April 2006, published by the U.S. Government Printing Office, 732 North Capitol St., NW, Washington, DC 20401.

40 CFR Parts 141, 152 and 185, July 2005, published by the U.S. Government Printing Office, 732 North Capitol St., NW, Washington, DC 20401.

50 CFR Part 17, October 2005, published by the U.S. Government Printing Office, 732 North Capitol St., NW, Washington, DC 20401.

Federal Food, Drug and Cosmetic Act, as amended through December 31, 2004, 21 USC §§ 321, 342, 343, 348 and 376, published by the U.S. Government Printing Office, 732 North Capitol St., NW, Washington, DC 20401.

Grade "A" Pasteurized Milk Ordinance, 2003 Revision, published by the U.S. Department of Health and Human Services, Public Health Service, Food and Drug Administration, Milk Safety Branch (HFS-626), 5100 Paint Branch Parkway, College Park, MD 20740-3835.

Grade "A" Condensed and Dry Milk Ordinance, 1995 Revision, published by the U.S. Department of Health and Human Services, Public Health Service, Food and Drug Administration, Milk Safety Branch (HFS-626), 5100 Paint Branch Parkway, College Park, MD 20740-3835.

Interstate Certified Shellfish Shippers List, (updated monthly), published by the U.S. Department of Health and Human Services, Public Health Service, Food and Drug Administration, Office of Seafood (HFS-417), 5100 Paint Branch Parkway, College Park, MD 20740-3835.

National Shellfish Sanitation Program Manual of Operations, 1995 Revision, published by the U.S. Department of Health and Human Services, Public Health Service, Food and Drug Administration, Office of Seafood (HFS-417), 5100 Paint Branch Parkway, College Park, MD 20740-3835.

Virginia Waterworks Regulations, 12 VAC 5-590, May 2006, Virginia Department of Health, 109 Governor Street, Richmond, VA 23219.

Virginia Statewide Building Code, 13 VAC 5-63, November 2005, Virginia Department of Housing and Community Development, 501 North 2nd Street, Richmond, VA 23219.

VA.R. Doc. No. R06-275; Filed June 20, 2006, 12:06 p.m.

TITLE 6. CRIMINAL JUSTICE AND CORRECTIONS

BOARD OF CORRECTIONS

Title of Regulation: **6 VAC 15-20. Regulations Governing Certification and Inspection (amending 6 VAC 15-20-10 through 6 VAC 15-20-230).**

Statutory Authority: § 53.1-5 of the Code of Virginia.

Public Hearing Date: N/A - Public comments may be submitted until 5 p.m. on September 8, 2006.

(See Calendar of Events section for additional information)

Agency Contact: Donna Lawrence, Manager, Compliance and Accreditation Unit, Department of Corrections, 6900 Atmore Drive, Richmond, VA 23225, telephone (804) 674-3499, FAX (804) 674-3587, e-mail donna.lawrence@vadoc.virginia.gov.

Basis: 6 VAC 15-20 is statutorily authorized under § 53.1-5 of the Code of Virginia, which requires the board to develop and establish program and fiscal standards and goals governing the operation of state, local and community correctional facilities and community correctional services. In addition, this section requires the board to monitor the activities of the department and its effectiveness in implementing the standards and goals of the board. The Regulations Governing Certification and Inspection serve to enforce all facility and program standards promulgated by the board.

Purpose: The current regulations have been in place in their current form since July 1, 1997. Since that time the board and the Department of Corrections have determined that revisions of the regulations, through the Administrative Process Act, may be necessary to accommodate new recommendations and to ensure further the health and safety standards of correctional facilities and services in state, local and community correctional facilities.

Substance: The Board of Corrections proposes to revise, where necessary, language in 6 VAC 15-20 to reflect changes to the certification process in state, local and community correctional facilities and programs. This proposal changes the name and structure of the Department of Corrections' "Certification Unit" to the "Compliance and Accreditation Unit," and identifies the Compliance and Accreditation Unit Manager as the individual responsible to the Deputy Director of Administration for managing the Board of Corrections' certification process. The amended regulations update current on-site audit reporting procedures, clarify to whom approved action plans are to be sent, and require local correctional facilities and community adult residential programs to submit variance requests directly to the Board of Corrections. It allows a facility or program administrator to request that a denied appeal be forwarded to the next level and requires the Compliance and Accreditation Unit staff to submit the denied action plan and a final recommendation to the board. In addition, amendments change the time allowed for the Compliance and Accreditation Unit Supervisor to submit audit reports to the board from 75 days to 60 days.

Issues: The primary advantage is that the revised regulation updates and clarifies the process for monitoring and certifying state, local and community correctional facilities and programs. There are no known disadvantages resulting from the proposed revisions to the existing regulation.

Department of Planning and Budget's Economic Impact Analysis:

Summary of the Proposed Regulation. The Board of Corrections (board) proposes to amend its Regulations Governing Certification and Inspection to account for changes in the internal structure of its auditing unit. The board proposes to require that correctional facilities and programs provide documentation for any waivers they have obtained. In addition, the board proposes to eliminate the requirement that the auditing unit send enumerated compliance forms to correctional facilities each time they are audited.

Result of Analysis. The benefits likely exceed the costs for this proposed regulatory change.

Estimated Economic Impact. At the time that this regulation was last amended, the Department of Corrections (DOC) division tasked with auditing and inspecting correctional facilities and programs was called the Certification Unit. The board seeks to correct the wording of the regulation to reflect that the title of this division has been changed to the Compliance and Accreditation Unit. There are likely no economic implications to this wording change.

Although not explicitly stated in current regulation, correctional facilities and programs are required to provide any waivers for physical plant deficiencies, that they have obtained from the board, to the Compliance and Accreditation Unit during any audit that occurs during the time period when these waivers are valid. The board proposes to amend current regulation to reflect this practice. Correctional facilities and programs are unlikely to incur any expenses because of this regulatory change.

Currently the Compliance and Accreditation Unit must send, with every notice of impending compliance audit, a copy of the regulations governing audits, a copy of the standard compliance form and a list of all the documentation that may be required during the audit. The board seeks to strike this requirement from the regulation because they have found that it to be unnecessarily, and expensively, repetitive. Instead, the Compliance and Accreditation Unit has assembled notebooks with all paperwork that could conceivably be relevant to the auditing process and has delivered these notebooks to all affected entities.

This change will likely lower the cost of auditing by the sum of the amount that the Compliance and Accreditation Unit has spent to repeatedly copy this regulation and the list of documentation and any extra postage that has been paid to mail the heavier notices. The correctional facilities and programs will, henceforth, be responsible for copying any forms, like the compliance form, that they will need to submit during each audit; the cost associated with this will be transferred rather than eliminated. In any case these costs are all paid out of state funds.

Businesses and Entities Affected. There are 205 correctional facilities and programs in the Commonwealth that are subject to audits under the proposed regulation. Of these facilities and programs, 42 are operated by the state, 84 are operated by localities and 79 are operated by communities.

Localities Particularly Affected. All localities in the Commonwealth are affected by the proposed regulation.

Projected Impact on Employment. The proposed regulation will likely have no impact on employment.

Effects on the Use and Value of Private Property. The proposed regulation affects public entities. No private entities, or their property, will be affected.

Small Businesses: Costs and Other Effects. No small businesses are directly affected by the proposed regulation.

Small Businesses: Alternative Method that Minimizes Adverse Impact. No small businesses are directly affected by the proposed regulation.

Legal mandate. 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. Further, if the proposed regulation has an adverse effect on small businesses, § 2.2-4007 H requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The department has reviewed the economic impact statement prepared by the Department of Planning and Budget and has no comment.

Summary:

The proposed amendments account for changes in the internal structure of the department's auditing unit. The amendments require that correctional facilities and programs provide documentation for any waivers that the board has obtained and eliminate the requirement that the auditing unit send enumerated compliance forms to correctional facilities each time they are audited.

Proposed Regulations

6 VAC 15-20-10. Definitions.

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

"Appeal" means the action taken by a facility or program administrator when there is disagreement with a compliance audit finding.

"Audit report" means the official report of compliance audit findings prepared by the ~~Certification~~ *Compliance and Accreditation* Unit supervisor for the department and submitted to the board.

"Board" means the State Board of Corrections.

"Certification analyst" means a person assigned to the ~~Certification~~ *Compliance and Accreditation* Unit who serves as chairperson or team leader of the certification team.

"Certification/accreditation team" means ~~those~~ persons appointed by the ~~deputy director~~ *Compliance and Accreditation Unit manager or the American Correctional Association* to conduct compliance audits.

~~"Certification Compliance and Accreditation Unit"~~ means the organizational unit of the department responsible for scheduling and conducting compliance audits to board standards.

"Compliance" means that no deficiency was cited by the certification team or that cited deficiencies have been corrected through completion of the tasks identified in the plan of action.

"Compliance audit" ~~or audit~~ means an on-site official review of a facility or program by the certification team to evaluate compliance with standards promulgated by the board.

"Compliance and Accreditation Unit local facilities supervisor" means an individual responsible to the Compliance and Accreditation Unit manager for supervising the Board of Corrections' local facilities inspections.

"Compliance and Accreditation Unit manager" means an individual responsible to the Deputy Director of Administration for managing the Board of Corrections' certification process.

"Compliance and Accreditation Unit supervisor" means an individual responsible to the Compliance and Accreditation Unit manager for supervising the Board of Corrections' certification process.

"Compliance documentation" means specific documents or information including records, reports, observations and verbal responses required to verify compliance with standards by a facility or program.

"Decertified" means a status imposed by the board when it is determined that a facility or program has not met a minimum acceptable level of compliance with standards.

"Deficiency" means noncompliance with a specific ~~board~~ standard.

"Department" means the Department of Corrections.

"Deputy director" means the administrative head or designee of a division of the Department of Corrections.

"Director" means the Director of the Department of Corrections.

"Facility" means the physical plant of a state, local or private correctional facility or community correctional facility.

"Facility or program administrator" means the individual responsible for the operation of a facility or program subject to standards, rules or regulations of the board.

"Inspection" means an on-site official review of a local correctional facility by local facilities managers to assess compliance with life, health and safety standards promulgated by the board.

"Interim compliance audit" means an on-site official review of a facility or program by the ~~Certification Compliance and Accreditation Unit staff~~ to evaluate compliance with standards promulgated by the board which occurs at an interval other than the regular schedule as provided in 6 VAC 15-20-20. The interim compliance audit may consist of a determination of compliance with all standards applicable to the facility or program or may be limited to specific standards as directed by the board.

"Life, health, ~~and~~ safety alert" means a process by which the board is provided immediate notice by department staff of life, health and safety deficiencies identified in local facilities/programs.

"Life, health, safety standards" ~~or "LHS standards"~~ means those standards directly related to life, health or safety issues as identified by the board.

"Local correctional facility" means a jail, regional jail, or lockup.

"Plan of action" means a document stating what has been or will be done to bring all deficiencies into compliance with standards, including a description of the activities undertaken, staff responsibilities, and a time table for completion.

"Preparatory audit" means an unofficial review of a facility or program by regional ~~or central office~~ *staff or the Compliance and Accreditation Unit* to evaluate compliance with standards promulgated by the board.

"Private correctional facility" means a facility ~~which~~ *that* is operated by an entity which has entered into a legal agreement to provide any correctional services to the Department of Corrections with respect to inmates under the custody of the Commonwealth.

"Probation and parole district" means under the authority of the Director of the Department of Corrections, the Commonwealth is divided into as many separate districts as deemed necessary to provide professional investigation and supervision of the offender in the community under conditions of probation, parole or postrelease supervision and special conditions as set by the court or the Parole Board.

"Probationary certification" means a status granted by the board for a specific period of time to correct deficiencies within the control of the facility or program.

"Program" means a system of services provided to offenders by probation and parole offices and other community-based services.

"Region" means the geographic area in which a facility or program is located as established by the department.

"Regional administrator/director" means the administrative head of a specific geographic region within the department.

"Regional office" means the administrative offices of a specific region within the department.

"Unconditional certification" means that a facility or program is in 100% compliance with all applicable standards based upon the receipt of the plan of action.

"Variance" means a decision by the board to suspend the requirements of a specific standard for a specific period of time.

6 VAC 15-20-30. Frequency of audits.

A. All state, local, private and community correctional facilities and programs operated by or affiliated with the department shall be audited every three years.

1. The regional ~~office~~ or local facilities' office staff shall notify the ~~Certification Compliance and Accreditation Unit staff supervisor~~ in writing within 30 days after a new facility or program accepts the first offender.

2. The regional ~~or central~~ office staff shall conduct a preparatory audit of a new facility or program during the first six months of operation.

3. The ~~Certification Compliance and Accreditation Unit staff~~ shall conduct a compliance audit during the second six months of operation and on a regular schedule thereafter as provided by this section.

B. The scheduled compliance audit may be postponed for up to six months due to bona fide security or emergency situations.

1. The facility or program administrator shall notify the ~~certification analyst~~ *Compliance and Accreditation Unit manager* and provide details of the circumstances requiring the postponement.

2. The ~~certification analyst~~ *Compliance and Accreditation Unit supervisor* shall complete a written notice of change and ~~submit it to the Certification Unit supervisor for approval~~ *send copies of the approved written notice of change to the board, facility or program administrator, the appropriate regional director and the team members.*

3. ~~The certification analyst shall send copies of the approved written notice of change to the board, facility or program administrator, the appropriate regional administrator/director, and the team members.~~

C. Any state, local, private or community correctional facility or program may be scheduled for an interim compliance audit at the direction of the board. An interim audit may be scheduled for a facility or program ~~which~~ *that* has:

1. Undergone renovations or additions that have resulted in additional inmate capacity or significant changes to the numbers and duties of security staff;

2. Exhibited difficulty in maintaining compliance with the board's standards;

3. Been cited for noncompliance with the board's standards as a result of Department of Corrections inspections, Department of Health inspections or informal visits made by Department of Corrections' staff; or

4. Been placed in probationary or decertified status.

6 VAC 15-20-40. Preparation for audit.

A. The ~~Certification Compliance and Accreditation Unit staff supervisor~~ shall develop an annual audit schedule.

1. The schedule shall be submitted to the ~~appropriate deputy director~~ *Compliance and Accreditation Unit manager* for review, comment and approval.

2. Upon approval, the ~~Certification Compliance and Accreditation Unit staff supervisor~~ shall:

a. Disseminate the final schedule ~~to the regional offices as appropriate~~, and

b. Review the schedule as necessary and make adjustments for additional audits.

3. Changes to the final audit schedule shall be agreed upon by the ~~appropriate deputy director and the Certification Unit supervisor~~ *Compliance and Accreditation Unit manager*.

4. The ~~Certification Compliance and Accreditation Unit staff supervisor~~ shall notify the facility or program administrator of the change. Changes shall not extend the audit date beyond the established frequency limits without board approval.

B. The ~~deputy director~~ *Compliance and Accreditation Unit manager* shall appoint certification team members.

1. Team members shall have prior audit experience or have completed certification training.

2. At least one person shall be a staff member of the same type of facility or program being audited.

3. All team members shall be from outside of the region *in which the facility or program is located. The certification team auditing local correctional facilities shall consist at minimum of a certification analyst and a local facilities manager.*

4. The ~~team leader~~ *certification analyst shall act as team leader and shall coordinate and facilitate the audit.*

5. ~~The certification team auditing local correctional facilities shall consist of a certification analyst and a local facilities manager.~~

C. The ~~Certification Compliance and Accreditation Unit staff~~ shall notify the facility or program administrator in writing at least 30 days prior to a compliance audit. ~~A copy of this chapter, a copy of the standards compliance form, and a list of~~

Proposed Regulations

~~the compliance documentation required during an audit shall be enclosed with the notification.~~

D. A certification analyst ~~shall~~ *should* visit the facility or program administrator prior to an audit to discuss the audit process *as needed*. ~~Exceptions to The visit prior to an audit shall be documented and approved by the Certification Compliance and Accreditation Unit supervisor.~~

6 VAC 15-20-50. On-site audit procedures.

A. The certification analyst shall, on the first day of the audit, orient the team to the audit process and afford the facility or program administrator an opportunity to brief the team on aspects of the facility or program ~~which~~ *that* may have a bearing on the audit.

~~4. B.~~ The facility or program administrator shall grant the team access to all documents, staff and areas of the facility or program ~~which~~ *that* are relevant to establishing compliance.

~~C.~~ A facility or program with an approved variance shall provide such documentation to the certification team.

~~2. D.~~ Data shall be collected through documentation, interview and observation.

~~3. E.~~ The certification analyst shall brief the facility or program administrator daily on audit progress and preliminary findings. *At this time, the facility or program administrator may introduce additional data having a bearing on the team's findings.*

~~4. F.~~ The entire certification team shall ~~make~~ *be included in* compliance decisions.

~~a. 1.~~ When a team member finds an indication of noncompliance, the team member shall notify the entire team and provide all available information regarding the standard in question.

~~b. A majority vote of 2.~~ The team *leader* shall ~~determine~~ *obtain consensus of the members to* the compliance.

~~e. 3.~~ If a ~~majority vote consensus~~ cannot be obtained, the matter shall be referred to the ~~appropriate deputy director by the Certification Compliance and Accreditation Unit supervisor.~~

~~5. G.~~ The team shall hold a ~~meeting~~ *final debriefing* with the facility or program administrator to discuss the team's compliance audit findings. *At this time the facility or program administrator may introduce additional data having a bearing on the team's findings.*

~~6. H.~~ At the request of the facility or program administrator, the certification ~~analyst~~ *team* shall report compliance audit findings to facility or program staff.

6 VAC 15-20-60. Audit findings.

The ~~Certification Compliance and Accreditation Unit staff~~ shall mail the audit findings to the facility or program administrator, ~~the regional office,~~ and the ~~Board of Corrections regional office~~ within five working days following the compliance audit.

6 VAC 15-20-70. Development of a plan of action.

A. A plan of action shall be developed for all deficiencies noted in the compliance audit findings. ~~The regional office or Certification Unit staff shall be available to assist the facility or program administrator in developing the plan of action.~~ 1. The plan of action must identify the following:

- ~~a.~~ 1. The tasks required to correct a noted deficiency;
- ~~b.~~ 2. The personnel responsible for completing the tasks; and
- ~~c.~~ 3. The actual or proposed date of task completion.

~~2. B.~~ The facility or program administrator shall submit the plan of action to the regional office or ~~Certification Compliance and Accreditation Unit (for local facilities)~~ as appropriate within 10 working days of receipt of the notification of deficiencies.

~~3. C.~~ The regional ~~administrator/director or designee,~~ or ~~Certification Compliance and Accreditation Unit supervisor~~ manager shall review the plan of action. If approved, it shall be submitted to the ~~deputy director~~ within 10 working days of receipt: *as follows:*

1. *Regional director to the Deputy Director of Community Corrections;*
2. *Regional director to the Deputy Director of Operations;*
3. *Compliance and Accreditation Unit manager.*

~~4. D.~~ The Deputy Director of Community Corrections/~~Deputy Director of Operations/Compliance and Accreditation Unit manager~~ shall ~~either~~ approve, amend or return the plan of action to the regional ~~administrator/director or Certification Unit supervisor~~ *local facility administrator* for revision within 10 working days of receipt.

~~5. E.~~ The regional ~~administrator/director or local facilities administrator~~ shall complete any ~~revisions~~ *revision* requested and return the plan to the Deputy Director of Community Corrections/~~Deputy Director of Operations/Compliance and Accreditation Unit manager~~ within 10 working days of receipt.

~~6. F.~~ The ~~deputy director~~ *Compliance and Accreditation Unit manager* may grant one 30-day extension to a facility or program administrator for the development of a plan of action. The ~~deputy director~~ *Compliance and Accreditation Unit manager* shall notify the board of the extension and its justification. The board may grant additional extensions.

~~7. G.~~ If a facility or program administrator fails to submit a plan of action within the time specified, the ~~department~~ *Compliance and Accreditation Unit supervisor* shall submit the audit report with recommendations to the board.

6 VAC 15-20-80. Variance requests.

A variance may be requested by a facility or program administrator when unable to comply with a standard.

1. Variance requests shall be submitted along with the plan of action for any deficiencies cited during the audit. Local correctional facilities shall submit the variance request directly to the board with the plan of action. Variance

requests from other facilities/programs shall follow the procedures listed below. *Variance requests shall include:*

- a. *The standard that cannot be met;*
- b. *Justification for variance;*
- c. *The time frame for the variance.*

2. *Local correctional facilities and community adult residential programs shall submit the variance request directly to the board.*

~~2-3.~~ *The regional administrator/director or Certification Unit supervisor shall make a recommendation on the variance request and submit it and the plan of action to either the Deputy Director of Operations or Deputy Director of Community Corrections.*

~~3-4.~~ *The Deputy Director of Operations or Deputy Director of Community Corrections shall review the variance request and plan of action or requests and either submit them to the board with a recommendation for approval or return them the disapproved request to the regional administrator/director for revision.*

5. *The Compliance and Accreditation Unit manager, for the deputy director, shall forward all the variance requests request to the board with a recommendation for approval.*

4. *Variance requests shall include:*

- a. *Standard which cannot be met; and*
- b. *Justification for variance.*

5. *A facility or program with an approved variance shall provide such documentation to the certification team.*

6 VAC 15-20-90. Appeal process and schedule.

~~A facility or program administrator may appeal a decision of noncompliance from audit findings using the following appeal levels and guidelines:~~

~~4-A.~~ *The appeal review levels are:*

- ~~a-1.~~ *Deputy Director of Operations for state correctional facilities;*
- ~~b-2.~~ *Deputy Director of Community Corrections for state community correctional units and probation and parole districts; and*
- ~~c-3.~~ *Board of Corrections (if a for locally or privately operated facility community facilities or program) programs.*

~~2-B.~~ *Appeals shall be submitted to either the regional office or Certification the Compliance and Accreditation Unit staff (as noted above) along with the plan of action within 10 working days of receipt of the notification of deficiencies. The regional director or the Compliance and Accreditation Unit supervisor shall submit the appeal and the plan of action to the Deputy Director of Operations/Deputy Director of Community Corrections within five working days of receipt.*

~~3.~~ *The regional administrator/director or Certification Unit supervisor shall submit the appeal and the plan of action to the deputy director within five working days of receipt. Upon*

~~receipt of notification from the deputy director, the Certification Unit supervisor shall coordinate a review of the appeal issues with the persons identified in subdivision 1 of this section.~~

~~C.~~ *If the appeal is denied at any level, the facility or program administrator may request that the appeal be forwarded to the next level.*

4. ~~D.~~ *Each appeal level shall complete its review of the appeal and notify the Certification Compliance and Accreditation Unit supervisor of its decision within five working days of upon receipt of the appeal.*

~~5- E.~~ *Upon completion of the board's review of the appeal, notification of its the decision shall be forwarded no later than five days after the board meeting to the facility or program administrator.*

~~6- F.~~ *If the appeal is ultimately denied at any level, the facility or program administrator shall: by the board, the Compliance and Accreditation Unit will review and confirm the submitted plan of action and present a final recommendation for consideration by the board at the following board meeting.*

~~a- Submit a plan of action for the specific deficiency in question to the regional administrator/director or Certification Unit supervisor; or~~

~~b- Request that the appeal be forwarded to the next level.~~

~~7.~~ *If the appeal is ultimately denied by the board or other level, the facility or program administrator shall submit a plan of action for the deficiency which was appealed within a time frame specified by the review level.*

6 VAC 15-20-100. Board action on audit results.

A. ~~The Certification Compliance and Accreditation Unit supervisor shall submit audit reports to the board no later than 75 60 days after completion of the audit. Audit reports shall include:~~

1. ~~A list of deficiencies;~~
2. ~~Plans of corrective action and completion status;~~
3. ~~Similar deficiencies from the previous audit; and~~
4. ~~Recommended action for consideration by the board.~~

B. ~~Based upon the audit report the board shall take one of the following actions:~~

1. ~~A letter requesting corrective action on deficiencies within a specific time frame shall be issued to the facility or program.~~
2. ~~A certificate of unconditional certification shall be issued to a facility or program that has complied with all applicable standards.~~
3. ~~A letter of probationary certification may be issued to a facility or program that has not met all applicable standards if the board grants a specific period of time to correct deficiencies. The department shall provide periodic status reports to the board.~~

Proposed Regulations

4. A letter of decertification will be issued by the board when a facility or program does not meet the requirements for certification within the time limits approved by the board. The ~~department~~ *Compliance and Accreditation Unit supervisor* shall provide status reports to the board during this period and notify the board when all deficiencies have been corrected.

C. A facility or program's certification status shall remain in effect until subsequent board action.

6 VAC 15-20-110. Notifications.

The ~~Certification Unit staff~~ *Compliance and Accreditation Unit supervisor* shall notify the facility or program administrator of a ~~facility or program's~~ *the* certification status immediately following the board's action. The facility or program administrator shall post the letter or certificate in a place conspicuous to the public.

6 VAC 15-20-120. Actions that can be taken when decertified.

When a facility or program is decertified the board may consider taking the following actions in compliance with statutes, policies, and procedures established by the board, the department or other state or federal agencies:

1. Board action for facilities or programs that are state or privately operated may include, but not be limited to, the following:

a. The facility or program ~~director~~ *administrator* authorized to take action may bring about a reorganization of the facility or program structure or other personnel actions deemed necessary to bring it into compliance with standards; or

b. The facility or program may be closed in accordance with established procedures.

2. Board action for facilities and programs that are locally operated may include, but not be limited to, the following:

a. Recommend that the facility or program administrator authorized to take action bring about a reorganization of the facility or program structure or other personnel actions deemed necessary to bring it into compliance with standards; or

b. Recommend that the facility or program be closed or contractual agreements terminated in accordance with established procedures; or

c. Initiate proceedings for the withholding of funds under the appropriate sections of the Code of Virginia.

6 VAC 15-20-130. Inspection method.

A. Inspections shall be governed by § 53.1-68 of the Code of Virginia.

B. Inspections shall be conducted to inspect for compliance with all life, health and safety standards in the Board of Corrections' Minimum Standards for Local Jails and Lockups (6 VAC 15-40-10 ~~et seq.~~).

6 VAC 15-20-140. Inspection schedule.

A. All local correctional facilities shall undergo life, health and safety inspections by the ~~Local Facilities Compliance and Accreditation Unit~~.

B. The ~~Chief of Operations, Local Facilities Unit, Compliance and Accreditation Unit local facilities supervisor~~ shall prepare an annual inspection schedule.

1. The inspection schedule shall not be published outside the Board of Corrections, Department of Corrections and Virginia Department of Health.

2. The inspection schedule shall be prepared in conjunction with the compliance audit schedule.

3. Upon recommendation by the ~~chief of operations~~ *Compliance and Accreditation Unit local facilities supervisor*, the board may waive the requirement for an inspection in the year in which a local correctional facility undergoes a compliance audit except in which the local correctional facility administrator changes.

C. New local correctional facilities shall be inspected only after the preparatory audit and first year compliance audit have been completed.

D. Local correctional facility inspections shall be postponed or rescheduled only upon approval of the ~~Chief of Operations, Local Facilities Unit Compliance and Accreditation Unit local facilities supervisor~~.

6 VAC 15-20-150. Preparation for inspection.

Inspections shall be conducted by a local facilities ~~Unit~~ manager on the basis of an annual schedule assignment.

1. Larger local correctional facilities may require more than one staff *person* to perform the inspection. In this event, the manager assigned to the inspection may request assistance of other ~~local facilities staff, Certification Unit, Compliance and Accreditation Unit staff~~ or regional office personnel.

2. The local facilities manager may coordinate the inspection with local health department officials.

6 VAC 15-20-160. On-site inspection procedures.

A. The local facilities manager shall announce the intent of the visit and produce official identification if required upon arrival at the local correctional facility.

B. The local correctional facility shall grant access to all documents, staff and areas of the facility necessary to complete the inspection and assess standards compliance.

C. Denial of access to the facility for any reasons other than bonafide security or emergency situations shall result in findings of noncompliance on all standards. In the event of denial of access, the local facilities manager will notify the ~~chief of operations~~ *Compliance and Accreditation Unit manager* immediately. The inspection may be rescheduled if it is determined that denial of access was warranted.

D. Compliance data shall be gathered through documentation, interview and observation.

E. The local facilities manager assigned to the inspection shall determine compliance in the event more than one staff conduct the inspection.

F. All life, health and safety standards shall be assessed for compliance at the time of the inspection using the inspection form to indicate a yes or no finding. Situations which prevent access to documentation, observation or interview to determine compliance shall result in a finding of noncompliance for the applicable standard.

G. A debriefing with the facility administrator or staff in charge shall be held upon inspection completion. If requested, the local facilities manager may debrief other jail personnel.

6 VAC 15-20-170. Inspection findings.

The inspection report shall be provided to the facility upon completion of the inspection ~~and a copy of the report mailed to the regional office within five working days.~~

6 VAC 15-20-180. Correction of deficiencies.

A. Facility administrators shall advise the ~~chief of operations~~ *Compliance and Accreditation Unit local facilities supervisor* in writing of the correction of all cited deficiencies within seven days following the inspection. Adequate documentation to support deficiency corrections shall be provided.

B. The *Compliance and Accreditation Unit* local facilities manager shall assist facilities in correcting deficiencies where necessary and monitor the submission of written notification of deficiency corrections.

C. The *Compliance and Accreditation Unit* local facilities manager shall maintain copies of all inspection reports and provide a monthly report to the ~~chief of operations~~ *Compliance and Accreditation Unit local facilities supervisor* on inspection results. Deficiencies not corrected within 30 days shall be reported as life, health and safety alerts.

6 VAC 15-20-190. Board action on inspection results.

A. Inspection results shall be reported by the ~~chief of operations~~ *Compliance and Accreditation Unit local facilities supervisor* to the board on a monthly basis and deficiencies not corrected will be reported as life, health and safety alerts.

B. The results of all inspections conducted shall be reported to the board.

C. The board shall be notified immediately of all life, health and safety alerts, including denial of access. Upon review of alert deficiencies, the Board of Corrections chairman, or in his absence the vice chairman, may change the certification status of the facility in question.

D. Board actions taken in response to inspection results shall be as described in ~~the section of this chapter relating to certification audits~~ *6 VAC 15-20-190.*

6 VAC 15-20-200. Health inspection schedule.

A. All local correctional facilities shall undergo inspections by the Virginia Department of Health in accordance with § 53.1-68 of the Code of Virginia.

B. Virginia Department of Health environmental staff, under the delegated power of the State Health Commissioner and the district health director, shall be responsible for scheduling and administrating local correctional facility inspections.

C. The Office of Environmental Health Services of the Virginia Department of Health shall provide the technical and administrative guidance to district and local health departments as necessary or requested. Local health departments may coordinate the inspections with the department's ~~Local Facilities Compliance and Accreditation Unit.~~

6 VAC 15-20-210. On-site health inspection procedures.

A. Virginia Department of Health staff shall announce the intent of the visit and produce official identification if required upon arrival at the facility.

B. The facility shall grant access to all documents, staff and areas of the local correctional facility necessary to complete the inspection.

C. Virginia Department of Health staff shall evaluate jail kitchen facilities in accordance with the ~~Rules and Regulations Governing Restaurants Food Regulations, 12 VAC 5-420-10 et seq~~ *12 VAC 5-421.* A food establishment permit shall be issued to facilities ~~which that~~ comply with the ~~Rules and Regulations Governing Restaurants Food Regulations.~~ No permit shall be issued to facilities ~~which that~~ are not in substantial compliance with the regulations.

D. Virginia Department of Health staff shall also inspect all areas of the facility necessary to determine compliance with standards for facility cleanliness and housing areas of local correctional facilities designated in the interagency letter of agreement between the Board of Corrections and the Virginia Department of Health.

E. Compliance data shall be gathered through documentation, interview and observation. Situations ~~which that~~ prevent access to documentation, observation or interview to determine compliance shall result in a finding of noncompliance for the applicable standard.

F. If possible, food service and standards compliance inspections should occur on the same visit to the facility. In those cases where follow-up visits are necessary, those visits may be coordinated with appropriate facility staff.

G. At the conclusion of the inspection, the facility administrator or designee or both shall be briefed on the inspection findings.

6 VAC 15-20-220. Health inspection findings.

The inspection report shall be provided to the facility upon completion of the inspection and a copy shall be forwarded to the department's ~~Certification~~ *Compliance and Accreditation Unit* within 30 days. In a situation where sanitation and environmental conditions could pose a health hazard, the department shall be notified immediately.

6 VAC 15-20-230. Board action on health inspection results.

Inspection results which report sanitation and environmental hazards or evidence of noncompliance with standards shall be

Proposed Regulations

reported to the board by the ~~Certification Compliance and Accreditation Unit staff~~ on a monthly basis. Board action taken in response to inspection results shall be as described in ~~the section of this chapter~~ 6 VAC 15-20-100 relating to compliance audits. Follow-up relative to standards shall be the responsibility of the board and the department.

VA.R. Doc. No. R01-67; Filed June 21, 2006, 10:30 a.m.

CRIMINAL JUSTICE SERVICES BOARD

Title of Regulation: 6 VAC 20-30. Rules Relating to Compulsory In-Service Training Standards for Law-Enforcement Officers, Jailors or Custodial Officers, Courtroom Security Officers, Process Service Officers and Officers of the Department of Corrections, Division of Operations (amending 6 VAC 20-30-10 through 6 VAC 20-30-60, 6 VAC 20-30-80).

Statutory Authority: § 9.1-102 of the Code of Virginia.

Public Hearing Date: September 13, 2006 - 1 p.m.

Public comments may be submitted until September 11, 2006.

(See Calendar of Events section for additional information)

Agency Contact: John Byrd, Assistant Section Chief, Department of Criminal Justice Services, 202 North 9th Street, Richmond, VA 23219, telephone (804) 786-6375, FAX (804) 786-0410, or e-mail john.byrd@dcjs.virginia.gov.

Basis: Section 9.1-102 of the Code of Virginia gives the board the authority to establish training standards as necessary.

Purpose: These rules were last amended in 1992. Since then technology has changed. Some of the standards are not compatible with the most efficient way to conduct training. The purpose of these changes is to facilitate training while maintaining the quality of training.

The goal of these changes is to make training and reporting requirements easier for certified academies to accomplish.

Substance: The criteria for use of multimedia for training has been redefined, the minimum requirement for a classroom training session has been reduced from four hours to two hours, the firearms requirements for in-service training have been made consistent with the requirements for entry-level training and a specific requirement for training to ensure sensitivity to and awareness of cultural diversity in accordance with § 9.1-102 of the Code of Virginia.

Issues: The public should benefit from the requirement that all officers receive training to ensure sensitivity to and awareness of cultural diversity. Generally, the public should benefit because these changes make the provision of training by criminal justice academies more efficient while maintaining the quality of training.

The primary advantage of these changes is to facilitate training conducted by criminal justice academies.

There are no disadvantages to the general public or the Commonwealth.

Department of Planning and Budget's Economic Impact Analysis:

Summary of the proposed amendments to regulation. The Criminal Justice Services Board (board) proposes to: (i) allow academy directors to approve all in-service training; (ii) reduce the minimum length of a training session to two hours; (iii) require that two hours of the in-service training for law-enforcement officers, jailors, custodial officers, courtroom security officers, process service officers, and officers of the Department of Corrections be on cultural diversity; (iv) eliminate certain current limitations on extensions of the time limit for completion of in-service training; (v) eliminate the time limit on when the chief of police, sheriff or agency administrator may request authorization for attendance and successful completion by an employee of job-related courses to count for partial in-service credit; (vi) eliminate the requirement that the local agency maintain records of in-service training attendance; (vii) eliminate the limit on the number of credits that can be earned via electronic training; (viii) permit that up to 16 credit hours per two-year in-service period may be earned via being an instructor; and (ix) update the annual firearms requirement to be consistent with the options available for entry-level training.

Result of analysis. The benefits likely exceed the costs for one or more proposed changes. There is insufficient data to accurately compare the magnitude of the benefits versus the costs for other changes.

Estimated economic impact. Training approval. Under the current regulations training academies submit information about in-service training to Department of Criminal Justice Services field coordinators for approval. The board proposes to allow the certified academies, under direction of the board, to approve all in-service training. According to the department, this will make no difference in what in-service training is approved. The proposed change will save time for department staff, academy staff and officers. Since there apparently will be no effective change in which training is approved and there will be time savings, this proposal will produce a net benefit.

Minimum length of training. The board proposes to reduce the minimum length of a training session to two hours. The board determined that quality training can be conducted in as little as two hours. Some training may have been stretched to reach four hours, despite containing content that could be covered in less time, in order to qualify for in-service credits. The proposed change will reduce the incentive to do this and thus may reduce wasted time. Thus, the proposal produces a net benefit.

Required diversity training. Under both the current and proposed regulations, per two-year period, law-enforcement officers are required to complete 40 hours of in-service training; jailors and custodial officers are required to complete 24 hours of training; courtroom security officers and process service officers are required to complete 16 hours of training; correctional officers and sergeants in the Department of Corrections, Division of Institutional Services are required to complete 24 hours of training; and lieutenants through wardens in the Department of Corrections, Division of

Institutional Services are required to complete 40 hours of training. The total number of required hours of training are not changing under the proposed regulations, but pursuant to § 9.1-102 (38) of the Code of Virginia, the board proposes to require that all of the above-mentioned officers receive two hours of cultural diversity training per two-year period. Thus, if the officers and their employers do not wish to exceed the required minimum number of hours of training, then the officers will spend two less hours on some alternate form of training. It is not definitively clear whether this proposal produces a net benefit or not. Good diversity training does have the potential to reduce the probability of conflict or inappropriate actions, but it is not clear what type of training and its associated benefits will be foregone.

Extensions. The current and proposed regulations both permit the director of the Department of Criminal Justice Services to grant an extension of the time limit for completion of in-service training under specified conditions including: (i) illness, (ii) injury, (iii) military service, (iv) special duty assignment required and performed in the public interest, (v) administrative leave involving the determination of worker's compensation or disability retirement issues, full-time educational leave or suspension pending investigation or adjudication of a crime, or f) any other reason documented by the agency administrator.¹ The current regulations state that extensions granted for "any other reason documented by the agency administrator" not exceed 90 days. The proposed regulations do not limit extensions under these circumstances to 90 days, but instead state that "The department will determine and approve a reasonable timeframe based upon the justification provided with the extension request."

The current regulations state that any extension granted for "administrative leave involving the determination of worker's compensation or disability retirement issues, full-time educational leave or suspension pending investigation or adjudication of a crime" require the individual to complete the in-service training prior to resuming job duties, and that the extension may not exceed 12 months. Both of these limitations are removed from the proposed regulations.

The proposals to remove these limitations will be beneficial if the board does use its discretion wisely in granting extensions and does not allow officers to indefinitely continue to work without up-to-date training.

Records. The director of the Department of Criminal Justice Services may authorize attendance and successful completion of job-related courses for partial in-service credit upon written request from a chief of police, sheriff or agency administrator. The current regulations require that records be maintained by the department (DCJS). The proposed regulations just require that documentation be submitted to the department for approval, but do not require that records be maintained by the department. The department returns the approved training to the agency which submits it to their academy. Thus eliminating this requirement will save filing and storage costs, and will not cause any reduction to public safety. Thus, this change will create a net benefit.

Electronically transmitted training. Under the current regulations training involving electronically transmitted programs cannot count for more than eight hours training credit per annum. The proposed regulations do not limit the number of credits that can be earned via electronic training. The proposed regulations do require that "A post-viewing objective-based examination covering the instructional material is administered to the student by the academy director or designee, or administered via the multi-media presentation, and the student has no access to the examination or ability to affect, alter, or destroy the examination questions or examination results." Thus, there should not be an increased probability of reduced participation or focus in electronically transmitted programs versus in-person training. The current limitation of only eight hours training credit per annum for electronically transmitted programs therefore provides no clear benefit. The limitation does produce cost in that students must spend additional time and funds on travel and perhaps lodging for in-person training when only eight hours of credit per annum are accepted for electronically transmitted programs. Thus, the proposal to eliminate this limit will produce a net benefit.

In-service credits for instructors. Under the current regulations instructing does not count toward in-service credits. Under the proposed regulations up to 16 credit hours per two-year in-service period may be earned via being an instructor. Each topic may be credited toward in-service training only once per two year in-service period. This provision only applies to the instructor that prepares and conducts the training. In-service credit is expressly prohibited for role players and evaluators.

Teaching a class for the first time almost always involves acquiring deeper understanding of the topic at hand. The instructor must think of how to explain concepts in an understandable manner to students who likely do not have all the same experiences and background as the instructor or each other. Given the learning involved for the instructor as well as the likelihood that allowing teaching to count toward in-service credit will make it easier to attract qualified instructors, this proposal is beneficial. Repeatedly teaching the same course within a short period of time produces significantly less learning for the instructor than teaching a new course for the first time or a similar course after time has passed and new developments must be addressed. Therefore the proposal to permit each training topic to count toward in-service credits only once per two-year period is logical.

Firearms training. The board also proposes to update the annual firearms training requirement to be consistent with the options available for entry-level training. Updating firearm training requirements to better match current equipment and needs is clearly beneficial in that law-enforcement officers, jailors, custodial officers, courtroom security officers and process service officers will be better prepared to use current equipment.

Businesses and entities affected. The proposed regulations affect the 36,961 Virginia law-enforcement officers, jailors, custodial officers, courtroom security officers and process

¹ Agency administrator is defined as "any chief of police, sheriff or agency head of a state or local law-enforcement agency or corrections agency."

Proposed Regulations

service officers regulated by the Department of Criminal Justice Services.²

Localities particularly affected. The proposed regulations affect all Virginia localities.

Projected impact on employment. The proposed regulations are not likely to significantly affect numbers of jobs.

Effects on the use and value of private property. The proposed regulations do not significantly affect the value and use of private property.

Small businesses: costs and other effects. The proposed regulations do not significantly affect small businesses.

Small businesses: alternative method that minimizes adverse impact. The proposed regulations do not significantly affect small businesses.

Legal mandate. 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. Further, if the proposed regulation has an adverse effect on small businesses, § 2.2-4007 H requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The Department of Criminal Justice Services Standards and Training Section concurs with the economic impact analysis as reviewed by the Department of Planning and Budget with the following exception:

Summary paragraph #6 reads as follows:

6) Eliminate the requirement that the local agency maintain records of in-service training attendance.

Summary paragraph #6 should read: "Eliminate the requirement for academies to submit a training curriculum to the department for approval prior to conducting training. The academy director shall have the authority and responsibility of

ensuring that training is in compliance with all requirements. Training records will be spot-checked after the fact by the department.

Records paragraph, page 3 reads as follows:

The director of the Department of Criminal Justice Services may authorize attendance and successful completion of job-related courses for partial in-service credit upon written request from a chief of police, sheriff or agency administrator. The current regulations require that records be maintained (presumably by the applicant and/or agency) concerning training. The proposed regulations just require that documentation be submitted to the department, but do not require that records be maintained by the applicant. According to the department the board has had no use for such records. Thus eliminating this requirement will save filing and storage costs, and will not cause any reduction to public safety. Thus, this change will create a net benefit.

Summary:

The proposed amendments (i) allow academy directors to approve all in-service training; (ii) reduce the minimum length of a training session to two hours; (iii) require that two hours of the in-service training for law-enforcement officers, jailors, custodial officers, courtroom security officers, process service officers, and officers of the Department of Corrections be on cultural diversity; (iv) eliminate certain current limitations on extensions of the time limit for completion of in-service training; (v) eliminate the time limit on when the chief of police, sheriff or agency administrator may request authorization for attendance and successful completion by an employee of job-related courses to count for partial in-service credit; (vi) eliminate the requirement that the local agency maintain records of in-service training attendance; (vii) eliminate the limit on the number of credits that can be earned via electronic training; (viii) permit that up to 16 credit hours per two-year in-service period may be earned via being an instructor; and (ix) update the annual firearms requirement to be consistent with the options available for entry-level training.

CHAPTER 30.

RULES RELATING TO COMPULSORY IN-SERVICE TRAINING STANDARDS FOR LAW-ENFORCEMENT OFFICERS, JAILORS OR CUSTODIAL OFFICERS, COURTROOM SECURITY OFFICERS, PROCESS SERVICE OFFICERS AND OFFICERS OF THE DEPARTMENT OF CORRECTIONS, DIVISION OF ~~INSTITUTIONAL SERVICES~~ OPERATIONS.

6 VAC 20-30-10. Definitions.

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

"Academy director" means the chief administrative officer of a certified training academy.

"Agency administrator" means any chief of police, sheriff or agency head of a state or local law-enforcement agency, or corrections agency.

"Board" means the Criminal Justice Services Board.

² Source: Department of Criminal Justice Services

"Certified training academy" means a training school which provides instruction of at least the minimum training standards as mandated by the board and has been approved by the department for the specific purpose of training criminal justice personnel.

"Criminal justice officer" means a law-enforcement officer, jailor or custodial officer, courtroom security officer, process service officer and officers of the Department of Corrections, Division of ~~Institutional Services Operations~~. Officers of the Department of Corrections, Division of ~~Institutional Services Operations~~, means a correctional officer, sergeant, lieutenant, captain, major, assistant superintendent, superintendent, assistant warden and warden.

"Cultural diversity training" means training that is designed to ensure sensitivity to and awareness of cultural diversity and the potential for biased policing.

"Department" means the Department of Criminal Justice Services.

"Director" means the chief administrative officer of the department.

"Multimedia" means distance learning methods to include video, film, disc, computer-based training, Internet-based training or satellite-based training.

6 VAC 20-30-20. Applicability.

A. Every person employed as a law-enforcement officer, as defined by § ~~9-169(9)~~ 9.1-101 of the Code of Virginia, shall meet compulsory in-service training standards as set forth in 6 VAC 20-30-30 A.

B. Every person employed as a jailor or custodial officer under the provisions of Title 53.1 of the Code of Virginia, shall meet compulsory in-service training standards as set forth in 6 VAC 20-30-30 B.

C. Every person employed as a courtroom security or process service officer under the provisions of Title 53.1 of the Code of Virginia shall meet compulsory in-service training standards as set forth in 6 VAC 20-30-30 C.

D. Every person employed as an officer of the Department of Corrections, Division of ~~Institutional Services, Operations~~ as defined herein shall meet compulsory in-service training standards as set forth in 6 VAC 20-30-30 D.

6 VAC 20-30-30. Compulsory in-service training standards.

Pursuant to the provisions of subdivisions (1), (3), (5), (6) and (7) of §§ ~~9-170~~ 9.1-102 of the Code of Virginia, the board establishes the following as the compulsory in-service training standards for law-enforcement officers, jailors or custodial officers, courtroom security officers, process service officers and officers of the Department of Corrections, Division of ~~Institutional Services Operations~~.

A. Law-enforcement officers (~~Testing optional, but strongly encouraged~~) TOTAL 40 Hours

- 1. Cultural diversity training.....2 Hours
- 2. Legal training..... 4 Hours

Subjects to be provided are at the discretion of the agency administrator or the board of a certified training academy and shall be designated as legal training.

~~2-~~ 3. Career development/elective training.....~~36~~ 34 Hours

(May include subjects provided in subsections B and C of this section.)

a. Subjects to be provided are at the discretion of the ~~agency administrator or the board~~ academy director of a certified training academy. No more than eight hours of firearms training shall be approved as elective subjects. Firearms training shall be applied as follows:

- (1) No more than four hours applied to firearms qualification as provided in 6 VAC 20-30-80; and
- (2) Remaining hours eligible for situational or decision-making training.

Total 40

B. Jailors or custodial officers. TOTAL 24 Hours
(Testing optional, but strongly encouraged.)

- 1. Cultural diversity training..... 2 Hours
- 2. Legal training.....4 Hours

Subjects to be provided are at the discretion of the agency administrator or the board of a certified training academy and shall be designated as legal training.

~~2-~~ 3. Career development/elective training.....~~20~~ 18 Hours

(May include subjects provided in subsections A and C of this section.)

a. Subjects to be provided are at the discretion of the ~~agency administrator or the board~~ academy director of a certified training academy. No more than eight hours of firearms training shall be approved as elective subjects. Firearms training shall be applied as follows:

- (1) No more than four hours applied to firearms qualification as provided in 6 VAC 20-30-80; and
- (2) Remaining hours eligible for situational or decision-making training.

Total 24

C. Courtroom security officers and process service officers*
(Testing optional, but strongly encouraged) .. TOTAL 16 Hours

- 1. Cultural diversity training.....2 Hours
- 2. Legal training.....4 Hours

Subjects to be provided are at the discretion of the ~~agency administrator or the board~~ academy director of a certified training academy and shall be designated as legal training.

~~2-~~ 3. Career development/elective training.....~~12~~ 10 Hours

(May include subjects provided in subsections A and B of this section.)

a. Subjects to be provided are at the discretion of the agency administrator or the board of a certified training

Proposed Regulations

academy. No more than eight hours of firearms training shall be approved as elective subjects. Firearms training shall be applied as follows:

- (1) No more than four hours applied to firearms qualification as provided in 6 VAC 20-30-80; and
- (2) Remaining hours eligible for situational and/or decision making training.

~~TOTAL 16~~

D. Officers of the Department of Corrections, Division of ~~Institutional Services Operations. (Testing is optional, but strongly encouraged.)~~

~~Total Hours for Correctional Officers and Sergeants. 24 Hours~~

~~Total Hours for Lieutenants through Wardens..... 40 Hours~~

- ~~1. Cultural diversity training 2 Hours~~
- ~~2. Legal training 4 Hours~~

The subjects to be provided are at the discretion of the Director of the Department of Corrections or his designee and shall be designated as legal training.

~~3. Career development/elective training.~~

~~Correctional officers and sergeants..... 20 18 Hours~~
~~Lieutenants through wardens..... 36 34 Hours~~

a. Subjects to be provided are at the discretion of the Director of the Department of Corrections, ~~Division of Institutional Services,~~ or his designee. No more than eight hours of firearms training shall be approved as elective subjects. Firearms training shall be applied as follows:

- (1) No more than four hours applied to firearms qualification as provided in 6 VAC 20-30-80; and
- (2) Remaining hours eligible for situational or decision making training.

~~Total Hours for Correctional Officers and Sergeants 24~~

~~Total Hours for Lieutenants through Wardens 40~~

6 VAC 20-30-40. Time requirement for completion of training.

A. Every law-enforcement officer, jailor or custodial officer, court security officer, process service officer, and officers of the Department of Corrections must complete compulsory in-service training by December 31 of the second calendar year following satisfactory completion of the entry-level compulsory minimum training standards, and must complete compulsory in-service training by December 31 of every other calendar year thereafter. In-service training hours may be carried over from the first calendar year to the second calendar year of the two-year period. However, should the required training be completed within the first calendar year of the two-year period, such training shall be reported to the department and a new due date for completion of in-service training shall be established for December 31 of the second calendar year following the completion date of such training.

B. ~~Approved~~ **Mandated** in-service training shall be conducted in no less than ~~four~~ two-hour sessions *and must be under the authority of a certified training academy and meet all requirements for conducting mandated training.*

C. The director may grant an extension of the time limit for completion of in-service training under the following conditions:

1. The chief of police, sheriff or agency administrator shall present written notification that the officer was unable to complete the required training within the specified time limit due to:
 - a. Illness;
 - b. Injury;
 - c. Military service;
 - d. Special duty assignment required and performed in the public interest;
 - e. Administrative leave involving the determination of worker's compensation or disability retirement issues, full-time educational leave or suspension pending investigation or adjudication of a crime; or
 - f. Any other reason documented by the agency administrator. Such reason must be specified and ~~any approval granted shall not exceed 90 days~~ *an anticipated completion date provided. The department will determine and approve a reasonable timeframe based upon the justification provided with the extension request.*

~~2. Any extension granted under subdivision C 1 e of 6 VAC 20-30-40 shall require the officer to complete in-service training prior to resuming job duties. Request may be granted for periods not to exceed 12 months.~~

~~3. 2.~~ Requests for extension of the time limit shall be received prior to the expiration of the normal in-service time limit.

6 VAC 20-30-50. How compulsory in-service training standards may be attained.

A. In-service training school/sessions.

1. In-service training shall be obtained by attending and completing an approved in-service training school or a series of approved in-service training sessions which combined comply with the compulsory in-service training standards. Such training must be attended at a certified training academy unless provided otherwise in accordance with 6 VAC 20-30-50, ~~subsections B and C.~~

2. Criminal justice officers attending approved in-service training shall not be placed on duty or on call except in cases of emergency.

3. Individuals who maintain training certification in secondary functions may comply with the compulsory in-service training standards by attending 40 hours of approved in-service training, provided that all legal training requirements are included for the designated secondary function(s) and that the career development/elective training is job related.

B. Partial in-service credit.

1. Individual. Upon written request of the chief of police, sheriff or agency administrator, the director may authorize attendance and successful completion of job-related courses for partial in-service credit. ~~Such request shall be submitted no later than 60 days following the last day of the course.~~ Whenever possible, such request should be submitted prior to the beginning date of the course. Any request for partial in-service credit shall include the name of the sponsoring agency, name and location of the course, and a curriculum which shall include at a minimum the date, time and instructor for each subject included in the course. Attendance shall be documented and ~~records maintained as required by the records retention policy of the department submitted to the department for approval.~~

All such requests from the Department of Corrections shall be reviewed and endorsed by the training manager prior to being forwarded to the department for consideration.

2. Course. The director may approve job-related training courses offered by ~~agencies, institutions, or private firms training providers that have not been certified as criminal justice academies~~ as meeting the requirements to receive partial in-service credit. Requests for such approval shall be submitted 60 days prior to the commencement of the course on forms provided by the department. Courses meeting the minimum criteria may be approved for one year or until the course content is revised, whichever occurs first. The sponsoring ~~agency provider~~ shall document attendance and ~~maintain records as required by the records retention policy of the department.~~ *It shall be the responsibility of the officer receiving training to ensure that documentation of attendance is submitted to a certified training academy for tracking and subsequent submission to the department.* The sponsoring agency shall also certify to the agency administrator that the officer successfully completed the course. The department shall only consider for approval requests from ~~agencies, institutions, or private firms providers~~ where there is an indication that criminal justice officers from Virginia have attended or will attend the course for which approval is requested.

~~Subsection B 2 of 6 VAC 20-30-30~~ *This subdivision shall not apply to any criminal justice agency or certified training academy in this Commonwealth.*

C. In-service credit for ~~electronically transmitted multi-media criminal justice programming.~~ ~~The department may establish guidelines to approve job-related electronically transmitted programs.~~ Any such policy shall provide for no more than eight hours training credit annually and shall establish all administrative requirements.

1. *Tested multimedia training. Training received via multimedia programs utilizing computer-generated or agency-administered objective-based testing may be applied toward in-service credit if:*

a. The training program is approved by the academy director or designee, and the instructional topic is directly related to criminal justice;

b. A post-viewing objective-based examination covering the instructional material is administered to the student by the academy director or designee, or administered via the multimedia presentation, and the student has no access to the examination or ability to affect, alter, or destroy the examination questions or examination results;

c. The student achieves a minimum passing score of 70% or above on a postviewing examination, scored by the academy director or designee, or the computer;

d. All postviewing examinations administered, and their results, shall be maintained in accordance with the appropriate Library of Virginia retention schedule. These records shall be made available to the department upon request.

2. *Administrative requirements. The academy director of the certified academy that approves multimedia training shall determine the number of hours of in-service credit to be awarded for each multimedia training session.*

6 VAC 20-30-60. Requirements for in-service training.

A. ~~A curriculum listing the subject(s), instructor(s), date(s) and times for the entire proposed training session shall be submitted to the department 30 days prior to the beginning of each such proposed session. An exemption to the 30-day requirement may be granted for good cause shown by the academy director.~~ *In-service training shall be provided under the authority of a certified academy. At the option of the certified academy, such training may be conducted by the main academy or at an approved satellite academy. The certified academy may conduct training at an offsite facility if the facility is approved and an academy staff member acts as the coordinator for the program. The academy director shall provide the department field coordinator the date, time, and location of such training at least seven days in advance of the program. Failure to provide such notification negates the training approval. All necessary records must be maintained and documentation kept on file in accordance with the certified academy policy. Roll call training shall not be approved for in-service training.*

B. ~~In-service training which~~ that is approved shall be subject to inspection and ~~reviewed~~ review by the department. *The department may deny in-service credit for any training that is not in compliance with training standards.*

C. ~~The department may suspend the approval of an approved in-service training school or session upon written notice, which shall contain the reason(s) upon which the suspension is based, to the academy's director. The academy's director may request a hearing before the director or his designee. The request shall be in writing and must be received by the department within 15 days of the date of the notice of suspension. The academy's director may appeal the director or designee's decision to the board or its designee.~~

D. ~~The department may revoke the approval of any training school or session upon written notice, which shall contain the reason(s) upon which the revocation is based, to the academy's director. The academy's director may request a hearing before the director or his designee. The request shall be in writing and must be received by the department within~~

Proposed Regulations

15 days of the date of the notice of revocation. The academy's director may appeal the director or designee's decision to the board or its designee. C. A certified instructor may receive in-service credit for training conducted on an hour-for-hour basis. No more than 16 hours may be credited for in-service training per two-year in-service period. In addition, each topic may be credited toward in-service training only once per two-year in-service period. This provision only applies to the instructor that prepares and conducts the training. In-service credit is expressly prohibited for role players and evaluators.

6 VAC 20-30-80. Firearms training.

Every criminal justice officer required to carry a firearm in the performance of duty shall qualify annually using the applicable firearms course set forth below. Annual range qualification shall include a review of issues/policy relating to weapons safety, nomenclature, maintenance and use of force. With prior approval of the director, a reasonable modification of the firearms course may be approved to accommodate qualification on indoor ranges. No minimum number of hours is required.

A. Law-enforcement officers, jailors or custodial officers, courtroom security officers and process service officers shall qualify annually with a minimum passing score of 70% on one of the following courses:

1. Virginia Modified Double Action Course for Revolvers, 60 rounds, 7, 15, 25 yards shooting.
2. Virginia Modified Double Action Course for Semi-automatic Pistols, 60 rounds, 7, 15, 25 yards shooting.
3. Virginia Modified Combat Course I, 60 rounds, 25, 15, 7 yards shooting.
4. Virginia Modified Combat Course II, 60 rounds, 25, 15, 7, 5, 3 yards shooting.
5. Virginia Qualification Course I, 50 rounds, 25 to 5 yards shooting.
6. Virginia Qualification Course II, 60 rounds, 3 to 25 yards shooting.
7. Virginia Tactical Qualification Course I, 50 rounds, 5 or 7, 25 yards shooting.
8. Virginia Tactical Qualification Course II, 36 rounds, 3-25 yards shooting.

Target – Silhouette (B21, B21X, B27, Q)

60 rounds

Double action only

Minimum qualifying score – 70%

- a. Phase 1 – 7 yards, hip shooting, crouch position, 24 rounds

Load 6 rounds, fire 1 round on whistle (2 seconds), repeat or fire 2 rounds on whistle (3 seconds), repeat

Load 6 rounds, fire 2 rounds on whistle (3 seconds), repeat

Load 6 rounds, fire 12 rounds on whistle (30 seconds)

- b. Phase 2 – 15 yards, point shoulder position, 18 rounds

Load 6 rounds, fire 1 round on whistle (2 seconds), repeat or fire 2 rounds on whistle (3 seconds), repeat

Load 6 rounds, fire 2 rounds on whistle (3 seconds), repeat

Load 6 rounds, fire 6 rounds on whistle (12 seconds)

- c. Phase 3 – 25 yards, 90 seconds, 18 rounds

Load 6 rounds, on whistle:

fire 6 rounds, kneeling, strong hand; reload

fire 6 rounds, standing behind barricade, weak hand;

reload fire 6 rounds, standing behind barricade, strong hand (kneeling position may be fired using barricade)

d. Scoring.

(1) B21, B21X targets: use indicated K value with a maximum 300 points; divide by 3 to obtain percentage.

(2) B27 target: 8, 9, 10, X rings – value 5 points; 7 ring – value 4 points; other hits on silhouette – value 3 points; divide by 3 to obtain percentage.

(3) Q targets: any fired round striking the bottle area to its marked border – value 5 points, any fired round striking outside the bottle area – value 3 points.

2. Virginia Modified Double Action Course For Semi-Automatic Pistols.

Target – Silhouette (B-21, B-21X, B-27, Q)

Minimum Qualifying Score – 70%

a. Each officer is restricted to the number of magazines carried on duty. Magazines shall be loaded to their full capacity. The range instructor shall determine when magazines will be changed.

b. Phase 1 – 7 yards, hip shooting, crouch position, load magazine, fire 1 round double action on command (2 sec.), or fire 2 rounds (3 seconds), make weapon safe, holster, repeat until 6 rounds have been fired.

(1) On command, draw and fire 2 rounds (3 sec.), make weapon safe, holster, repeat until 6 rounds have been fired.

(2) On command, draw and fire 12 rounds in 20 seconds, make weapon safe, and holster.

c. Phase 2 – 15 yards point shoulder position. On command, draw and fire 1 round (2 sec.), or draw and fire 2 rounds (3 sec.), make weapon safe, holster, repeat until 6 rounds have been fired.

(1) On command, draw and fire 1 round (2 sec.), or 2 rounds (3 sec.), make weapon safe, holster, repeat until 6 rounds have been fired.

(2) On command, draw and fire 6 rounds (12 sec.), make weapon safe, holster.

d. Phase 3 - 25 yards, kneeling and standing position. On command, assume kneeling position, draw weapon and fire 6 rounds, then fire 6 rounds weak hand, standing, barricade position, then fire 6 rounds strong hand, standing, barricade position, until a total of 18 rounds have been fired. (70 seconds)

(1) (Kneeling position may be fired using barricade.)

(2) (Weapons which do not have a double action capability will require the first round be chambered manually.)

e. Scoring.

(1) B21, B21X targets: use indicated K value with a maximum 300 points; divide by 3 to obtain percentage.

(2) B27 target: 8, 9, 10, X rings value 5 points; 7 ring value 4 points; other hits on silhouette value 3 points; divide by 3 to obtain percentage.

(3) Q targets: any fired round striking the bottle area to its marked border - value 5 points, any fired round striking outside the bottle area value 3 points.

~~3. Virginia 50 round Tactical Qualification Course for Revolvers and Semi-automatic Pistols.~~

~~Target silhouette (B21, B21X, B-27, Q) Minimum Qualifying Score 70%~~

~~a. Each officer is restricted to the number of magazines carried on duty. Magazines shall be loaded to full capacity. The range instructor shall determine when magazines will be changed.~~

~~b. Phase 1 - On 5 or 7 yard line or fraction thereof, point shoulder shooting, fire 2 rounds on command in 3 seconds for 12 rounds. Between each 2 rounds holster, repeat until all rounds have been fired.~~

~~(1) On command, draw and fire 6 rounds in 8 seconds from point shoulder positions.~~

~~(2) On command draw and fire 4 rounds strong hand only, point shoulder point in 8 seconds.~~

~~(3) On command, fire 4 rounds, weak hand only, point shoulder position in 10 seconds.~~

~~c. Phase 2 - 15 yard point shoulder position~~

~~(1) On command, draw and fire 2 rounds in 3 seconds for 6 (optional to reholster after each 2 rounds)~~

~~(2) On command, draw and fire 6 rounds in 12 seconds, holster.~~

~~d. Phase 3 - 25 yard, kneeling and standing position on command, assume a kneeling position, draw weapon and fire 6 rounds behind a barricade, then fire 6 rounds strong hand, standing barricade position, until a total of 12 rounds have been fired for a total of 45 seconds for semi-automatic pistols or 60 seconds for revolvers. A kneeling position may be fired using a barricade.)~~

~~e. Scoring:~~

~~(1) B21, B21x targets: use indicated K value with a minimum of 250 points. Multiply by 4 to obtain percentage.~~

~~(2) B27 target: 8, 9 and 10 X rings value 5 points, 7 ring value 4 points, other hits on silhouette value 3 points; multiply by 4 to obtain percent.~~

~~(3) Q target: any fired round striking the bottle area to its marked border - value 5 points, any fired round striking outside the bottle area value 3 points.~~

B. Officers of the Department of Corrections, Division of ~~Institutional Services Operations.~~

1. Handgun

a. Double Action Combat Course.

- Target - Silhouette

- 60 rounds

- Double action only

- Minimum qualifying score - 70% (points per hit on silhouette - minimum 210 points out of a possible 300 points)

- 7 yards - two handed crouch - 6 rounds (one on whistle)

- 7 yards - two handed crouch - 6 rounds (two on whistle)

- 7 yards - two handed crouch - 12 rounds (30 seconds from whistle)

- 15 yards - two handed point shoulder - 6 rounds (one on whistle)

- 15 yards - two handed point shoulder - 6 rounds (two on whistle)

- 15 yards - two handed point shoulder - 12 rounds (30 seconds from whistle)

- 25 yards - two handed point shoulder - 6 rounds (10 seconds/right hand)

- 25 yards - two handed point shoulder - 6 rounds (10 seconds/left hand)

C. Law-enforcement officers, jailors or custodial officers, courtroom security officers, civil process officers and officers of the Department of Corrections, Division of ~~Institutional Services Operations.~~

1. Special weapons.

a. All agencies whose personnel possess, or have available for immediate use, shotguns or other similar special weapons, shall design an appropriate qualification weapons program and require all applicable personnel to complete annually.

b. The course, number of rounds to be fired and qualification score shall be determined by the agency or approved training school. Documentation of such

Proposed Regulations

qualification programs shall be available for inspection by the director or staff.

NOTICE: The forms used in administering 6 VAC 20-30, Rules Relating to Compulsory In-Service Training Standards for Law-Enforcement Officers, Jailors or Custodial Officers, Courtroom Security Officers, Process Service Officers and Officers of the Department of Corrections, Division of Operations, are listed below. Any amended or added forms are reflected in the listing and are published following the listing.

FORMS

Individual Partial In-Service Credit, DCJS Form PIC-1 Form, eff. 9/93 rev. 11/05.

INDIVIDUAL PARTIAL IN-SERVICE CREDIT

Department of Criminal Justice Services, 202 N. Ninth Street, Richmond, VA 23219

Name of Officer: _____ SS#: _____
(Last) (First) (M.I.)

Agency: _____
(Agency Telephone #) (Agency Fax #)

Requested by: _____
(Signature of Agency Administrator) (Title)

PART A: COURSE INFORMATION

Course Title: _____

Course Dates From: _____ To: _____

Course Location: _____

Course Sponsor: _____

Hours of Training Received: _____ Legal _____ Career Development _____

I certify that the above individual successfully completed the named training for the hours of training indicated.

Signature of Officer Attending Training Date

Typed or Printed Name of Course Coordinator Telephone Number

Signature of Course Coordinator Date

Upon completion of Part A, submit this form and a curriculum that includes the date, time and instructor for each subject, no later than 60 days following the last day of the course to your Regional Field Coordinator

PART B: FOR DCJS USE ONLY

Approved for: _____ Law Enforcement _____ Department of Corrections
_____ Jailor/Custodial Officer _____ Court Security/Process Server

Hours Approved: Legal: _____ Career Development/Elective: _____ Total Hours: _____

DCJS Staff Signature: _____ Date: _____

Proposed Regulations

Title of Regulation: 6 VAC 20-50. Rules Relating to Compulsory Minimum Training Standards for Jailors or Custodial Officers, Courthouse and Courtroom Security Officers and Process Service Officers (amending 6 VAC 20-50-10 through 6 VAC 20-50-90; adding 6 VAC 20-50-21 and 6 VAC 20-50-110; repealing 6 VAC 20-50-100).

Statutory Authority: § 9.1-102 of the Code of Virginia.

Public Hearing Date: September 13, 2006 -- 1 p.m.

Public comments may be submitted until September 11, 2006.

(See Calendar of Events section for additional information)

Agency Contact: Judith Kirkendall, Job Task Analysis Administrator, Department of Criminal Justice Services, 202 North 9th Street, Richmond, VA 23219, telephone (804) 786-8003, FAX (804) 786-0410, or e-mail judith.kirkendall@dcjs.virginia.gov.

Basis: The Code of Virginia requires that jailors, courtroom and courthouse security officers and process service officers must comply with established minimum training standards in order to be certified. Legislative authority to promulgate regulations relating to dispatchers is granted to the Criminal Justice Services Board (CJSB) pursuant to § 9.1-102 of the Code of Virginia.

Purpose: The Jail, Court Security, Civil Process Service Job Task Analysis provides a direct connection between the work of a job and the training for that work. Training standards directly impact the training by which jailors, courtroom and courthouse security officers and process service officers may be held accountable for ensuring public safety and welfare. Without these requirements, which must be updated on a periodic basis, the safety and welfare of the public may be compromised. Therefore, the amendments to the regulations are being proposed specifically to ensure that training and certification of jailors, courtroom and courthouse security officers and process service officers are based on timely data. The goal of responding to the public safety and welfare of citizens of the Commonwealth is most strongly supported by standards that are reviewed and updated by the process utilized herein.

Substance: The proposed amendments (i) incorporate changes to the minimum training standards in a format that is consistent with the changes made to the minimum training standards for law-enforcement officers and dispatchers; (ii) separately identify the minimum training required for each type of position governed by this regulation in order to provide a method to certify such officers separately, thus allowing sheriffs the opportunity to hire and train qualified personnel for duties that relate to court security or process service without requiring these personnel to become certified as a jailor; and (iii) incorporate field training requirements.

Issues: The advantage to the public, employers, and the Commonwealth is having trained personnel serving as jailors, court security officers, and civil process service officers to

assure a minimum level of competency in these areas of public safety. There is no disadvantage to this.

Department of Planning and Budget's Economic Impact Analysis:

Summary of the proposed regulation. The Department of Criminal Justice Services (DCJS) proposes to amend the Rules Relating to Compulsory Minimum Standards for Jailors or Custodial Officers, Courthouse and Courtroom Security Officers and Process Service Officers so that individuals need not be trained in skills that have no bearing on their job performance. DCJS also proposes to set up a standing Curriculum Review Committee that will review and recommend changes to the training objectives, criteria for testing, and lesson plan guides (herein referred to as guidance documents). The proposed regulation specifies the process that will be used to change these guidance documents.

Estimated economic impact. Under current regulation, individuals seeking to be jailors, courtroom or courthouse officers or process servers must meet all of the same training standards irrespective of the different, and sometimes mutually exclusive, jobs that they will be expected to eventually perform. DCJS proposes to separate training standards so that localities can, for example, train process servers to do their jobs only without also having to make sure they have the training needed to be jailors or court officers. Likewise, court officers and jailors will be trained in only the skills they need to perform their specific job. While some training will still be identical across all of these jobs categories, most training will be job specific.

This change in regulation will benefit localities as it will shorten the time needed to train new personnel and allow them to start doing their jobs more quickly. Localities will also have greater flexibility to recruit individuals who have an interest in, for example, being process servers but who do not want receive training for, or do the job of, court officers. This will, in turn, allow localities to be more responsive to the staffing needs of their courts and jails.

Currently, training academies decide individually how to best meet regulatory minimum compulsory training standards. The proposed regulation creates within DCJS a curriculum review committee that will annually review training objectives, criteria and lesson plan guides that provide training academies guidance in meeting regulatory standards. The proposed regulation also specifies a process that is much like that laid out in the Administrative Process Act whereby these guidance documents may be changed in the future. Although these guidance documents are not regulatory matter, and the authority and process to review them need not have been laid out in regulation, DCJS ought to be commended for soliciting public input and committing to a public process.

Businesses and entities affected. The community affected by this proposed regulation comprises all localities that hire and provide training for jailors, court officers and process servers. No private businesses will be affected by this regulatory change.

Localities particularly affected. All localities in the Commonwealth will be affected by this proposed regulation.

Projected impact on employment. To the extent that localities have not been able to hire for funded jailer, court officer or process server positions because of inflexible training requirements, this proposed regulatory change is likely to increase employment in these fields.

Effects on the use and value of private property. This proposed regulation is likely to have no effect on the use or value of private property.

Small businesses: costs and other effects. This proposed regulation affects only public entities.

Small businesses: alternative method that minimizes adverse impact. This proposed regulation affects only public entities.

Legal mandate. 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. Further, if the proposed regulation has an adverse effect on small businesses, § 2.2-4007 H requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The Department of Criminal Justice Services Standards and Training Section concurs with the economic impact analysis as reviewed by the Department of Planning and Budget.

Summary:

The proposed amendments provide that individuals who are jailors or custodial officers, courthouse and courtroom security officers, and process service officers need not be trained in skills that have no bearing on their job performance. The proposed amendments also set up a standing Curriculum Review Committee that will review and recommend changes to the training objectives, criteria for testing, and lesson plan guides for such persons. The proposed amendments specify the process that will be used to change the plan guides.

6 VAC 20-50-10. Definitions.

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

"Agency administrator" means any chief of police, sheriff or agency head of a state or local law-enforcement agency or agency head of a local correctional facility.

"Academy director" means the chief administrative officer of a certified training academy.

"Approved training" means training approved by the department to meet minimum training standards.

~~"Approved training school" means a training school which provides instruction of at least the minimum training as standards mandated by the board and has been approved by the department for the specific purpose of training criminal justice personnel.~~

"Board" means the Criminal Justice Services Board.

"Certified training academy" means a training facility in compliance with academy certification standards operated by the state or local unit(s) of government for the purpose of providing instruction of compulsory minimum training standards.

"Compulsory minimum training standards" means the categories and performance outcomes approved by the Criminal Justice Services Board.

"Curriculum Review Committee" means a committee consisting of nine individuals representing the conduct of entry-level jailor or custodial officer, courthouse and courtroom security officer, and process service officer training. The composition of the committee shall be three representatives of sheriffs' offices, three representatives of regional jails, two representatives from academies, and one representative of the Department of Criminal Justice Services Jails Training Unit.

"Department" means the Department of Criminal Justice Services.

"Director" means the chief administrative officer of the department.

"Full-time attendance" means that officers in training shall attend all classes and shall not be placed on duty or call except in cases of emergency for the duration of the school.

"School director" means the chief administrative officer of an approved training school.

6 VAC 20-50-20. Compulsory minimum training standards.

A. Pursuant to the provisions of subdivisions 5, 6, 7, 8 and 9 of § 53.1-102 and § 53.1-120 of the Code of Virginia, the board establishes the following ~~as the standards for~~ Compulsory Minimum Training Standards for full and part-time Jailors or Custodial Officers, Courthouse and Courtroom Security Officers and Process Service Officers.

~~A. Core subjects for jailors or custodial officers, courthouse and courtroom security officers and process service officers.~~

Proposed Regulations

~~1. Basic administration. Testing not required.~~

- ~~a. Orientation.~~
- ~~b. Notebook construction and notetaking.~~
- ~~c. Testing and evaluation.~~
- ~~d. Training standards/training overview.~~

~~2. Background materials.~~

- ~~a. Code of ethics.~~
- ~~b. Jail/criminal justice history.~~
- ~~c. Court systems.~~
- ~~d. Commonwealth/defense attorneys/judges.~~
- ~~e. Juvenile offender/juvenile justice system.~~
- ~~f. Freedom of Information Act.~~
- ~~g. Community relations: public responsibility.~~
- ~~h. Community relations: probation and parole.~~
- ~~i. Community relations: work release.~~
- ~~j. Community relations: community resources.~~
- ~~k. Community relations: communications and crisis.~~

~~3. Legal issues.~~

- ~~a. Code of Virginia.~~
- ~~b. Constitutional law and civil liability.~~
- ~~c. Laws of arrest.~~
- ~~d. Rules of evidence.~~
- ~~e. Probable cause.~~
- ~~f. Juvenile law.~~
- ~~g. Search and seizure.~~

~~4. Combined subjects.~~

- ~~a. Courtroom demeanor and testimony.~~
- ~~b. Transportation and physical restraints.~~
- ~~c. Officer safety and arrest techniques.~~
- ~~d. Hostages and disturbances.~~
- ~~e. Unusual prisoners.~~
- ~~f. Chemical agents.~~
- ~~g. Firearms.~~
- ~~h. Standard first aid.~~
- ~~i. Report writing.~~
- ~~j. Privacy of criminal history and records.~~
- ~~k. Searches (cell/persons).~~
- ~~l. Stress.~~
- ~~m. Fire safety.~~

~~n. Crisis intervention.~~

~~B. Jailors or custodial officers.~~

~~1. Jail operations/security.~~

- ~~a. Standards for local jails/lockups.~~
- ~~b. Basic security overview.~~
- ~~c. Supervisory techniques.~~
- ~~d. Inmate behavior.~~
- ~~e. Inmate supervision.~~
- ~~f. Key control/head counts.~~
- ~~g. Classification.~~
- ~~h. Receiving and discharging inmates.~~
- ~~i. Escapes.~~
- ~~j. Trustees.~~
- ~~k. Medication.~~
- ~~l. Discipline/duo process.~~
- ~~m. Introduction to fingerprinting.~~
- ~~n. Protecting a crime scene.~~
- ~~o. Jail climate and jailors.~~

~~C. Courtroom security officers and process service officers.~~

~~1. Court security.~~

- ~~a. Duties and responsibilities.~~
- ~~b. Security threats, problems, and explosives.~~
- ~~c. Identification of personnel/package control detection.~~
- ~~d. Sequestered juries/witnesses.~~
- ~~e. Moot problem/courtroom search.~~

~~2. Civil process.~~

- ~~a. Laws of civil process and implementation duties.~~
- ~~b. Department of Motor Vehicles.~~
- ~~c. Legal document workshop.~~

~~TOTALS:~~

~~JAILORS OR CUSTODIAL OFFICERS – 152~~

~~COURTROOM SECURITY OFFICERS AND PROCESS SERVICE OFFICERS – 172~~

~~B. Performance outcomes are detailed in 6 VAC 20-50-110.~~

~~C. Academy training categories.~~

- ~~1. Professionalism, Performance Outcomes 1.1 – 1.3~~
- ~~2. Legal Issues, Performance Outcomes 2.1 – 2.18~~
- ~~3. Communications, Performance Outcomes 3.1 – 3.13~~

4. Operations, Performance Outcomes	4.1 – 4.9
5. Investigations, Performance Outcomes	5.1 – 5.5
6. Defensive Tactics/Use of Force, Performance Outcomes	6.1 – 6.17
7. Weapons Use, Performance Outcomes	7.1 – 7.7
8. Driver Training, Performance Outcomes	8.1 – 8.3
9. Physical Training, Performance Outcomes	9.1 – 9.3
D. Jailor or Custodial Officer Field Training Performance Outcomes.	10.1 – 10.58
E. Academy training categories -- Courthouse and Courtroom Security Officer.	
1. Court Security Operations and Professionalism (separate requirement)	1.1 – 1.2
2. Legal Issues (same as Jail Performance Outcomes)	2.1 – 2.18
3. Communications (same as Jail Performance Outcomes)	3.1 – 3.13
4. Defensive Tactics/Use of Force (same as Jail Performance Outcome)	6.1 – 6.17
5. Weapons Use (same as Jail Performance Outcomes)	7.1 – 7.7
6. Transportation (same as Jail Performance Outcomes)	8.1 – 8.3
7. Physical Training (same as Jail Performance Outcomes)	9.1 – 9.6
F. Courthouse and Courtroom Security Officer Field Training Performance Outcomes.	10.1 – 10.7
G. Academy training categories -- Process Service Officer.	
1. Process Service Officer Operations (separate requirement)	1.1 – 1.8
2. Legal Issues (same as Jail Performance Outcomes)	2.1 – 2.18
3. Communications (same as Jail Performance Outcomes)	3.1 – 3.13
4. Defensive Tactics/Use of Force (same as Jail Performance Outcomes)	6.1 – 6.17
5. Weapons Use (same as Jail Performance Outcomes)	7.1 – 7.7
6. Transportation (same as Jail Performance Outcomes)	8.1 – 8.3
7. Physical Training (same as Jail Performance Outcomes)	9.1 – 9.6
H. Process Service Officer Field Training Performance Outcomes.	10.1 – 10.6

6 VAC 20-50-21. Approval authority.

A. The Criminal Justice Services Board shall be the approval authority for the training categories and performance outcomes of the compulsory minimum training standards. Amendments to the training categories and performance outcomes shall be made in accordance with the provisions of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

B. The Committee on Training of the Criminal Justice Services Board shall be the approval authority for the training objectives, criteria and lesson plan guides that support the performance outcomes. Training objectives, criteria and lesson plan guides supporting the compulsory minimum training standards and performance outcomes may be added, deleted, or amended by the Committee on Training based upon recommendation of a chief of police, sheriff, agency administrator, academy director, Curriculum Review Committee, interested party or member of the community. Changes to the training categories and performance outcomes will only be made in accordance with the provisions of the Administrative Process Act.

C. Prior to approving changes to the training objectives, criteria or lesson plan guides, the Committee on Training shall conduct a public hearing. Sixty days prior to the public hearing, the proposed changes shall be distributed to all affected parties for the opportunity to comment. Notice of change of training objectives, criteria, and lesson plan guides shall be filed for publication in the Virginia Register of Regulations upon adoption, change or deletion. The department shall notify each certified academy in writing of any new, revised, or deleted objectives. Such adoptions, changes or deletions shall become effective 30 days after notice of publication in the Virginia Register. Changes to the training categories and performance outcomes will only be made in accordance with the provisions of the Administrative Process Act.

6 VAC 20-50-30. Applicability.

A. Every person employed as a jailor or custodial officer in accordance with ~~subdivision 9 of § 9-470(7)~~, 9.1-102 of the Code of Virginia, shall meet compulsory minimum training standards established in subsections ~~A and B~~, C, and D of 6 VAC 20-50-20 unless provided otherwise in accordance with subsection ~~C~~ D of this section.

B. Every person employed as a Courthouse and Courtroom Security Officer/~~Deputy Sheriff Designated to Serve Process~~ in accordance with ~~subdivisions 5 and 6~~ subdivision 7 of § ~~9-470~~ 9.1-102 of the Code of Virginia, shall meet compulsory minimum training standards established in subsections ~~A E~~ and ~~C~~ F of 6 VAC 20-50-20 unless provided otherwise in accordance with subsection ~~C~~ D of this section.

C. Every person employed as a Deputy Sheriff Designated to Serve Process in accordance with § 15.2-1612.1 of the Code of Virginia shall meet compulsory minimum training standards established in subsections G and H of 6 VAC 20-50-20 unless provided otherwise in accordance with subsection D of this section.

Proposed Regulations

~~C. D.~~ The director may grant an exemption or partial exemption of the compulsory minimum training standards as established herein, in accordance with § ~~9-173~~ 9.1-116 of the Code of Virginia.

6 VAC 20-50-40. Time requirement for completion of training.

A. Every jailor or custodial officer, courthouse and courtroom security officer and process service officer who is required to comply with the compulsory minimum training standards shall satisfactorily complete such training within 12 months of the date of appointment as a jailor or custodial officer, courtroom security officer or process service officer unless provided otherwise in accordance with subsection B of this section.

B. The director may grant an extension of the time limit for completion of the minimum training required upon presentation of evidence by the agency administrator that such officer was unable to complete the required training within the specified time limit due to illness, injury, military service, special duty assignment required and performed in the public interest or leave without pay or suspension pending investigation or adjudication of a crime. The agency administrator shall request such extension prior to expiration of any time limit.

C. Any jailor or custodial officer, courthouse and courtroom security officer or process service officer who originally complied with all applicable training requirements and later separated from jailor or custodial officer, courtroom security officer, process service officer status, in excess of 24 months, upon reentry as a jailor, courthouse and courtroom security officer/process server will be required to complete all compulsory minimum training standards unless provided otherwise in accordance with 6 VAC 20-50-30 ~~C~~ D.

6 VAC 20-50-50. How compulsory minimum training may be attained.

A. The compulsory minimum training standards shall be attained by attending and satisfactorily completing ~~an approved performance outcomes at certified training school academy and field training requirements.~~

B. Officers attending ~~an approved a certified training school academy~~ are required to attend all classes and should not be placed on duty or on call except in cases of emergency.

C. All ~~approved certified training schools which~~ academies that begin on or after July 1, ~~1999~~ 2006, shall be conducted in conformance with the Rules Relating to Compulsory Minimum Training Standards for Jailors or Custodial Officers, Courthouse and Courtroom Security Officers and Process Service Officers as amended by the board on April 4, 1999 (date to be included later). However, the period July 1, 1999 (date to be included later), through June 30, 1994 (date to be included later), shall serve as a transition period wherein ~~certified training schools~~ academies may be approved by the department to conduct training according to the Rules Relating to Compulsory Minimum Training Standards for Jailors or Custodial/Courthouse and Courtroom Security Officers/Deputy Sheriffs Designated to Serve Process as amended by the board on April 1, 1987, or according to the Rules Relating to Compulsory Minimum Training Standards

for Jailors or Custodial Officers, Courthouse and Courtroom Security Officers and Process Service Officers as amended by the board on April 4, 1999 (date to be included later).

6 VAC 20-50-60. ~~Approved training schools~~ Certified training academies.

~~A. Jailor or custodial officer training schools, in order to meet 6 VAC 20-50-20 A and B of this chapter, shall be approved by the department prior to the first scheduled class. Courthouse and Courtroom security officers and process service officers training schools, in order to meet 6 VAC 20-50-20 A and C of this chapter, shall be approved prior to the first scheduled class. Combined jailor or custodial officer, courthouse and courtroom security officers and process service officer training schools, in order to meet 6 VAC 20-50-20 A, B and C of this chapter, shall be approved prior to the first scheduled class. Approval is requested by making application to the director on forms provided by the department. The director may approve these schools which on the basis of curricula, instructors, facilities, and examinations, provide the required minimum training. One application for all mandated training shall be submitted prior to the beginning of each fiscal year. A curriculum listing the subjects, the instructors, dates and times for the entire proposed training session shall be submitted to the department 30 days prior to the beginning of each such proposed session. An exemption to the 30 day requirement may be granted for good cause shown by the school director.~~

A. To become a certified academy, a state or local unit of government must demonstrate a need that contains the following elements:

1. The inability to obtain adequate training from existing academies or a sufficient hardship that renders the use of other existing academies impractical.
2. Based upon a training needs assessment, a sufficient number of officers to warrant the establishment of a full-time training function for a minimum of five years.

B. In addition, the state or local unit of government must make the following commitments:

1. Provide a full range of training to include entry-level training, in-service training, instructor certification and recertification training and specialized training.
2. Assignment of one position with primary responsibility as academy director and one clerical position to support training and training-related functions.
3. Maintain a training facility adequate to conduct training in accordance with academy certification standards.
4. Commitment of sufficient funding to adequately support the training function.

C. Process.

1. The state or local governmental unit shall submit a justification, as outlined in subsection B of this section, to the Committee on Training, which shall review the justification and make a recommendation to the department as to whether the establishment of an academy is warranted.

2. If the Committee on Training recommends the establishment of the proposed academy, the department shall make a determination as to whether the establishment of the academy is warranted.

3. If the establishment of the academy is approved by the department, the proposed academy must successfully complete the academy certification process and be in compliance with § 15.2-1747 of the Code of Virginia.

~~B. D. Each school certified academy director will be required to~~ shall maintain a file of all current lesson plans and supporting material for each subject contained in the compulsory minimum training standards. The certified training academy shall submit to the department its curriculum and other information as designated within time limits established by the department.

~~C. Schools which~~ E. Certified academies that are approved will shall be subject to inspection and review by the director.

~~D. F. The department may suspend or revoke the approval of an approved a certified training school academy upon written notice, which shall contain the reason(s) upon which the suspension is based, to the school's academy's director. The notice shall contain the reason(s) upon which the suspension or revocation is based. The school's academy's director may request a hearing before the director or his designee. The request shall be in writing and must be received by the department within 15 days of the date of the notice of suspension/revocation. The school's director may appeal the decision of the director or his designee to the board. Such request shall be in writing and must be received by the board within 15 days of the date of the decision of the director or his designee.~~

~~E. The department may revoke the approval of any approved training school upon written notice, which shall contain the reason(s) upon which the revocation is based, to the school's director. The school's director may request a hearing before the director or his designee. The request shall be in writing and must be received by the department within 15 days of the date of the notice of revocation. The school's director may appeal the decision of the director or his designee to the board. Such request shall be in writing and must be received by the board within 15 days of the date of the decision of the director or his designee.~~

6 VAC 20-50-70. Grading.

~~A. Each officer designated as provided for in 6 VAC 20-50-30 A and C shall comply with the applicable performance objectives and subjects set forth in 6 VAC 20-50-20 and the document entitled "Performance Based Training and Testing Objectives for Compulsory Minimum Training Standards for Jailors or Custodial Officers, Courthouse and Courtroom Security Officers and Process Service Officers" (October 1989), which is incorporated by reference and made a part of this regulation.~~

~~B. A. All approved certified training schools academies shall utilize testing procedures which that indicate that every officer, prior to satisfactory completion of the training school, has passed the criteria for testing and met the requirements set forth in training objectives related to each performance~~

~~objective outcome specified in the document entitled "Performance Based Training and Testing Objectives Outcomes for Compulsory Minimum Training Standards for Jailors or Custodial Officer, Courthouse and Courtroom Security Officers and Process Service Officers."~~

~~C. B. The officer may be tested and retested as may be necessary within the limits of 6 VAC 20-50-40 A of these rules and each certified training academy's written policy. An officer shall not be certified as having complied with the compulsory minimum training standards unless all applicable requirements have been met.~~

~~C. Certified training academies shall maintain accurate records of all tests, grades and testing procedures. Academy training records must be maintained in accordance with the provisions of these rules and §§ 42.1-76 through 42.1-91 of the Code of Virginia.~~

~~D. The following firearms training will be required for each officer attending an approved school:~~

- ~~1. Nomenclature and care of service handgun;~~
- ~~2. Safety (on the firearms range, on duty and off duty);~~
- ~~3. Legal responsibilities and liabilities of firearms;~~
- ~~4. Service handgun (handling, firing principles);~~
- ~~5. Dry firing and application of basic shooting principles;~~
- ~~6. Prequalification shooting (150 rounds, minimum);~~
- ~~7. Virginia Modified Double Action Course (70% minimum qualification required);~~
- ~~8. Qualification (70% minimum required) on one of the following record courses:~~
 - ~~a. Modified Tactical Revolver Course~~
 - ~~b. Modified Practical Pistol Course~~
 - ~~c. Virginia Modified Combat Course I~~
 - ~~d. Virginia Modified Combat Course II~~

~~E. Familiarization with the police shotgun (20 rounds required shoulder and hip position).~~

6 VAC 20-50-80. Failure to comply with rules and regulations.

~~Any jailor or custodial officer, courthouse and courtroom security officer and process service officer attending an approved training school shall comply with the rules and regulations promulgated by the board and any other rules and regulations within the authority established by the approved training school. The school director shall be responsible for enforcement of all rules and regulations established to govern the conduct of attendees. If the school director considers a violation of the rules and regulations detrimental to the welfare of the school, the school director may expel the officer from the school. Notification of such action shall be reported in writing within 48 hours to the officer's agency administrator and the director.~~

Proposed Regulations

Any individual attending a certified training academy shall comply with the rules and regulations promulgated by the department. The academy director shall be responsible for enforcement of all rules and regulations established to govern the conduct of attendees. If the academy director considers a violation of the rules and regulations detrimental to the welfare of the academy, the academy director may expel the officer from the academy. Notification of such action shall immediately be reported, in writing, to the agency administrator of the officer in accordance with rules and regulations within the authority of the certified training academy.

6 VAC 20-50-90. Administrative requirements.

~~A. Reports will be required from the agency administrator and school director on forms approved or provided by the department and at such times as designated by the director.~~

~~B. The school director shall, within 30 days upon completion of an approved training school session, submit to the department a roster containing the names of those officers who have satisfactorily completed all training requirements and, if applicable, a revised curriculum for the training session.~~

~~C. The school director shall furnish each instructor with objectives for the assigned subject matter.~~

~~D. Approved training schools for jailors or custodial officers, courthouse and courtroom security officers and process service officers shall maintain accurate records of all tests, grades and testing procedures. Training school records shall be maintained in accordance with the provisions of these rules and §§ 42.1-67 through 42.1-91 of the Code of Virginia.~~

A. Reports will be required from the agency administrator and academy director on forms approved by the department and at such times as designated by the director.

B. The agency administrator shall forward a properly executed field training form to the department for each officer within 12 months of employment.

C. The academy director shall, within 30 days upon completion of approved training, comply with the following:

1. Submit to the department a roster containing the names of those officers who have satisfactorily completed the compulsory minimum training standards.

2. Submit to the department the final curriculum with the training objectives, hours and instructor names listed.

D. The academy director shall furnish each instructor with the applicable performance outcomes, criteria and lesson plan guides for assigned subject matter.

6 VAC 20-50-100. Effective date. (Repealed.)

~~This chapter shall be effective on and after July 1, 1990 and until amended or repealed.~~

6 VAC 20-50-110. Performance outcomes.

Jail, Court Security, Civil Process Service Performance Outcomes -- Category 1

Professionalism

In conjunction with responding to calls for jail, court security or civil process service, the officer must demonstrate professionalism in every aspect of performance of these services. The officer faces challenges every day that require knowledge, judgment, skill, and ability from multiple and varied sources. To meet those successfully, the officer must attain and maintain professionalism in the performance of all duties. Expected performance outcomes include the following:

1.1. - 1.3. Jail and 1.6. - 1.8. Court Security/Civil Process Professionalism

1.1. and 1.6 (CS/CP) Maintain a professional appearance with respect to clothing, grooming, and equipment.

1.2. and 1.7 (CS/CP) Behave in a fair, positive and courteous manner with inmates and the public to develop a trust relationship and positive community relationship.

1.3. and 1.8 (CS/CP) Apply knowledge of the law relating to gambling and identify its impact on professionalism.

Jail, Court Security, Civil Process Service Performance Outcomes -- Category 2

Legal Issues

In conjunction with responding to calls for jail, court security, or civil process service, the officer must identify legal requirements related to the Constitution of the United States, the Code of Virginia, and/or local ordinances where applicable. Expected performance outcomes include this basic knowledge and cover the following:

2.1 - 2.16 Basic Law

2.1. Perform the duties of a deputy/jail officer in compliance with constitutional requirements and the Bill of Rights.

2.2. Perform the duties of a deputy/jail officer/court security or civil process service officer with awareness of personal and agency liability.

2.3. Perform duties of a deputy/jail officer according to laws governing the office of sheriff and regional jails.

2.4. Respond to request by determining whether the facts are civil or criminal.

2.5. Obtain an arrest warrant from proper authority.

2.6. Arrest persons with a warrant.

2.7. Arrest persons without a warrant.

2.8. Answer questions regarding the progress of a case according to rules of privacy and security controlling access to records.

2.9. Serve mental health commitment papers.

2.10. Apply knowledge of the law to related to family abuse and protective orders.

2.11. Apply knowledge of law to obtain information from a subject conforming to constitutional requirements.

2.12. Conduct searches and seizures under the following conditions:

- with and without a warrant
- incident to hot pursuit
- with or without consent
- incident to arrest
- confer with the local Commonwealth's Attorney under unusual search and seizure circumstances

2.13. Frisk or search a subject.

2.14. Identify, establish custody of, and record a chain of custody for evidence, seized or detained property, or recovered property.

2.15. Identify legal basis for use of force by an officer.

2.16. Identify the circumstances under which a person is fingerprinted.

*Jail, Court Security, Civil Process Service Performance
Outcomes -- Category 3*

Communications

In conjunction with responding to calls for jail, court security, civil process service, the officer must demonstrate knowledge of and ability to utilize a variety of communication skills designed to support the various duties required of the officer. Expected performance outcomes include this basic knowledge and cover the following:

3.1 - 3.13.

3.1. Communicate with law-enforcement and detention facility personnel to exchange information in order to obtain or provide assistance in an investigation.

3.2. Interview a complainant, witness, victim, or inmate.

3.3. Summarize in writing the statements of inmates, witnesses and complainants.

3.4. Answer inquiries from prisoners or about prisoners according to agency policy (including talking with family, other people authorized by adult prisoners, or other agencies).

3.5. Calm emotionally upset individuals, and communicate an emergency message.

3.6. Use crisis communication techniques as appropriate (hostile/confrontational persons). Maintain calm and prevent a situation from becoming worse.

3.7. Stop or intervene with persons attempting to commit suicide.

3.8. Write reports.

3.9. Prepare written reports to record injuries to inmates, an officer, and an employee or a civilian.

3.10. Prepare for court testimony and testify in court; in a legal and an administrative proceeding; before grand juries; in criminal trials; in evidence suppression hearings; in implied consent hearings; at probable cause hearings.

3.11. Verbally communicate with people with different levels of understanding.

3.12. Manage stress professionally.

Jail Performance Outcomes -- Category 4

Operations

In conjunction with responding to calls for jail services, the officer must demonstrate knowledge and ability to perform duties related to jail operations. Expected performance outcomes include this basic knowledge and cover the following:

4.1 - 4.9.

4.1. Commit a prisoner to a jail.

4.2. Supervise an inmate within a jail according to classification criteria.

4.3. Identify the records, documents and reports used within a jail.

4.4. Monitor visitors and inmates.

4.5. Observe and supervise inmates within and outside of a jail.

4.6. Transfer and/or release an inmate from a jail.

4.7. Protect inmates as needed and control violent or unruly inmates.

4.8. Administer cardio-pulmonary resuscitation (CPR) and basic first aid.

4.9. Conduct jail operations with awareness of terrorism possibilities.

Jail Performance Outcomes -- Category 5

Investigations

In conjunction with responding to calls for jail services, the officer must demonstrate knowledge and ability relating to investigational skills designed to support the various duties of an officer. Expected performance outcomes include this basic knowledge and cover the following:

5.1. - 5.5.

5.1. Investigate complaints from inmates.

5.2. Use structured problem solving method to identify and alleviate the causes of problems within the jail.

5.3. Observe individual to recognize signs of abnormal behavior/mental illness.

5.4. Investigate unusual odors and sounds.

5.5. Investigate injuries to inmates.

Proposed Regulations

Jail, Court Security, Civil Process Service Performance Outcomes -- Category 6

Defensive Tactics/Use of Force

In conjunction with responding to calls for jail, court security, civil process service, the officer must demonstrate knowledge of and ability to utilize a variety of defensive tactics along with judgment necessary to evaluate a situation relating to appropriate use of force. The safety of the officer and the public being served is vitally influenced by this knowledge and ability. Expected performance outcomes include this basic knowledge and cover the following:

6.1. - 6.5. Officer Safety

- 6.1. Search juvenile(s), visitor(s), subject(s), arrested person(s), or inmates(s)*
- 6.2. Restrain publicly intoxicated, disruptive, or violent individuals.*
- 6.3. Participate in cell and area searches when assigned.*
- 6.4. Extract a subject out of a vehicle and a cell.*
- 6.5. Approach people on foot and from department vehicle.*

6.6 - 6.7. Judgment and Use of Force Criteria

- 6.6. Identify necessary and appropriate use of force.*
- 6.7. Break up fights between two or more persons.*

6.8. - 6.13. Weaponless Defense Techniques

- 6.8. Use weaponless techniques to subdue a subject resisting arrest or to control a subject.*
- 6.9. Subdue a physically attacking person.*
- 6.10. Subdue a noncompliant subject/inmate and place in a prone position.*
- 6.11. Pursue a fleeing subject/inmate on foot and subdue the subject/inmate when apprehended.*
- 6.12. Use touch pressure or striking pressure to control a subject/inmate.*
- 6.13. Disarm an armed subject.*

6.14. Impact Weapon Techniques

- 6.14. Use an impact weapon to control a subject.*

6.15. Physical Restraints

- 6.15. Handcuff subject(s) and apply restraints.*

6.17. - 6.18. Chemical Agents

- 6.17. Use chemical agents and other crowd management equipment.*
- 6.18. Control nonviolent groups, hostile groups, and/or disorderly assemblies and when necessary, physically restrain a crowd or confront in tactical formation.*

Jail, Court Security, Civil Process Service Performance Outcomes -- Category 7

Weapons Use

In conjunction with responding to calls for jail, court security, civil process service, the officer must demonstrate knowledge of and ability to utilize a variety of weapons along with judgment necessary to evaluate a situation relating to appropriate use of force. The safety of the officer and the public being served is vitally influenced by this knowledge and ability. Expected performance outcomes include this basic knowledge and cover the following:

7.1. - 7.6. Firearms - Using, Cleaning, Transporting, Security

- 7.1. Clean and inspect weapon system.*
- 7.2. Using proper hand grip and observation, draw issued weapon from holster.*
- 7.3. Clear stoppage in semi-automatic weapons, revolvers, and shotguns. Demonstrate safe handling of weapons on the range and on and off duty.*
- 7.4. Fire a handgun and shotgun in various combat situations using issued equipment.*
- 7.5. Secure weapons while off duty.*
- 7.6. Carry a firearm when off duty.*

Jail, Court Security, Civil Process Service Performance Outcomes -- Category 8

Transportation

In conjunction with responding to calls for jail, court security, civil process service, the officer must demonstrate knowledge of and ability to drive a vehicle. The safety of the officer and the public being served is vitally influenced by this knowledge and ability. Expected performance outcomes include this basic knowledge and cover the following:

8.1. - 8.3. Judgment and Application

- 8.1. Operate agency vehicle on various road surfaces and conditions.*
- 8.2. Transport person(s) to various locations outside of the institution.*
- 8.3. Transport ill or injured subject to receive medical care.*

Jail, Court Security, Civil Process Performance Outcomes -- Category 9

Physical Training

In conjunction with responding to calls for jail, court security, or civil process service, the officer must demonstrate knowledge of physical skills and ability necessary to carry out these tasks. The safety of the officer and the public being served is vitally influenced by this knowledge and ability. Expected performance outcomes include this basic knowledge and cover the following:

9.1. - 9.3. Fit for Service

9.1. Participate in physical training requirements of basic academy training.

9.2. Ascend and descend two flights of stairs.

9.3. Lift, drag or push a heavy object or inmate and, when necessary, extract a person from a cell or vehicle to effect a rescue.

Jail Performance Outcomes -- Category 10

Field Training

In conjunction with completing basic academy training, the deputy/jail officer must identify requirements related to the employing agency, and community resources and agencies that may assist a person in need. Expected performance outcomes include this basic knowledge and cover the following:

10.1. – 10.31. Policies, Procedures, and Operations

10.1. Identify agency policy regarding professional appearance related to clothing and grooming.

10.2. Identify agency policy and procedures for handling violations of professional, ethical, or legal standards of conduct by fellow deputies/jail officers.

10.3. Identify agency policies related to commitment and treatment of prisoners.

10.4. Identify agency policy and procedure related to treatment of juvenile offenders.

10.5. Identify agency policy and procedure related to communicating information about a prisoner to internal and external authorities.

10.6. Identify agency policy and procedure for obtaining assistance for communicating with various cultural backgrounds or with various disabilities.

10.7. Identify agency policy and procedure related to receiving, securing, and disbursing funds from an inmate's personal account.

10.8. Identify agency policy related to filing and retrieving records in agency system.

10.9. Identify agency policy related to removing a report from agency records system as appropriate and required by law and when assigned to make this removal.

10.10. Identify agency policy for reporting maintenance problems.

10.11. Identify agency policy for performing a safety inspection.

10.12. Identify agency policy and procedures for participating in searches with multiple agencies.

10.13. Identify agency policy and procedure for conducting interrogations.

10.14. Identify agency policy regarding the communication of emergency messages.

10.15. Identify agency policy and procedure for documenting proceedings related to dealing with emotionally upset individuals.

10.16. Identify agency policy and procedure for documenting proceedings related to a inmate who commits suicide.

10.17. Identify agency policy and procedures for obtaining an emergency custody order or temporary detention order.

10.18. Identify department policy related to explaining a violation of county or municipal ordinance(s) that is the basis for issuing a summons to a violator.

10.19. Identify department policy relating to use of discretion regarding a violation of law or ordinance.

10.20. Identify agency policy and procedure for establishing and tracking chain of custody of evidence.

10.21. Identify agency policy, procedure, and documentation required for return of property held as evidence when lawfully released.

10.22. Identify agency policy and procedure for making a warrantless arrest.

10.23. Identify agency policy regarding information that may be given to families of adult defendants.

10.24. Identify agency policy and procedure to initiate inmate disciplinary actions.

10.25. Identify agency policy and procedure to issue and document provision of nonprescription and prescription medicine in the absence of medical staff.

10.26. Identify agency policy related to sexual harassment in the workplace.

10.27. Identify agency policy and procedure related to operation of emergency vehicles.

10.28. Identify agency policy and procedures to follow upon the death of an inmate.

10.29. Identify agency policy and procedure for interrogations.

10.30. Identify department policy related to use of records, documents, and reports within the department.

10.31. Identify department policy and procedure for transporting and escorting a person for the purpose of obtaining personal property from a person under a restraining order.

10.32 – 10.37. Use of Force, Weapons Use

10.32. Identify agency policy related to use of force.

10.33. Identify agency policy related to use of restraints, weapons (including impact weapons), electronic immobilization devices, and chemical sprays.

10.34. Identify agency policy and procedure for documenting injuries to a prisoner.

Proposed Regulations

10.35. Identify agency policy and procedure for documenting injuries to staff.

10.36. Identify agency policy and procedure for documenting incidents that required a use of force.

10.37. Identify agency policy related to carrying a firearm while off duty.

10.38. – 10.40. Transporting Prisoners

10.38. Identify agency policy related to medical transports involving rescue squads or other nonagency vehicle.

10.39. Identify agency policy related to nontraditional medical transports, i.e., pregnant inmate, disabled inmate (various disabilities), etc.

10.40. Identify agency policy and procedure for searching, securing, and transporting a prisoner to mental health facility.

10.41 – 10.44. Safety Training

10.41. Complete the Virginia Occupational Safety and Health training related to exposure to blood-borne pathogens.

10.42. Demonstrate use of protective gear for air borne pathogens.

10.43. Notify persons exposed to blood or body fluids while assisting a deputy or jail officer that they have a right to the test results for HIV or hepatitis.

10.44. Identify procedure for a deputy or jail officer to follow to obtain a blood sample from an individual related to a blood exposure.

10.45 – 10.61. General Tasks

10.45. Stand, walk or sit for more than half of work shift.

10.46. Perform duties while wearing heavy equipment other than a gun belt (SCBA, Scott Air Pack, Ballistic Vest, Riot Gear).

10.47. Participate in drills (fire, disaster, hostage situations, and/or evacuations).

10.48. Facilitate group meetings within facility, if assigned.

10.49. Review incoming and outgoing mail and distribute mail.

10.50. Operate controls and radios for facility.

10.51. Inspect security devices and report deficiencies.

10.52. Maintain security of keys and tools and report discrepancies.

10.53. Report and document need for repairs to any equipment or tools used in the facility.

10.54. Inspect/wear emergency response equipment and protective gear/apparatus of agency and report any deficiencies.

10.55. Operate agency fire extinguisher to extinguish fires.

10.56. Check audio/video communications equipment for proper operation and report any deficiencies.

10.57. Discuss any personal or on-the-job problems with your supervisor.

10.58. Inspect electrical wiring, plugs, and receptacles for operation and safety.

10.59. Inventory forms and other supplies.

10.60. Test emergency power supply when directed.

10.61. Fingerprint subject for commitment to jail if assigned.

Separate Court Security Performance Outcomes

1.1.– 1.5. Operations

1.1. Search courtrooms and court related areas for hidden weapons and contraband.

1.2. Search courtrooms and court related areas for hidden weapons and contraband.

1.3. Conduct periodic security checks to identify, correct and document any security breaches.

1.4. Evacuate courtrooms and court buildings in an emergency.

1.5. Conduct court security procedures with awareness of terrorism possibilities.

10.1. – 10.8. Court Security Field Training

10.1. Identify agency policy regarding professional appearance related to clothing and grooming.

10.2. Identify agency policy and procedures for handling violations of professional, ethical, or legal standards of conduct by fellow deputies/court security officers.

10.3. Identify agency policies related to security of prisoners in court and determining any special security needs.

10.4. Identify agency policy and procedure related to treatment of juvenile prisoners.

10.5. Identify agency policy and procedure related to communicating information about a prisoner to internal and external authorities.

10.6. Identify agency policy and procedure for obtaining assistance for communicating with various cultural backgrounds or with various disabilities.

10.7. Identify department policy relating to emergency evacuation plans for courtrooms and courthouses.

10.8. Identify department policy and procedures related to jury protection and jury sequestering.

Separate Civil Process Service Performance Outcomes

1.1 – 1.8. Operations

1.1. Serve civil process and/or make proper return.

1.2. Handle problems encountered with animals during evictions and levies.

- 1.3. Halt civil process proceedings due to bankruptcy.
- 1.4. Notify jurors for potential jury service when assigned.
- 1.5. Execute levies.
- 1.6. Serve eviction notices.
- 1.7. Execute eviction orders using deputy safety precautions.
- 1.8. Oversee removal of physical property of evictee from premises.

10.1. – 10.6. Civil Process Service Field Training

- 10.1. Identify agency policy regarding professional appearance related to clothing and grooming.
- 10.2. Identify agency policy and procedures for handling violations of professional, ethical, or legal standards of conduct by fellow process service officers.
- 10.3. Identify agency policy and procedure related to communicating information about service of process to internal and external authorities.
- 10.4. Identify agency policy and procedure for obtaining assistance for communicating with various cultural backgrounds or with various disabilities.
- 10.5. Identify agency policy and procedures for eviction when an outstanding warrant exists.
- 10.6. Identify department policy related to explaining a violation of county or municipal ordinance(s) that is the basis for service of process.

VA.R. Doc. No. R05-208; Filed June 19, 2006, 1:12 p.m.

TITLE 8. EDUCATION

STATE BOARD OF EDUCATION

Title of Regulation: 8 VAC 20-700. Regulations for Conducting Division-Level Academic Reviews (adding 8 VAC 20-700-10 through 8 VAC 20-700-50).

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

Public Hearing Date: September 27, 2006 - 9 a.m.

Public comments may be submitted until September 11, 2006.

(See Calendar of Events section for additional information)

Agency 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.

Basis: Section 22.1-16 of the Code of Virginia vests the Board of Education with the authority to promulgate such regulations as may be necessary to carry out its powers and duties and the provisions of Title 22.1 of the Code of Virginia. Section

22.1-253.13:3 of the Code of Virginia includes the following provision: "When the Board of Education has obtained evidence through the school academic review process that the failure of schools within a division to achieve full accreditation status is related to division level failure to implement the Standards of Quality, the board may require a division level academic review. After the conduct of such review and within the time specified by the Board of Education, each school board shall submit for approval by the Board of Education an improvement plan, setting forth specific actions and a schedule designed to ensure that schools within its division achieve full accreditation status. Such plans shall be part of the relevant school division's six-year improvement plan pursuant to § 22.1-253.13:6." The legislation effecting this provision also required the board to promulgate regulations to implement the provisions of this act to be effective within 280 days of its enactment.

Purpose: The regulation is necessary to protect the health, safety, and welfare of citizens, particularly those of school age. It is essential to provide the structure for the Board of Education and staff of the Department of Education for the orderly conduct of division-level academic reviews in selected school divisions that have underperforming schools or fail to meet the requirements of the Standards of Quality. It outlines the process and procedures for conducting the division-level academic review and for local school boards to submit a corrective action plan to the Board of Education. In addition, it defines some flexibility for options for reviews to be conducted by agencies or organizations other than the Department of Education when appropriate.

Substance: The proposed permanent regulations do not deviate substantially from the emergency regulations. However, as a result of the department's experience with reviews conducted during the 2004-2005 school year, some changes were necessary to the structure of the review section to provide more flexibility to tailor reviews to the perceived needs of school divisions chosen for reviews in the future. In addition, the section detailing division improvement plans and corrective actions has been strengthened to provide more guidance to local school boards in the development of those plans and actions.

Issues: The Constitution of Virginia requires the Board of Education to provide for the general supervision of the system of free public education in the Commonwealth. The Standards of Quality for public schools (§ 22.1-253.13:1 et seq. of the Code of Virginia) set the minimum requirements for local school boards to maintain a quality educational program in the various school divisions in the state. The proposed regulations provide the Board of Education a mechanism to review the program provided in the school division when there is a probability that a local school board is failing to comply with the Standards of Quality and children are attending underperforming schools. Performance standards for schools are set by the Board of Education in 8 VAC 20-131, Regulations Establishing Standards for Accrediting Public Schools in Virginia. These standards and the provision that school boards maintain schools that are fully accredited are also required by the Standards of Quality.

Proposed Regulations

These regulations will provide the Board of Education with the structure to monitor low-performing school divisions as needed and, thus, ensure that children in the Commonwealth are receiving a high quality education. The Commonwealth as a whole benefits from a better educated citizenry.

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 Section 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. House Bill 1294 of the 2004 Session of the General Assembly amended § 22.1-253.13:3 of the Code of Virginia to allow the Virginia Board of Education (board) to conduct division-level academic reviews when the failure of schools within a division to achieve full accreditation status is related to division-level failure to implement the Standards of Quality. The board proposes this regulation to detail the procedure.

Estimated Economic Impact. House Bill 1294 of the 2004 Session of the General Assembly adds the following language to § 22.1-253.13:3 of the Code of Virginia:

When the Board of Education has obtained evidence through the school academic review process that the failure of schools within a division to achieve full accreditation status is related to division level failure to implement the Standards of Quality, the board may require a division level academic review. After the conduct of such review and within the time specified by the Board of Education, each school board shall submit for approval by the Board of Education an improvement plan, setting forth specific actions and a schedule designed to ensure that schools within its division achieve full accreditation status. Such plans shall be part of the relevant school division's six-year improvement plan pursuant to § 22.1- 253.13:6.

The proposed regulations outline the process for conducting division-level academic reviews and submitting a corrective action plan to the board. The regulations specifically address the criteria for selecting a school division for a division-level academic review, the structure of the review, deadlines for holding a public hearing and completion of the division improvement plan, and corrective actions. In addition, the proposed regulations include provision for reviews to be conducted by agencies or organizations other than the Department of Education (department) when appropriate.

The board proposes the following criteria for selecting school divisions for division-level academic reviews: (i) the school division's accountability determination for student

achievement, as required in federal law (No Child Left Behind), (ii) the percentage of students attending schools that are not fully accredited (via the Standards of Learning) in the division exceeds the statewide average, and (iii) school academic review findings in the division report the failure of the division's schools to reach full accreditation is related to the school board's noncompliance with the Standards of Quality. The board's chosen criteria are logical and comply with the code.

The state board proposes to require that (i) local school boards hold a public hearing on the improvement plan at least 15 days prior to their approval of the plan and (ii) the improvement plan be approved by the local board and submitted for state board approval within 60 business days of the issuance of the division-level academic review report. The proposed requirement for a public hearing to be held is beneficial in that it allows interested parties to become informed and potentially contribute useful information. The proposal that it be held at least 15 days prior to their approval of the plan is also beneficial since a public hearing held just prior to approval would not allow enough time for the public to formulate responses, and for the local board to consider the information contained within those responses in constructing the version of the improvement plan that will be submitted. The requirement that the improvement plan be approved by the local board and submitted for state board approval within 60 business days of the issuance of the division-level academic review report may at times be difficult for some local boards to meet. This will likely depend on what needs to be changed, availability of staff, and whether agreement with the affected local parties can be reached within that time.

Businesses and Entities Affected. The proposed regulations affect the 132 school divisions in the Commonwealth, as well as their staff and students.

Localities Particularly Affected. The proposed regulations particularly affect localities where the percentage of students attending public schools that are not fully accredited (via the Standards of Learning) in the division exceeds the statewide average.

Projected Impact on Employment. The proposed regulations do not significantly affect employment.

Effects on the Use and Value of Private Property. The proposed regulations do not significantly affect the use and value of private property.

Small Businesses: Costs and Other Effects. The proposed regulations do not significantly affect small businesses.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The agency agrees with the economic impact analysis done by DPB. The agency will continue to examine the economic and administrative impact of the regulations as they progress through the Administrative Process Act process.

Summary:

The regulations give the Board of Education the authority to require division-level academic reviews in school divisions where findings of school-level academic reviews show that

the failure of the schools to reach full accreditation is related to the local school board's failure to meet its responsibilities under the Standards of Quality.

CHAPTER 700.
REGULATIONS FOR CONDUCTING DIVISION-LEVEL
ACADEMIC REVIEWS.

8 VAC 20-700-10. Definitions.

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

"Department" means the Virginia Department of Education.

"Division-level academic review" means the process used to analyze a school division's systems and practices to determine the degree to which the local school board is meeting its responsibilities under the Standards of Quality.

"External review" means a division-level academic review conducted by an organization or agency at the request of a local school board.

8 VAC 20-700-20. Criteria for selection for review.

The Board of Education shall consider the following criteria in selecting school divisions for division-level academic reviews:

- 1. The school division's accountability determination for student achievement as required in federal law;*
- 2. The percentage of students attending schools that are not fully accredited in the division exceeds the statewide average; and*
- 3. School academic review findings in the division report the failure of the division's schools to reach full accreditation is related to the school board's noncompliance with the Standards of Quality.*

8 VAC 20-700-30. Structure of the review.

A. All division-level academic reviews shall be conducted in accordance with procedures adopted by the Board of Education, which may include, but are not limited to, on-site reviews, interviews of school division personnel, review and observation of operational practices, and the analysis of data related to compliance with state and federal laws and regulations.

B. The Department of Education is authorized to contract with organizations or agencies to conduct division-level academic reviews.

C. Reports of the academic review findings shall be given to the division superintendent, the chair of the local school board, and the Board of Education.

8 VAC 20-700-40. Division improvement plans and corrective actions.

A. School divisions shall develop division improvement plans, including corrective actions for increasing student achievement and correcting any areas of noncompliance determined through the division-level academic review. The school board shall hold a public hearing on the improvement

plan at least 15 days prior to the approval of the plan by the board. These plans shall be approved by the local school board and submitted to the Board of Education for approval within 60 business days of the issuance of the division-level academic review report. Upon Board of Education approval, the division improvement plan and corrective actions shall become part of the school division's divisionwide comprehensive, unified, long-range plan required by the Standards of Quality.

B. The division superintendent and chair of the local school board may request an extension of the due date for the division improvement plan and corrective actions for good cause shown by appearing before the Board of Education to explain the rationale for the request and provide evidence that a delay will not have an adverse impact upon student achievement.

C. The Board of Education shall monitor the implementation of the division improvement plan and corrective actions developed by a school division as part of the division-level academic review process. This plan must include a schedule for reporting the school division's progress toward completion of the corrective actions to the Board of Education and the public. Any school division not implementing corrective actions, not correcting areas of noncompliance, or failing to develop, submit, and implement required plans and status reports shall be required to report its lack of action directly to the Board of Education and the public.

D. Areas of noncompliance that remain uncorrected shall be reported in the Board of Education's Annual Report to the Governor and General Assembly on the Condition and Needs of Public Schools in Virginia. The Board of Education may take additional action to seek compliance with school laws pursuant to the relevant provisions of the Code of Virginia.

8 VAC 20-700-50. External reviews.

A. The Board of Education may accept a division-level review conducted by an organization or agency upon the request of a local school board if the review meets or exceeds the requirements for reviews conducted by the department as prescribed in 8 VAC 20-700-30. Agencies that conduct these reviews must employ individuals whose qualifications meet or exceed those of individuals who serve as department representatives for the purpose of conducting academic reviews. The Board of Education shall monitor the implementation of any required corrective actions developed by the school division as prescribed in 8 VAC 20-700-40.

B. Requests for approval of an external review process submitted to the board must include, at a minimum, the following documentation:

- 1. A description of the organization or agency that will conduct the review;*
- 2. The scope and dates of the review;*
- 3. Qualifications of the individuals who will conduct the review; and*
- 4. Certification from the chairman of the local school board and division superintendent that the review will meet or*

Proposed Regulations

exceed the requirements for academic reviews adopted by the board.

C. Upon completion of the external review process, the division superintendent shall submit a copy of the final report provided by the reviewer to the Department of Education within 60 days of receipt of the report and comply with the required follow-up activities prescribed in 8 VAC 20-700-40, including a review of the report in a public meeting of the school board prior to submission.

VA.R. Doc. No. R05-135; Filed June 16, 2006, 10:38 a.m.

* * * * *

Title of Regulation: 8 VAC 20-710. Regulations Governing the Process for Submitting Proposals to Consolidate School Divisions (adding 8 VAC 20-710-10 through 8 VAC 20-710-30).

Statutory Authority: § 22.1-25 of the Code of Virginia.

Public Hearing Date: September 27, 2006 - 9 a.m.

Public comments may be submitted until September 11, 2006.

(See Calendar of Events section for additional information)

Agency 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) 225-2924, FAX (804) 225-2524, e-mail margaret.roberts@doe.virginia.gov.

Basis: Section 22.1-25 of the Code of Virginia requires the Board of Education to promulgate regulations that provide for a process whereby school divisions may submit proposals for the consolidation of such school divisions. This mandate is the result of actions taken by the 2004 General Assembly, Chapter 917 of the 2004 Acts of Assembly.

Purpose: The purpose of this proposed regulation is to provide a process whereby school divisions may submit proposals for the consolidation of school divisions. The regulatory action is essential because it is required by action taken by the 2004 Session of the General Assembly that amended § 22.1-25 of the Code of Virginia to require these regulations. It is intended to address situations where school divisions wish to consolidate.

Substance: The substantive provisions include the required components of school division consolidation proposals, the criteria that the Board of Education must consider in determining appropriate school divisions for consolidation, timelines for required submission of the request for consolidation and notification by the Superintendent of Public Instruction, and an opportunity for public comment on the proposed consolidation.

Issues: The proposed regulation action does not pose any disadvantages to the public or the Commonwealth. It is intended to facilitate the consolidation of school divisions at their request. The public is afforded the opportunity to participate in the process and officials of each locality must consent to the consolidation.

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 Section 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 917 of the 2004 Acts of Assembly, the Board of Education (board) proposes to establish the process by which school divisions may apply to consolidate.

Estimated Economic Impact. Article VIII, Section 5 of the Constitution of Virginia states that "Subject to such criteria and conditions as the General Assembly may prescribe, the board shall divide the Commonwealth into school divisions of such geographical area and school-age population as will promote the realization of the prescribed standards of quality, and shall periodically review the adequacy of existing school divisions for this purpose." Chapter 917 of the 2004 Acts of Assembly directs the board to promulgate regulations "that provide for a process whereby school divisions may submit proposals for the consolidation of school divisions." The board proposes these regulations to satisfy this directive.

The proposed regulations repeat all the administrative and criteria language that exist in § 22.1-25 of the Code of Virginia. Additionally the board proposes to require that school divisions submitting proposals also include a plan for maintaining and/or combining schools, a plan to continue meeting the standards of accreditation, and documentation that both local governing bodies and both local school boards consent to the proposed consolidation. Requiring a plan for maintaining and/or combining schools is sensible since it is relevant to judging the likely success of consolidation, as is a plan to continue meeting the standards of accreditation. Section 22.1-25 of the Code of Virginia requires that no school division be consolidated without the consent of the affected school boards and local governing bodies. Thus, requiring documentation that both local governing bodies and both local school boards consent to the proposed consolidation is vital to avoid wasted administrative effort.

The board also proposes to require that local school divisions requesting to be consolidated submit their proposal to the board by September 1 of the year prior to the year they wish to consolidate. This is necessary so that there is time for the board to consider approval, and if approval is given, time to implement the consolidation before the next school year.

Finally, the board proposes to require that prior to the adoption of any plan to consolidate school divisions, each school division involved in the consolidation shall post such plan on the division's Internet website if practicable, make a

hard copy of the plan available for public inspection and copying, and conduct at least one public hearing to solicit public comment on the consolidation plan. School division consolidation will have a tremendous impact on local residents. The board's proposed requirements for public notification are eminently reasonable and are beneficial in that they help allow affected members of the public to participate in the decision-making process that will affect them. Section 22.1-25 of the Code of Virginia and the proposed regulations both specify that each proposal for consolidation include evidence of local support.

Overall, the proposed regulations will provide net benefit for the public.

Businesses and Entities Affected. The proposed regulations affect the 132 school divisions in the Commonwealth.

Localities Particularly Affected. The proposed regulations potentially affect all Virginia localities.

Projected Impact on Employment. The proposed regulations do not significantly affect employment.

Effects on the Use and Value of Private Property. The proposed regulations do not significantly affect the use and value of private property.

Small Businesses: Costs and Other Effects. The proposed regulations do not significantly affect small businesses.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The agency agrees with the economic impact analysis done by DPB. The agency will continue to examine the economic and administrative impact of the regulations as they progress through the Administrative Process Act process.

Summary:

This regulation provides for a process by which school divisions may submit proposals for consolidation. The new regulation stipulates the information and data to be submitted by school divisions in their proposals for consolidation, the criteria that must be considered by the Board of Education in reviewing the proposals, and a process for public participation in the process.

CHAPTER 710.
REGULATIONS GOVERNING THE PROCESS FOR
SUBMITTING PROPOSALS TO CONSOLIDATE SCHOOL
DIVISIONS.

8 VAC 20-710-10. Definitions.

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

"Governing body" or "local governing body" means the board of supervisors of a county, council of a city, or council of a town, responsible for appropriating funds for such locality, as the context may require.

"School board" means the school board that governs a school division.

8 VAC 20-710-20. Administration.

A. The school divisions as they existed on July 1, 1978, shall be and remain the school divisions of the Commonwealth until further action of the Board of Education taken in accordance with the provisions of these regulations and § 22.1-25 of the Code of Virginia.

B. No school division shall be consolidated without the consent of the school board and the governing body of the county or city affected or, if a town comprises the school division, of the town council.

C. Notice of any change in the composition of a school division proposed by the Board of Education shall be given by the Superintendent of Public Instruction, on or before January 1 of the year in which the composition of such school division is to be changed, to the clerks of the school board and of the governing body involved and to each member of the General Assembly.

D. The Board of Education shall consider the following criteria in determining appropriate school divisions:

- 1. The school-age population of the school division proposed to be divided or consolidated;*
- 2. The potential of the proposed school division to facilitate the offering of a comprehensive program for kindergarten through grade 12 at the level of the established standards of quality;*
- 3. The potential of the proposed school division to promote efficiency in the use of school facilities and school personnel and economy in operation;*
- 4. Anticipated increase or decrease in the number of children of school age in the proposed school division;*
- 5. Geographical area and topographical features as they relate to existing or available transportation facilities designed to render reasonable access by pupils to existing or contemplated school facilities; and*
- 6. The ability of each existing school division to meet the standards of quality with its own resources and facilities or in cooperation with another school division or divisions if arrangements for such cooperation have been made.*

8 VAC 20-710-30. Consolidation process.

A. Local school divisions requesting to be consolidated shall submit a proposal to the Board of Education by September 1 of the year prior to the year they wish to consolidate.

B. Each proposal for consolidation shall include the following information and data:

- 1. The criteria set forth in 8 VAC 20-710-20 D;*
- 2. Evidence of the cost savings to be realized by the consolidation;*
- 3. A plan for the transfer of title to school board property to the resulting combined school board governing the consolidated division;*

Proposed Regulations

4. Procedures and a schedule for the proposed consolidation, including completion of current division superintendent and school board member terms;

5. A plan for proportional school board representation of the localities comprising the new school division, including details regarding the appointment or election processes currently ensuring such representation and other information as may be necessary to evidence compliance with federal and state laws governing voting rights;

6. Evidence of local support for the proposed consolidation;

7. A plan for maintaining and/or combining schools;

8. A plan to continue meeting the standards of accreditation; and

9. Documentation that both governing bodies and both school boards consent to the proposed consolidation.

C. Prior to the adoption of any plan to consolidate school divisions, each school division involved in the consolidation shall:

1. Post such plan on the division's Internet website if practicable;

2. Make a hard copy of the plan available for public inspection and copying; and

3. Conduct at least one public hearing to solicit public comment on the consolidation plan.

VA.R. Doc. No. R05-124; Filed June 16, 2006, 10:41 a.m.

TITLE 9. ENVIRONMENT

STATE AIR POLLUTION CONTROL BOARD

REGISTRAR'S NOTICE: Due to its length, the following regulatory action filed by the State Air Pollution Control Board is not being published. However, in accordance with § 2.2-4031 of the Code of Virginia, the summary is being published in lieu of the full text. The full text of the regulation is available for public inspection at the office of the Registrar of Regulations and at the State Air Pollution Control Board (see contact information below) and is accessible on the Virginia Register of Regulations website at <http://legis.state.va.us/codecomm/register/vol22/welcome.htm>

Title of Regulation: 9 VAC 5-140. Regulation for Emissions Trading (adding Part II: Article 1 (9 VAC 5-140-1010 through 9 VAC 5-140-1080), Article 2 (9 VAC 5-140-1100 through 9 VAC 5-140-1140), Article 3 (9 VAC 5-140-1200 through 9 VAC 5-140-1240), Article 4 (9 VAC 5-140-1300), Article 5 (9 VAC 5-140-1400 through 9 VAC 5-140-1430), Article 6 (9 VAC 5-140-1500 through 9 VAC 5-140-1570), Article 7 (9 VAC 5-140-1600), Article 8 (9 VAC 5-140-1700 through 9 VAC 5-140-1760), Article 9 (9 VAC 5-140-1800 through 9 VAC 5-140-1880); Part III: Article 1 (9 VAC 5-140-2010 through 9 VAC 5-140-2080), Article 2 (9 VAC 5-140-

2100 through 9 VAC 5-140-2140), Article 3 (9 VAC 5-140-2200 through 9 VAC 5-140-2240), Article 4 (9 VAC 5-140-2300), Article 5 (9 VAC 5-140-2400 through 9 VAC 5-140-2430), Article 6 (9 VAC 5-140-2500 through 9 VAC 5-140-2570), Article 7 (9 VAC 5-140-2600 through 9 VAC 5-140-2620), Article 8 (9 VAC 5-140-2700 through 9 VAC 5-140-2760), Article 9 (9 VAC 5-140-2800 through 9 VAC 5-140-2880); Part IV: Article 1 (9 VAC 5-140-3010 through 9 VAC 5-140-3080), Article 2 (9 VAC 5-140-3100 through 9 VAC 5-140-3140), Article 3 (9 VAC 5-140-3200 through 9 VAC 5-140-3240), Article 4 (9 VAC 5-140-3300), Article 5 (9 VAC 5-140-3400), Article 6 (9 VAC 5-140-3500 through 9 VAC 5-140-3570), Article 7 (9 VAC 5-140-3600 through 9 VAC 5-140-3620), Article 8 (9 VAC 5-140-3700 through 9 VAC 5-140-3760), Article 9 (9 VAC 5-140-3800 through 9 VAC 5-140-3880).

Statutory Authority: §§ 10.1-1308 and 10.1-1322.3 of the Code of Virginia; 40 CFR Part 51; 42 USC §§ 7408, 7409, 7410 and 7602.

Public Hearing Date: August 24, 2006 - 10 a.m.

Public comments may be submitted until 5 p.m. on September 8, 2006.

(See Calendar of Events section for additional information)

Agency Contact: Mary E. Major, Department of Environmental Quality, P.O. Box 10009, 629 East Main Street, Richmond, VA 23240, telephone (804) 698-4423, FAX (804) 698-4510, or e-mail memajor@deq.virginia.gov.

Basis: Section 10.1-1308 of the Virginia Air Pollution Control Law authorizes the State Air Pollution Control Board to promulgate regulations abating, controlling and prohibiting air pollution in order to protect public health and welfare. Section 10.1-1322.3 indicates that the board may promulgate regulations to provide an emissions trading and banking program that results in net air emission reductions, creates an economic incentive for reducing air emissions, and allows for economic growth. However, no regulation shall prohibit the direct trading of credits or allowances between private industries provided such trades do not have an adverse impact on air quality in Virginia.

Purpose: The purpose of the regulation is to establish general provisions addressing applicability, permitting, allowance allocation, excess emissions, monitoring, and opt-in provisions to reduce SO₂ and NO_x emissions (which are important precursors of PM₁₀ and ozone) in order to eliminate their significant contribution to nonattainment or interference with maintenance of the National Ambient Air Quality Standards in downwind states, and to protect Virginia's air quality, its natural resources and public health and welfare. The regulation is being proposed to create an enforceable mechanism to assure that collectively, all affected sources will not exceed the total SO₂ and NO_x emissions budgets established by regulation for the years 2009 and thereafter and to provide the regulatory basis for a program under which the creation, trading (buying and selling) and registering of emission credits can occur.

Substance:

NO_x Annual Trading Program (Part II)

1. The regulation applies to electric generating units (EGUs) with a nameplate capacity greater than 25 MWe. An EGU is a fossil fuel-fired stationary boiler or combustion turbine serving at any time a generator with nameplate capacity of more than 25 MWe producing electricity for sale.
2. The control period is January 1 through December 31 of each year.
3. The NO_x annual trading budgets for EGUs are (i) 36,074 tons for each control period in 2009 through 2014 and (ii) 30,062 tons for each control period in 2015 and thereafter.
4. A new unit set-aside budget is included consisting of 5.0% of the EGU budget for each control period in 2009 through 2013 or 2.0% for each control period in 2014 and thereafter.
5. Provision for a voluntary public health set-aside to retire allowances is included.
6. Existing units are those commencing operation prior to January 1, 2006.
7. New units are those commencing operation on or after January 1, 2006.
8. Initial allocations (2009 – 2013) for existing EGUs are issued on October 31, 2006, and based on heat input (2001 – 2005) normalized over the state budget.
9. Subsequent allocations (2014 and thereafter) for existing EGUs are issued annually beginning October 31, 2009, five years in advance; and based on the preceding five years of heat input.
10. Allocations for existing EGUs are calculated using the baseline heat input, determined by averaging the three highest years of the preceding five years.
11. Initial allocations (2009 – 2013) for new EGUs are issued on October 31, 2009, and based on electrical output (2004 – 2008) normalized over the new unit set-aside budget.
12. Subsequent allocations (2014 and thereafter) for new EGUs are issued annually beginning October 31, 2014, and based on the preceding five years of electrical output.
13. Allocations for new EGUs are calculated using the converted heat input (electrical output), determined by averaging the three highest years of the preceding five years.
14. A compliance pool (5,134 tons) is established that allows for allocations from the pool for early reductions and to avoid an "undue risk to the reliability of electricity." Allocations from the pool will be distributed to the sources prior to November 30, 2009. Allocations from the pool are valid for the 2009 control period only.
15. Compliance is determined by comparing the amount of allowances in the owner's account with the total amount of emissions from all of the affected units.

16. Use of allowances other than those allocated to the source by the board may not be used to comply in nonattainment areas. Compliance must be demonstrated on an annual basis, based on a comparison of (i) the total NO_x emissions (expressed in tons) from each EGU during the preceding control period and (ii) the number of NO_x allowances (expressed in tons) allocated for the EGU for the preceding control period.

17. Sources may bank any allowances not used during a specific control period.

18. Major sources subject to the regulation must obtain a budget permit reflecting the requirements of the budget trading program.

19. Smaller sources within the core source categories are not mandated to be included in the program; however, smaller sources within the core source categories are allowed to opt-in to the program.

20. Sources that opt-in the program have a separate budget. Baseline determined for opt-ins is based upon the previous year's emissions.

21. The program is administered almost in its entirety by EPA, except for the allocations of allowances, issuance of the budget permits and the administration of the opt-in provisions.

22. All sources participating in the program, including those that chose to opt-in, must meet the monitoring requirements of 40 CFR Part 75.

NO_x Ozone Season Trading Program (Part III)

1. The regulation applies to electric generating units (EGUs) with a nameplate capacity greater than 25 MWe. An EGU is a fossil fuel-fired stationary boiler or combustion turbine serving at any time a generator with nameplate capacity of more than 25 MWe producing electricity for sale.

2. The regulation also applies to nonelectric generating units (nonEGUs) above 250 mmBtu. A nonEGU is a fossil fuel-fired stationary boiler or combustion turbine that (i) at no time serves a generator producing electricity for sale under firm contract to the grid or (ii) at any time serves a generator producing electricity for sale under firm contract to the grid, if any such generator has a nameplate capacity of 25 MWe or less and has the potential to use no more than 50% of the potential electrical output capacity of the unit.

3. The control period is May 1 through September 30 of each year.

4. The NO_x ozone season trading budgets for EGUs are (i) 15,994 tons for each control period in 2009 through 2014, and (ii) 13,328 tons for each control period in 2015 and thereafter.

5. The NO_x ozone season trading budget for nonEGUs is 3,840 tons for each control period in 2009 and thereafter (reduced from the NO_x SIP Call budget of 4,104 tons).

6. A new unit set-aside budget is included consisting of 5.0% of the EGU budget for each control period in 2009

Proposed Regulations

through 2013 or 2.0% for each control period in 2014 and thereafter and 700 tons from the nonEGU budget.

7. A set-aside for efficient energy/renewable energy sources is included consisting of 36 tons for each control period in 2009 and thereafter, which expire after three years.

8. Provision for a voluntary public health set-aside to retire allowances is included.

9. Existing units are those commencing operation prior to January 1, 2006.

10. New units are those commencing operation on or after January 1, 2006.

11. Initial allocations (2009 – 2013) for existing EGUs are issued on October 31, 2006, and based on heat input (2001 – 2005) normalized over the state budget.

12. Subsequent allocations (2014 and thereafter) for existing EGUs are issued annually beginning October 31, 2009, five years in advance; and based on the preceding five years of heat input.

13. Allocations for existing EGUs are calculated using the baseline heat input, determined by averaging the three highest years of the preceding five years.

14. The allocations (2009 and thereafter) for existing nonEGUs are carried over from the NO_x SIP call program, are set forth in the regulation, and are permanent.

15. Initial allocations (2009 – 2013) for new EGUs are issued on July 31, 2009, and based on electrical output (2004 – 2008) normalized over the new unit set-aside budget.

16. Subsequent allocations (2014 and thereafter) for new EGUs are issued annually beginning July 31, 2014, and based on the preceding five years of electrical output.

17. Allocations for new EGUs are calculated using the converted heat input (electrical output), determined by averaging the three highest years of the preceding five years.

18. Initial allocations (2009 – 2013) for new nonEGUs are issued on July 31, 2009, and based on heat input (2004 – 2008) normalized over the state budget.

19. Subsequent allocations (2014 and thereafter) for new nonEGUs are issued annually beginning July 31, 2014, and based on the preceding five years of heat input.

20. Allocations for new nonEGUs are calculated using the baseline heat input, determined by averaging the three highest years of the preceding five years.

21. Compliance is determined by comparing the amount of allowances in the owner's account with the total amount of emissions from all of the affected units.

22. Use of allowances other than those allocated to the source by the board may not be used to comply in nonattainment areas. Compliance must be demonstrated on an annual basis, based on a comparison of (i) the total NO_x emissions (expressed in tons) from each EGU during the

preceding control period and (ii) the number of NO_x allowances (expressed in tons) allocated for the EGU for the preceding control period.

23. Sources may bank any allowances not used during a specific control period.

24. Major sources subject to the regulation must obtain a budget permit reflecting the requirements of the budget trading program.

25. Smaller sources within the core source categories are not mandated to be included in the program; however, smaller sources within the core source categories are allowed to opt-in to the program.

26. Sources that opt-in the program have a separate budget. Baseline determined for opt-ins is based upon the previous year's emissions.

27. The program is administered almost in its entirety by EPA, except for the allocations of allowances, issuance of the budget permits and the administration of the opt-in provisions.

28. All sources participating in the program, including those that chose to opt-in, must meet the monitoring requirements of 40 CFR Part 75.

SO₂ Annual Trading Program (Part IV)

1. The regulation applies to electric generating units (EGUs) with a nameplate capacity greater than 25 MWe. An EGU is a fossil fuel-fired stationary boiler or combustion turbine serving at any time a generator with nameplate capacity of more than 25 MWe producing electricity for sale.

2. The control period is January 1 through December 31 of each year.

3. The SO₂ annual trading budgets for EGUs are (i) 63,478 tons for each control period in 2010 through 2014 and (ii) 44,435 tons for each control period in 2015 and thereafter.

4. Major sources subject to the regulation must obtain a budget permit reflecting the requirements of the budget trading program.

5. The program is administered almost in its entirety by EPA, including the allocations of allowances.

6. EPA has already allocated the allowances which are valid indefinitely, except the value of the allowances is reduced over time.

7. The only role for the state is to issue the budget permits.

8. Compliance is determined by comparing the amount of allowances in the owner's account with the total amount of emissions from all of the affected units.

9. Sources may bank any allowances not used during a specific control period.

10. Smaller sources within the core source categories are not mandated to be included in the program; however, smaller sources within the core source categories are allowed to opt-in to the program.

11. Sources that opt-in the program have a separate budget. Baseline determined for opt-ins is based upon the previous year's emissions.

12. All sources participating in the program, including those that chose to opt-in, must meet the monitoring requirements of 40 CFR Part 75.

Issues: The primary advantage to the general public is that air quality will improve through a program designed to maximize market forces to reduce pollution in the most cost-effective manner. The cost of compliance is a key issue for the citizens of the Commonwealth since the utility industry is affected by this regulation. If the cost of control is excessive, the additional costs may be passed on to the consumer in the form of rate hikes.

This regulation provides for the trading of SO₂ and NO_x allowances to offset the cost of compliance. This approach provides more flexibility for compliance options for the sources affected while still protecting air quality. A compliance demonstration is required at the end of the ozone season and under the annual programs for both SO₂ and NO_x. Sources must demonstrate that they have operated equipment such that the emissions are either equal to or below the specified limit. Tons of NO_x and SO₂ may be purchased or sold according to the need of the source owner; credits can also be generated as early reduction credits. Source may choose to bank credits to be used for compliance demonstrations in future years. Sources not subject to the regulation may participate in the program as opt-in sources provided specific conditions are met. Inclusion of the nonelectric generating units covered by the NO_x SIP Call program in the CAIR ozone season trading program will provide benefits by improving the flexibility of owners and operators to meet the budget requirements through trading.

Disadvantages to the regulated sources are in the areas of costs for control and monitoring. The total state budget for NO_x allowances may not be sufficient to meet the needs if all sources were operating at maximum capacity. The NO_x seasonal budget for 2009 is 1,097 tons less than the current NO_x SIP Call budget and state law requires that 5.0% of the budget be reserved for new sources. Some sources may need to install additional control equipment, particularly those in nonattainment areas as they will be unable to use purchased credits for compliance with the state program.

Sources will need to monitor emissions with continuous emission monitors (CEMs). These monitors were required under the NO_x SIP Call and, therefore, are already in place. However, there are costs associated with the operation of the monitors. Sources that choose to opt-in to the program will need to install the monitoring equipment to participate in the program.

The advantages for the department are in the areas of effective compliance and reduced inspections. The regulation provides procedures for continuous or process parameter monitoring of emissions for determining compliance. This will result in very accurate data to be used for compliance demonstrations or enforcement actions when necessary. EPA will administer the trading and banking aspects of the

regulation thereby avoiding any additional costs that would be associated with that activity.

Disadvantages include the need for the department to review the compliance demonstrations. More time may be involved to ensure compliance with the program for sources located in nonattainment areas as the may only use board allocated credits for compliance. New allocations will need to be computed every year after the initial five-year initial allocation. The new allocations will need to be incorporated into the source's budget permit.

Public Participation: In addition to any other comments, the department is seeking comments on (i) the costs and benefits of the proposal, (ii) effects of the proposal on farm and forest land preservation, and (iii) impacts of the proposal on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include projected reporting, recordkeeping and other administrative costs; probable effect of the proposal on affected small businesses; and description of less intrusive or costly alternative methods of achieving the purpose of the proposal.

The department accepts written comments by e-mail, facsimile transmission and postal mail. In order to be considered, written comments must include the full name, address and telephone number of the person commenting and be received by the department by 5 p.m. on the last day of the comment period. Due to problems with the quality of facsimile transmissions, commenters are encouraged to provide the signed original by postal mail within one week. Both oral and written comments are accepted at the public hearing. The department prefers that comments be provided in writing, along with any supporting documents or exhibits. All testimony, exhibits and documents received are part of the public record.

All comments requested by this document must be submitted to the agency contact: Mary E. Major, Environmental Program Manager, Office of Air Regulatory Development, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia, 23240, e-mail: memajor@deq.virginia.gov, fax number: 804-698-4510. Requests for documents and additional information may also be submitted to the agency contact.

A public hearing will be held and the notice of the public hearing, along with the comment period closing date, can be found in the Calendar of Events section of the Virginia Register of Regulations. Both oral and written comments may be submitted at that time.

Department of Planning and Budget's Economic Impact Analysis:

Summary of the proposed regulation. The State Air Pollution Control Board (board) proposes to add three new parts to the Regulation for Emissions Trading (9 VAC 5-140), as per request of the federal Clean Air Interstate Rule (CAIR). Major changes include:

1. A new nitrogen oxides (NO_x Annual Trading program (Part II) will be established.

Proposed Regulations

2. A NO_x Ozone Season Trading program (Part III) will replace the current NO_x Budget Trading Program (SIP Call).¹

3. A Sulfur dioxide (SO₂) Annual Trading Program (Part IV) will replace the current federal-administered Acid Rain Program.

Results of analysis. There is insufficient data to accurately compare the magnitude of the benefits versus the costs. Detailed analysis of the benefits and costs can be found in the next section.

Estimated economic impact. The Acid Rain Program and the NO_x Budget Trading Program (SIP Call) are two well-known market-based regulatory programs designed by U.S. Environmental Protection Agency (EPA) to improve air quality. The Acid Rain Program was established under Title IV of the 1990 Clean Air Act Amendments to reduce acid rain and improve public health by dramatically reducing emissions of SO₂ and NO_x.² Using a market-based cap and trade approach, the program sets a permanent cap on the total amount of SO₂ that may be emitted by electric power plants nationwide. The cap is set at about one half of the amount of SO₂ emitted in 1980, and the trading component allows flexibility for sources to select the method of compliance. The program also sets NO_x emission rate limitations for coal-fired units with some compliance flexibility, representing about a 27% reduction from 1990 levels. The Acid Rain Program is fully administered by EPA.

In October 1998, EPA finalized the "Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of Ozone" (commonly called the NO_x SIP call), which requires ozone season³ NO_x reductions across 22 states including the District of Columbia that were found by EPA to significantly contribute to another state's inability to achieve the one-hour ozone standards. Affected states under the NO_x SIP call, including the State of Virginia, were required to submit revised State Implementation Plans (SIPs), begin monitoring emissions in 2003, and reduce emissions beginning in the 2004 ozone season. For states opting to meet the obligations of the NO_x SIP call through a cap and trade program, EPA included a model NO_x Budget Trading Program rule. States choosing to participate in the NO_x Budget Trading Program have the flexibility to modify certain provisions within the model rule. Accordingly, the board promulgated Regulations for Emission Trading (9 VAC 5-140), which became effective on July 17, 2002. The NO_x Budget Trading Program has significantly reduced the NO_x emissions in the affected states. According to EPA, by the year of 2007, the completion date of phase II, the NO_x SIP Call will reduce NO_x emissions by approximately 1 million tons per year. And the NO_x reduction for Virginia is projected by EPA to be approximately 45,000 tons per year.

The success of the Acid Rain Program and the NO_x Budget Trading Program affirms the use of cap and trade as an effective means of controlling multiple pollutants over broad regions. On May 12, 2005,⁴ EPA issued the final rule, "Rule to Reduce Interstate Transport of Fine Particulate Matter and Ozone (Clean Air Interstate Rule); Revisions to Acid Rain Program; Revisions to NO_x SIP call", a rule that will achieve the largest reduction in air pollution in more than a decade. The Clean Air Interstate Rule (CAIR) requires the 28 states, including the District of Columbia, to revise their State Implementation Plans to include control measures to reduce emissions of NO_x and/or SO₂ that significantly contribute to unhealthy levels of Fine Particulate Matter (PM_{2.5}) or eight-hour ozone in downwind states. CAIR will permanently cap emissions of sulfur dioxide (SO₂) and nitrogen oxides (NO_x), and achieves large reductions of SO₂ and/or NO_x emissions in the eastern United States. According to EPA, when fully implemented, CAIR will reduce SO₂ emissions in these states by over 70% and NO_x emissions by over 60% from 2003 levels. This will result in \$85 to \$100 billion in health benefits and nearly \$2 billion in visibility benefits per year by 2015 and will substantially reduce premature mortality in the eastern United States.⁵ The benefits will continue to grow each year with further implementation.

In order to fulfill the CAIR requirements and to reduce SO₂ and NO_x emissions so as to eliminate their contribution to nonattainment or interference with maintenance of the National Ambient Air Quality Standards in downwind states and to protect Virginia's air quality and its natural resources, the board proposes to add three new parts (II, III and IV)⁶ to the existing Regulation for Emissions Trading (9 VAC 5-140), addressing the permitting, allowance methodology, monitoring, banking, compliance determination, and opt-in provisions, for a new NO_x Annual Trading program (part II), a NO_x Ozone Season Trading program (part III) that will replace the current NO_x Budget Trading Program (SIP Call), and a SO₂ Annual Trading Program (part IV) that will replace the current Acid Rain Program.

1. CAIR Annual SO₂ Program

The CAIR annual SO₂ program is designed to replace the current Acid Rain Program and is similar with the latter except for the reduction of SO₂ budget. Like the Acid Rain Program, electric generating units (EGUs)⁷ with a nameplate capacity greater than 25 MWe will be allocated from the budget a specific limited number of allowances (measured in tons per year) during the period from January 1 to December 31 (control period).⁸ If a unit does not use all of its allowances for a specific control period, those extra tons may be banked for future use or sold. If a unit exceeds the allocated allowances, additional allowances may be purchased or the source may use banked allowances to offset the amount of SO₂ generated above the allocated allowances. The SO₂ budget allocations

⁴ The Clean Air Interstate Rule was issued on March 15, 2005.

⁵ Source: <http://www.epa.gov/cair/index.html>

⁶ The current regulation will become part I of 9 VAC 5-140.

⁷ An EGU is a fossil fuel-fired stationary boiler or combustion turbine serving as a time a generator with nameplate capacity of more than 25 MWe producing electricity for sale.

⁸ Smaller sources within the affected source categories are allowed to opt-in to the program.

¹ SIP: State Implementation Plan. A SIP delineates a state's strategies for compliance with the National Ambient Air Quality Standards (NAAQS).

² Acid rain occurs when emissions of SO₂ and NO_x react in the atmosphere (with water, oxygen, and oxidants) to form various acidic compounds.

³ Ozone season is from May 1st through September 30th.

will be carried over from the Acid Rain Program, however, the value of SO₂ allowance will be reduced overtime, which results in a reduction of the budget by 40-50% under the CAIR annual SO₂ program.⁹ According to the Department of Environment Quality (DEQ), the projected SO₂ emission in 2010 (the first year of phase I of CAIR SO₂ program) under the Acid Rain Program is 136,000 tons. However, the SO₂ CAIR annual budget is only 63,478 tons, which requires either emission reductions or allowance purchases or both of more than 70,000 tons for the year of 2010. DEQ has provided that approximately 10 units will install additional SO₂ emissions control equipment between now and 2015. The estimated annualized costs of installation, operation and maintenance vary from \$10,043,817 to \$33,272,775 (in 1998 dollars), with the total cost statewide being \$166,029,581 (in 1998 dollars) annually. Based on the known equipment retrofits that have taken place or will take place between now and 2015, Virginia firms will still need to buy SO₂ allowance from out of state to meet the various caps, with 36,607 tons of allowance needed in 2010 and 45,178 tons in 2015. Supposing that the average market price of SO₂ allowance remains \$200 per ton,¹⁰ the estimated total cost for allowance purchases will be \$7,300,000 in 2010 and \$9,000,000 in 2015. Therefore, as shown in Table 1, the proposed change for the SO₂ program will cause an annual cost of \$166,029,581 between now and 2009, \$173,329,581 between 2010 and 2014, and \$9,000,000 in 2015 and thereafter.

2. CAIR seasonal NO_x program

Similar to the current NO_x Budget Trading Program (SIP Call), under the CAIR seasonal NO_x program, EGUs with a nameplate capacity greater than 25 MWe and nonelectric generating units (nonEGUs)¹¹ above 250 mmBtu¹² will be allocated from the budget a specific limited number of NO_x allowances (measured in tons per season) during the period from May 1 through September 30 (control period)¹³. If a unit does not use all of its allowances for a specific control period, those extra tons may be banked for future use or sold. If a unit exceeds the allocated allowances, additional allowances may be purchased or the source may use banked allowances to offset the amount of NO_x generated above the allocated allowances.

Compared with the current NO_x Budget Trading Program (SIP Call), the CAIR seasonal NO_x program will significantly reduce the budget for EGUs, especially in phase II (2015 and thereafter). For example, Virginia CAIR NO_x ozone season budgets for EGUs are 15,994 tons in 2009 through 2014 that requires 1,097 tons reduction from the 17,091 SIP Call 2007

⁹ According to DEQ, the Acid Rain Budget cannot be changed since it is in the Federal Clean Air Act. Therefore, EPA will reduce the value of the SO₂ allowance in CAIR, which means that one SO₂ allowance will give the holder a conditional right to emit less than one ton of emission.

¹⁰ \$200 is the estimate of current market price provided by DEQ.

¹¹ An on-EGU is a fossil fuel-fired stationary boiler or combustion turbine that (i) at no time serves a generator producing electricity for sale under firm contract to the grid or (ii) at any time serves a generator producing electricity for sale under firm contract to the grid, if any such generator has a nameplate capacity of 25 MWe or less and has the potential to use no more than 50% of the potential electrical output capacity of the unit.

¹² Small units within the affected source categories are allowed to opt-in to the program.

¹³ Ground-level ozone is created by chemical reactions between NO_x and volatile organic compounds (VOC) in the presence of sunlight. Ozone pollution is the worst during the summer months.

budget.¹⁴ The second phase requires an additional reduction of 2,666 tons to meet the 13,328 budget. These budget reductions will require either emission reductions or allowance purchases or both to comply. The nonEGUs will not be affected since no NO_x reductions will be required beyond what the sources are doing under the NO_x SIP Call.

Unlike the NO_x Budget Trading Program, the CAIR seasonal NO_x Program restricts compliance within the nonattainment areas to only allowances allocated to a facility. A facility in a nonattainment area may not trade to comply with the regulation under the CAIR program. This provision will avoid localized high NO_x emissions, and will push the sources in the nonattainment areas to take emission control measures. The CAIR seasonal NO_x Program also allows for a 36 ton/season energy efficiency and renewable energy set-aside, which is not available in the current NO_x budget program. Moreover, a Virginia public health set-aside account will be established under the CAIR NO_x Program that allows industries to voluntarily contribute and retire allowances for the betterment of air quality.

3. CAIR annual NO_x program

The CAIR annual NO_x program is new and is designed to ensure that NO_x control at the sources is operated year-round instead of just during the ozone season (May through September). The rationale is that NO_x is a precursor to particulate matter as well as ozone, and particulate matter is problematic in time periods other than the summer months.

The CAIR annual NO_x program applies to EGUs only. EGUs with a nameplate capacity greater than 25 MWe will be allocated from the budget a specific limited number of allowance (measured in tons per year) during the period of January 1 through December 31 (control period). The NO_x annual budgets are 36,074 tons for each control period in 2009 through 2014, and 30,062 tons for each control period in 2015 and thereafter. According to DEQ, the 2005 NO_x annual emissions is 54,993 tons, which is 18,919 tons higher than the 2009 CAIR NO_x annual budget and 24,931 tons higher than the 2015 budget. The CAIR annual NO_x program will require either emission reductions or allowance purchases or both of 18,919 tons by 2009 and 6,012 tons more by 2015.

The CAIR annual NO_x program and CAIR ozone season NO_x program will impose significant costs to the affected EGUs. DEQ has estimated that approximately 10 EGUs will install additional NO_x emissions control equipment between now and 2015. The estimated annualized costs of equipment installation, operation and maintenance will vary from \$75,685 to \$6,228,271 (in 1998 dollars), with the total annualized cost being \$17,537,027 statewide (in 1998 dollars). Based on the known equipment retrofits that have taken place or will take place between now and 2015, Virginia firms will still need to buy NO_x allowances from out of state to meet the various caps, with 1,933 tons of ozone season allowances and 18,919 tons of annual allowances needed per season/year between 2009 and 2014, and 4,599 tons of ozone season allowances and 24,931 tons of annual allowances per season/year in 2015 and thereafter. Supposing that the average market price

¹⁴ The year of 2007 is the completion date of Phase II of NO_x SIP Call.

Proposed Regulations

of NO_x allowance remains \$1,500 per ton,¹⁵ the estimated total cost for seasonal allowance purchases will be \$2,900,000 per season between 2009 and 2014 and \$6,900,000 in 2015 and thereafter. The estimated total cost for annual allowance purchases will be \$28,400,000 per year between 2009 and 2014, and \$37,400,000 in 2015 and thereafter.¹⁶ The proposed CAIR NO_x annual and ozone season programs will cause an annual cost of approximately \$17,537,027 between now and 2008, \$48,837,027 between 2009 and 2014, and \$44,300,000 in 2015 and thereafter.

Table 1 provides the summary of the costs of the Clean Air Interstate Rule. The estimated annual cost from the three CAIR programs will be \$183,566,608 between now and 2008, \$214,866,608 in 2009, \$222,166,608 between 2010 and 2014, and \$53,300,900 in 2015 and thereafter. The increase in costs will reduce profits for the affected units. However, part of the increased costs may be passed on to consumers in the form of increased rate of electricity.

On the other hand, reductions of NO_x and/or SO₂ emissions will have significant benefits on public health and the environment. CAIR is expected to yield significant health benefits by reducing the emissions of two key contributors to particulate matter and ozone formation. SO₂ contributes to the formation of particulate matter, and NO_x contributes to the formation of both particulate matter and ground-level ozone. EPA has estimated that CAIR would yield health benefits in 2015 of \$101 billion (based on a 3.0% discount rate) and \$86.3 billion (based on a 7.0% discount rate) nationally that include the value of avoiding approximately 17,000 premature deaths, 22,000 nonfatal heart attacks, 12,300 hospitalizations for respiratory and cardiovascular diseases.¹⁸ CAIR will also result in environmental and societal benefits, such as reductions in damage to ecosystems, improved visibility and improvements in recreational and commercial fishing, agricultural yields, and forest productivity, though some of these benefits can not be monetized. The benefits for the State of Virginia from the CAIR emission reductions are not available by EPA or DEQ.

In sum, CAIR will result in estimated annualized costs to Virginia of \$38,600,000 in 2010, and \$53,300,900 in 2015. Emission reductions of NO_x and SO₂ will have significant benefits on public health and the environment. Since the benefits for the State of Virginia from the CAIR emission reductions are not available by EPA or DEQ, whether the total benefit exceeds the total cost will not be known without substantial further research.¹⁹

¹⁵ Source: DEQ

¹⁶ Source: DEQ. The number of allowances needed in 2009 and 2015 are calculated based on the actual NO_x annual and ozone season emissions in 2005. Since the NO_x SIP Call budget is further reduced in phase II (2007), the costs from allowance purchases under CAIR are overestimated.

¹⁸ Source: EPA "Regulatory Impact Analysis for the Final Clean Air Interstate Rule"

¹⁹ EPA has estimated that nationally the Clean Air Interstate Rule will result in an estimated annual net benefit of \$71.4 billion in 2010 and \$98.5 billion in 2015 (based on a 3.0% discount rate), or \$60.4 billion in 2010 and \$83.2 billion in 2015 (based on a 7.0% discount rate).

Table 1. Estimated Annual Costs of the Clean Air Interstate Rule (1998 dollars)

	Annualized Equipment Cost (now through 2008)	Annualized Cost (2009)			Annualized Cost (2010-2014)			Allowance purchase costs (2015 and thereafter)
		Total Annualized Cost	Annualized equipment cost	Allowance purchase costs	Total Annualized Cost	Annualized equipment cost	Allowance purchase costs	
SO ₂ Annual Program ^a	166,029,581	166,029,581	166,029,581	--	173,329,581	166,029,581	7,300,000	9,000,000
NO _x Ozone Season Program ^b	17,537,027	48,837,027	17,537,027	2,900,000	48,837,027	17,537,027	2,900,000	6,900,900
NO _x Annual Program ^c				28,400,000			28,400,000	37,400,000
Total Costs for CAIR	183,566,608	214,866,608	183,566,608	31,300,000	222,166,608	183,566,608	38,600,000	53,300,900

Source: DEQ

^a The allowance needed is calculated based on the projected SO₂ emissions in 2010 and 2015.

^b The allowance needed is calculated based on the 2005 NO_x ozone season emissions.

^c The allowance needed is calculated based on the 2005 NO_x annual emissions.

Businesses and entities affected. According to DEQ, there are approximately 64 EGUs that will be affected by the CAIR NO_x annual and ozone season programs, and approximately 10 units that will be affected by the SO₂ annual program. These units will have to either install additional emission control equipment or purchase allowances from the open market, or both. On the other hand, firms providing pollution control equipment will be positively affected by the proposed regulation. Business in recreational and commercial fishing, agriculture and forest may benefit from the improved environment due to emission reductions of NO_x and/or SO₂. And citizens of the Commonwealth of Virginia will benefit from reduced exposure to pollutants that are known to cause chronic bronchitis, asthma, hospitalizations for cardiac and respiratory diseases, and premature death.

Localities particularly affected. The proposed regulation applies to localities throughout the Commonwealth. Facilities in the two ozone nonattainment areas (Fredericksburg Ozone Nonattainment Area and Northern Virginia Ozone Nonattainment Area) may not trade allowances to comply.

Projected impact on employment. The increased cost from emission reductions will reduce profits for the utilities and will likely reduce the number of people employed. On the other hand, the proposed regulation will likely have a positive effect on employment in industries providing pollution control equipment, as well as industries such as recreational and commercial fishing, agriculture and forest. Also, average working hours and worker productivity may increase as a result of improved health conditions.

Effects on the use and value of private property. The proposed regulation will cause increased costs for the utility companies, which may reduce their profits and therefore the asset value of these businesses. Firms that provide pollution control equipment as well as those in industries such as recreational and commercial fishing, agriculture and forest will benefit from an improved environment and may experience

increases in their profits and property values. In addition, improvements in the air quality may have a positive impact on the value of the residential properties in Virginia compared to states that are not under the CAIR program.

Small businesses: costs and other effects. According to DEQ, no small businesses will be adversely affected by the proposed regulation.

Small businesses: alternative method that minimizes adverse impact. The proposed regulation will not have any adverse impact on small businesses.

Legal mandate. 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. Further, if the proposed regulation has an adverse effect on small businesses, § 2.2-4007 H requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.

Proposed Regulations

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The department has reviewed the economic impact analysis prepared by the Department of Planning and Budget and has no comment.

Summary:

(Part II): NO_x Annual Trading Program. This part establishes a NO_x Annual Trading Program, which addresses the following substantive provisions: permitting, allowance methodology, monitoring, banking, compliance supplement pool, compliance determination, and opt-in provisions for sources not covered by the regulation. Virginia's NO_x annual budgets are 36,074 tons in 2009 through 2014 and 30,062 tons in 2015 and thereafter.

Beginning January 1, 2009, electric generating units with a nameplate capacity greater than 25 MWe will be subject to the provisions of this part. To accommodate the NO_x emissions from the affected units, the units are allocated from the budget a specific limited number of allowances (measured in tons per year) during the months of January 1 through December 31, otherwise known as the control period. The NO_x allocations are determined through a methodology based upon heat input for existing units and electrical output for new units. January 1, 2006, is the cutoff for determining whether a unit is new or existing. If a unit does not use all of its allowances for a specific control period, those extra tons may be banked for future use or sold. If a unit exceeds the allocated allowances, additional allowances may be purchased or the source may use banked allowances to offset the amount of NO_x generated above the allocated allowances. Smaller sources within the affected source categories are allowed to opt-in to the program.

Sources found to be out of compliance will be forced to surrender allowances for the next year on a ratio of 3:1, i.e. for every ton over its allocations, three tons will be forfeited from the next year's allocation.

Emissions will need to be monitored according to 40 CFR Part 75 for all sources subject to the regulation and for any sources wishing to opt-in to the program.

A compliance supplement pool (5,134 tons) is provided for sources that generate early reduction credits or to avoid an "undue risk to the reliability of electricity." The allowances from the pool are valid for only one year (2009) and cannot be banked after that one-year period.

(Part III): NO_x Ozone Season Trading Program. This part establishes a NO_x Ozone Season Trading Program that addresses the following substantive provisions: permitting, allowance methodology, monitoring, banking, compliance determination, and opt-in provisions for sources not covered by the regulation. Virginia's NO_x ozone season budgets for electric generating units are 15,994 tons in 2009 through 2014 and 13,328 tons in 2015 and thereafter. Virginia's NO_x ozone season budget for nonelectric generating units is 3,840 tons in 2009 and thereafter.

Beginning May 1, 2009, electric generating units with a nameplate capacity greater than 25 MWe and nonelectric generating units above 250 mmBtu will be subject to the

provisions of this part. To accommodate the NO_x emissions from the affected units, the units are allocated from the budget a specific limited number of allowances (measured in tons per season) during the summer months of May 1 through September 30, otherwise known as the control period. The NO_x allocations are determined through a methodology based upon heat input for existing units and electrical output for new units. January 1, 2006, is the cutoff for determining whether a unit is new or existing. If a unit does not use all of its allowances for a specific control period, those extra tons may be banked for future use or sold. If a unit exceeds the allocated allowances, additional allowances may be purchased or the source may use banked allowances to offset the amount of NO_x generated above the allocated allowances. Smaller sources within the affected source categories are allowed to opt-in to the program.

Sources found to be out of compliance will be forced to surrender allowances for the next year on a ratio of 3:1, i.e. for every ton over its allocations, three tons will be forfeited from the next year's allocation.

Emissions will need to be monitored according to 40 CFR Part 75 of the Code of Federal Regulations for all sources subject to the regulation and for any sources wishing to opt-in to the program.

(Part IV): SO₂ Annual Trading Program. This part establishes a SO₂ Annual Trading Program that addresses the following substantive provisions: permitting, monitoring, banking, compliance determination, and opt-in provisions for sources not covered by the regulation. Virginia's SO₂ annual budgets are 63,478 tons in 2010 through 2014 and 44,435 tons in 2015 and thereafter.

Beginning January 1, 2010, electric generating units with a nameplate capacity greater than 25 MWe will be subject to the provisions of this part. To accommodate the SO₂ emissions from the affected units, the units have been allocated from the budget a specific limited number of allowances (measured in tons per year) during the months of January 1 through December 31, otherwise known as the control period. The SO₂ allocations are carried over from the Acid Rain Program and are valid indefinitely, except the value of the allowances is reduced over time. If a unit does not use all of its allowances for a specific control period, those extra tons may be banked for future use or sold. If a unit exceeds the allocated allowances, additional allowances may be purchased or the source may use banked allowances to offset the amount of SO₂ generated above the allocated allowances. Smaller sources within the affected source categories are allowed to opt-in to the program.

Sources found to be out of compliance will be forced to surrender allowances for the next year on a ratio of 3:1, i.e. for every ton over its allocations, three tons will be forfeited from the next year's allocation.

Emissions will need to be monitored according to 40 CFR Part 75 for all sources subject to the regulation and for any sources wishing to opt-in to the program.

VA.R. Doc. No. R05-230; Filed June 16, 2006, 4:09 p.m.

TITLE 14. INSURANCE

STATE CORPORATION COMMISSION

REGISTRAR'S NOTICE: The State Corporation Commission is exempt from the Administrative Process Act in accordance with § 2.2-4002 A 2 of the Code of Virginia, which exempts courts, any agency of the Supreme Court, and any agency which by the Constitution is expressly granted any of the powers of a court of record.

Title of Regulation: 14 VAC 5-260. Rules Governing Insurance Holding Companies (amending 14 VAC 5-260-10, 14 VAC 5-260-30 through 14 VAC 5-260-60, 14 VAC 5-260-80, 14 VAC 5-260-90; adding 14 VAC 5-260-110; repealing 14 VAC 5-260-20).

Statutory Authority: §§ 12.1-13 and 38.2-223 of the Code of Virginia.

Public Hearing Date: A public hearing will be held upon request.

Public comments may be submitted until August 25, 2006.

Agency Contact: Raquel C. Pino-Moreno, Principal Insurance Analyst, Bureau of Insurance, P.O. Box 1157, Richmond, VA 23218, telephone (804) 371-9499, FAX (804) 371-9511, toll-free (800) 552-7945 or e-mail raquel.pino-moreno@scc.virginia.gov.

Summary:

The proposed revisions amend the Code of Virginia citation references and add language requiring notification to the Bureau of Insurance regarding (i) investments in any one corporation under certain circumstances and (ii) declaration or payment of dividends or other distributions. These proposed revisions are necessary as a result of the passage of Chapter 577 of the 2006 Acts of Assembly effective July 1, 2006, which amends §§ 38.2-1329 and 38.2-1330, and adds § 38.2-1330.1 to the Code of Virginia.

The proposed revisions also relocate the section entitled "Severability clause" and provide nonsubstantive and housekeeping revisions to various sections.

AT RICHMOND, JUNE 20, 2006

COMMONWEALTH OF VIRGINIA
At the relation of the
STATE CORPORATION COMMISSION

CASE NO. INS-2006-00167

Ex Parte: In the matter of Adopting
Revisions to the Rules Governing
Insurance Holding Companies

ORDER TO TAKE NOTICE

Section 12.1-13 of the Code of Virginia provides that the State Corporation Commission ("Commission") shall have the power to promulgate rules and regulations in the enforcement and

administration of all laws within its jurisdiction, and § 38.2-223 of the Code of Virginia provides that the Commission may issue any rules and regulations necessary or appropriate for the administration and enforcement of Title 38.2 of the Code of Virginia.

The rules and regulations issued by the Commission pursuant to § 38.2-223 of the Code of Virginia are set forth in Title 14 of the Virginia Administrative Code.

The Bureau of Insurance ("Bureau") has submitted to the Commission proposed revisions to the rules set forth in Chapter 260 of Title 14 of the Virginia Administrative Code, entitled "Rules Governing Insurance Holding Companies," which amend the rules at 14 VAC 5-260-10, 14 VAC 5-260-30 through 14 VAC 5-260-60, 14 VAC 5-260-80, and 14 VAC 5-260-90; repeal the rule at 14 VAC 5-260-20; and propose a new rule at 14 VAC 5-260-110.

The proposed revisions to the rules amend references to certain sections of the Code of Virginia and add language that requires the Bureau to be notified regarding investments by an insurer in any one corporation under certain circumstances and the declaration of dividends or other distributions. The proposed revisions result from the passage of Senate Bill 546 during the 2006 General Assembly Session, effective July 1, 2006, which amends §§ 38.2-1329 and 38.2-1330, and adds a new provision, § 38.2-1330.1, of the Code of Virginia.

In addition, it is proposed that the section entitled "Severability clause" be relocated, which requires the rule at 14 VAC 5-260-20 to be repealed and replaced with a new rule at 14 VAC 5-260-110.

There also are proposed nonsubstantive and "clean-up" revisions to various sections.

The Commission is of the opinion that the proposed revisions submitted by the Bureau should be considered for adoption with an effective date of October 2, 2006.

IT IS THEREFORE ORDERED THAT:

(1) The proposed revised rules entitled "Rules Governing Insurance Holding Companies," which amend the rules at 14 VAC 5-260-10, 14 VAC 5-260-30 through 14 VAC 5-260-60, 14 VAC 5-260-80, and 14 VAC 5-260-90; repeal the rule at 14 VAC 5-260-20; and propose a new rule at 14 VAC 5-260-110, be attached hereto and made a part hereof.

(2) All interested persons who desire to comment in support of or in opposition to, or to request a hearing to oppose the adoption of, the proposed revised rules shall file such comments or hearing request on or before August 25, 2006, in writing with the Clerk of the Commission, Document Control Center, P.O. Box 2118, Richmond, Virginia 23218 and shall refer to Case No. INS-2006-00167.

(3) If no written request for a hearing on the proposed revised rules is filed on or before August 25, 2006, the Commission, upon consideration of any comments submitted in support of or in opposition to the proposed revised rules, may adopt the proposed revised rules as submitted by the Bureau.

(4) AN ATTESTED COPY hereof, together with a copy of the proposed revised rules, shall be sent by the Clerk of the

Proposed Regulations

Commission to the Bureau in care of Deputy Commissioner Douglas C. Stolte, who forthwith shall give further notice of the proposed adoption of the revised rules by mailing a copy of this Order, together with the proposed revised rules, to all insurers, burial societies, fraternal benefit societies, and health maintenance organizations licensed or authorized by the Commission pursuant to Title 38.2 of the Code of Virginia, and certain interested parties designated by the Bureau.

(5) The Commission's Division of Information Resources forthwith shall cause a copy of this Order, together with the proposed revised rules, to be forwarded to the Virginia Registrar of Regulations for appropriate publication in the Virginia Register of Regulations and shall make available this Order and the attached proposed revised rules on the Commission's website, <http://www.scc.virginia.gov/caseinfo.htm>.

(6) The Bureau shall file with the Clerk of the Commission an affidavit of compliance with the notice requirements of paragraph (4) above.

14 VAC 5-260-10. Purpose Applicability.

~~The purpose of this regulation is to set~~ *This chapter sets forth rules and procedural requirements which the commission deems necessary to carry out the provisions of Articles 5 and 6 in Chapter 13 (§ 38.2-1322, et seq. and § 38.2-1335 et seq., hereinafter,) of Chapter 13 of Title 38.2 ("the Act") of the Code of Virginia, concerning insurance holding companies and subsidiaries of insurance companies. The information called for by this regulation chapter is necessary and appropriate for the protection of the policyholders in this Commonwealth.*

14 VAC 5-260-20. Severability clause. (Repealed.)

~~If any provision of this regulation or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of the regulation and the application of such provision to other persons or circumstances shall not be affected thereby.~~

14 VAC 5-260-30. Definitions.

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

"Commission" means the State Corporation Commission.

"Commissioner of Insurance" means the administrative or executive officer of the division or bureau of state government established to administer the insurance laws of a state other than Virginia.

"Executive officer" means chief executive officer, chief operating officer, chief financial officer, president, ~~vice-president~~ *vice president*, treasurer, secretary, controller, and any other individual performing functions corresponding to those performed by the foregoing officers under whatever title.

"Foreign insurer" shall include an alien insurer except where clearly noted otherwise.

"NAIC" means National Association of Insurance Commissioners.

"The Act" means Articles 5 and 6 ~~in~~ of Chapter 13 (§ 38.2-1322 et seq. and § 38.2-1335 et seq.) of *Title 38.2* of the Code of Virginia.

"Ultimate controlling person" means that person which is not controlled by any other person.

~~Unless the context otherwise requires,~~ Other terms found in this ~~regulation~~ *chapter* are used as defined in § 38.2-1322 of the Code of Virginia, or industry usage if not defined by the Code of Virginia.

14 VAC 5-260-40. Acquisition of control; approval of applications.

~~A. A person filing an application or statement pursuant to subsection A of § 38.2-1323 A, or any related provision of §§ 38.2-1324 through 38.2-1328, of the Act shall furnish the required information designated on Form A of this regulation chapter.~~

1. Where applicable and required by Form A, Form E shall also be filed.

2. Whenever an application includes information in the format required by Form E, the commission may require an opinion of an economist as to the competitive impact of the proposed acquisition.

~~B. When the person being acquired controls a domestic insurer, such the person shall, for purposes of completing a Form A application, be deemed to be a "domestic insurer."~~

1. The name of the domestic subsidiary insurer should be indicated on the cover page as follows:

"ABC Insurance Company, a subsidiary of XYZ Holding Company"; and

2. References to "the insurer" contained in Form A shall refer to both the domestic subsidiary insurer and the person being acquired.

~~C. The applicant shall promptly advise the commission of any changes in the information so furnished on Form A, or any attachments thereto, arising subsequent to the date upon which such the information was furnished, but prior to the commission's disposition of the application and consummation of the acquisition of control.~~

1. Within two business days after the person filing the application learns of the change, an amendment setting forth the change, together with copies of all documents and other material relevant to the change, shall be filed with the commission. The filing shall be made with the clerk of the commission. Except where the applicant is also the insurer, the applicant shall show on each such filing that a copy has also been sent to the insurer.

2. A failure to file complete and accurate information as required by this ~~regulation~~ *chapter* is grounds for a denial by the commission pursuant to § 38.2-1326.

3. As used in this section and for purposes of all Form A filings, "material change" includes any change in the identity of executive officers or any party to a merger or a liquidating transaction.

D. Where "control" is derived from a management agreement, including any other agreement between a domestic insurer and another person other than a contract for goods or nonmanagement services, any termination of the agreement or any substitution of persons under ~~such~~ *the* agreement shall be deemed a change of control requiring notice and application to the commission pursuant to § 38.2-1323 of the Act.

E. A person seeking to merge with or acquire a domestic insurer may apply to the commission for an order exempting the person from the provisions of §§ 38.2-1323 through 38.2-1327 if the merger or acquisition meets the standards for exemption provided in § 38.2-1328.

1. The application shall be in writing and shall be filed with the clerk of the commission. *Filing instructions are the same as for a Form A filing. See Section III of the Form A Instructions for information regarding number of copies and signature requirements.* The applicant shall identify the parties to the merger or acquisition and shall state (i) the purpose of the merger or acquisition, (ii) the method of merger or acquisition, and (iii) why the person believes the exemption criteria of § 38.2-1328 will be met.

2. Within 30 days after the application for exemption is filed with the ~~Clerk's Office~~ *clerk of the commission*, the commission shall enter an order granting the exemption or giving notice of a hearing to determine the merits of the application.

F. Any hearing held to consider an application filed pursuant to the provisions of this section and § 38.2-1323 of the Act shall be held pursuant to § 38.2-1326 and shall begin, unless waived by the insurer, within 40 days of the date the application is filed with the commission. An application shall be deemed filed upon receipt by the commission of all material required by the section or § 38.2-1324 of the Act.

14 VAC 5-260-50. Acquisitions involving insurers not otherwise covered.

A. An acquisition covered by ~~subsection B of § 38.2-1323 B~~ of the Act may be subject to orders pursuant to ~~subsections B and C of § 38.2-1323 B and C~~ of the Code of Virginia unless the acquiring party files a pre-acquisition notification or an acquisition statement in the format prescribed by Form E of this ~~regulation~~ *chapter*. The person being acquired may file the statement.

1. The commission may enter an order suspending the license of an insurer involved in ~~such~~ an acquisition if there is substantial evidence that the effect of the acquisition may be substantially to lessen competition in any line of insurance in this Commonwealth or tend to create a monopoly therein, and is detrimental to policyholders or the public in general.

2. ~~Such~~ An order *suspending the license* may also be entered if the insurer fails to file adequate information sufficient to rebut a reasonable belief that the merger or acquisition causes or tends to cause a substantial lessening of competition in any line of insurance, and also is detrimental to policyholders or the public.

3. In determining whether competition may be detrimental, the commission shall consider, among other things, whether applicable competitive standards promulgated by the NAIC have or may be violated as a consequence of the acquisition. ~~Such~~ *The* standards may include any indicators of competition identified or enumerated by the NAIC in any model laws or portions of practice and procedure or instructional manuals developed to provide guidance in regulatory oversight of holding company systems, mergers and acquisitions, or competitive practices within the marketplace. ~~Such~~ *The* standards include ~~particularly~~ the definitions, guidelines or standards embodied in any model holding company act or model holding company regulation adopted by the NAIC. In addition, the commission may request and consider the opinion of an economist as to the competitive impact of the acquisition whenever pre-acquisition notification is submitted pursuant to ~~subsection B of § 38.2-1323 B~~ of the Act.

4. An order suspending *the* license shall not be entered under § 38.2-1323 B of the Act unless the involved insurer has received 10 ~~days~~ *days'* notice and an opportunity to be heard. The notice of hearing shall be accompanied by a request for ~~such~~ information as required by § 38.2-1324 of the Act; it may include also a request for an opinion of an economist as to the competitive impact of the acquisition.

a. Requested information shall be filed as an acquisition statement in the format of Form E of this ~~regulation~~ *chapter*.

b. If the commission determines that the acquisition or merger causes or tends to cause a substantial lessening of competition in any line of insurance, the commission may request the insurer to furnish the additional information required by § 38.2-1324, in order to rebut the reasonable belief that ~~such~~ *the* lessening of competition is detrimental to policyholders or the public in general.

5. An order suspending *the* license shall not be entered under § 38.2-1323 B of the Code of Virginia and this section if:

a. The acquisition will yield substantial economies of scale or economies in resource utilization that cannot be feasibly achieved in any other way, and the public benefits which would arise from ~~such~~ *the* economies exceed the public benefits which would arise from not lessening competition; or

b. The acquisition will substantially increase the availability of insurance, and the public benefits of ~~such~~ *the* increase exceed the public benefits which would arise from not lessening competition.

6. The commission's order suspending *the* license entered under this section shall not become final earlier than 21 days after it is issued, during which time the involved insurer may submit a plan to remedy the anticompetitive impact of the acquisition within a reasonable time. Based upon ~~such~~ *the* plan or other information, the commission shall specify the conditions, if any, under the time period during which the aspects of the acquisition causing a violation of the applicable competitive standards announced by the

Proposed Regulations

commission would be remedied and the order vacated or modified.

B. Any hearing held pursuant to the provisions of this section shall begin, unless waived by the insurer, within 40 days of the date of receipt by the commission of all material required by § 38.2-1323 of the Act.

C. For the purposes of this section and § 38.2-1323 B of the Act, "acquisition" means any agreement, arrangement or activity the consummation of which results in a person acquiring directly or indirectly control of another person, and includes but is not limited to the acquisition of voting securities, the acquisition of assets, bulk reinsurance, and mergers.

14 VAC 5-260-60. Annual registration of insurers; registration statement filings and amendments.

A. An insurer required to file a registration statement pursuant to § 38.2-1329 of the Act shall furnish the required information in the format designated on Form B of this ~~regulation~~ *chapter*.

1. The initial registration statement shall be filed with the commission within 15 days after the insurer becomes subject to registration under § 38.2-1329 of the Act.

2. Annually thereafter by April 30 of each year, for the previous calendar year, the registrant shall file a completely restated up-to-date registration statement in the format designated on Form B, with amendments consolidated therein. Each ~~such~~ registration statement shall contain a summary outlining all items in the current registration statement representing changes from the prior registration statement. The summary shall be prepared in the format designated on Form C, as specified in the instructions of that form, which is a part of this ~~regulation~~ *chapter*.

B. An insurer shall file a copy of its most current registration statement and the Form C filing, also known as a Summary of Registration Filing, in each state in which the insurer is authorized to do business, if requested by the insurance commissioner of that state.

C. Amendments to Form B.

1. An amendment to Form B shall be filed under the following conditions:

a. Within 15 days after the end of any month in which there is a material change to the information provided in the annual registration statement;

b. Within 15 days after the end of any month in which the registrant or insurer learns there is a change in control of the registrant, in which case all of Form B and Form C shall be made current;

c. Within 15 days after the end of any month in which the registrant or insurer learns there is a material change in information given in Item 5 of Form B;

d. *Within 30 days after the investment in any one corporation, if the total investment in that corporation, by the insurance holding company system, exceeds 10% of that corporation's voting securities;*

e. Within 15 days after the end of any month in which there is a material change in any portion of the information given in Item 6 of Form B;

~~e.~~ *f.* Within 15 days after the end of any month in which there is a change of the chief executive officer, president, or more than 1/3 of the directors reported in Item 4 of Form B;

~~f.~~ *g.* Within ~~two~~ *five* business days following the declaration of any dividend or other distribution to an insurer's shareholder, *and at least 30 days prior to payment thereof*; and

~~g.~~ *h.* Within 120 days after the end of each fiscal year of the ultimate controlling person of the insurance holding company system.

2. Amendments shall be filed in the Form B format. Subject to the provisions of subdivision A 2 of this section, only those items which are being amended need be reported. Each ~~such~~ amendment shall include at the top of the cover page "Amendment No. (insert number) to Registrant Statement, brought current from (insert year)" and shall indicate as its "Date," the date of the change and not the date of the original filings. Filings made in the format of Forms A, D, E, or F may be deemed amendments filed in the Form B format when accompanied by certification under oath or affirmation that the transaction reported on ~~such~~ Form A, D, E, or F has been consummated. If the commission's approval of the transaction is required by the Act, the certification shall state also that consummation was pursuant to terms and agreements approved by the commission.

3. As used in this section, "material transaction" has the meaning set forth in § 38.2-1322 of the Act except that, unless the commission by rule, order or regulation prescribes otherwise, no sale, purchase, exchange, loan, or extension of credit or investment shall be considered "material" unless it involves at least 0.5% of an insurer's admitted assets or 5.0% of the insurer's surplus to policyholders, as of the ~~31st day of immediately preceding December next preceding~~ *31st day of immediately preceding* 31. Any sale or other transaction which is one of a series of transactions occurring within a 12-month period that are sufficiently similar in nature as to be reasonably construed as a single transaction and that in the aggregate exceed the minimum limits herein provided shall be deemed a material transaction.

D. Exemptions and alternative and consolidated registrations.

1. Any insurer which is authorized to do business in this Commonwealth may file a registration statement on behalf of any affiliated insurer or insurers which are required to register under § 38.2-1329 of the Act. A registration statement may include information not required by the Act regarding any insurer in the insurance holding company system even if ~~such~~ *the* insurer is not authorized to do business in this Commonwealth. In lieu of filing a registration statement on Form B, the authorized insurer may file a copy of the registration statement or similar report which it is required to file in its state of domicile, provided:

- a. The statement or report contains substantially similar information required to be furnished on Form B; and
- b. The filing insurer is the principal insurance company in the insurance holding company system.

2. The question of whether the filing insurer is the principal insurance company in the insurance holding company system is a question of fact and an insurer filing a registration statement or report in lieu of Form B on behalf of an affiliated insurer, shall set forth a brief statement of facts which will substantiate the filing insurer's claim that it, in fact, is the principal insurer in the insurance holding company system.

3. With the prior approval of the commission, an insurer not licensed to transact the business of insurance in this Commonwealth may follow any of the procedures which could be done by an authorized insurer under subdivision 1 of this subsection.

4. Any insurer may take advantage of the provisions of § 38.2-1329 G or § 38.2-1329 H of the Act without obtaining the prior approval of the commission. The commission, however, reserves the right to require individual filings if it deems ~~such~~ the filings necessary in the interest of clarity, ease of administration or the public good.

5. The state of entry of an alien insurer shall be deemed to be its state of domicile for the purpose of this ~~regulation~~ *chapter*.

6. Any foreign insurer subject to disclosure requirements and standards adopted by statute or regulation in the jurisdiction of its domicile that are substantially similar to those contained in § 38.2-1329 of the Act, shall be exempted and excepted from registration in this Commonwealth pursuant to this section and § 38.2-1329 A of the Act; however, if requested by the commission, ~~such~~ the insurer shall furnish to the commission a copy of the registration statement or other information filed with its state of domicile. ~~Such~~ The information shall be filed with the commission within 15 days after the commission makes its request.

7. Any insurer not otherwise exempt or excepted from § 38.2-1329 of the Code of Virginia may apply for an exemption from the requirements of this section of the Code of Virginia by submitting a statement to the commission setting forth its reasons for being exempt.

14 VAC 5-260-80. Transactions subject to prior notice filing.

A. An insurer required to give notice of a proposed transaction pursuant to § 38.2-1331 of the Act shall furnish the required information in the format designated on Form D, as specified in the instructions of that form, which is a part of this ~~regulation~~ *chapter*.

B. The approval of any material transactions pursuant to § 38.2-1331 of the Act shall be deemed an amendment to an insurer's registration statement under ~~subdivision C 4 of § 38.2-1329 C 4~~ of the Act without further filing other than written confirmation under oath or affirmation by registrant that the transaction as approved by the commission has been

consummated. ~~Such~~ The confirmation shall be filed within two business days following consummation of the approved transaction.

14 VAC 5-260-90. Dividends and other distributions.

A. Each registered insurer shall report to the commission as required under § 38.2-1329 of the Act, all dividends and other distributions to shareholders within ~~two~~ *five* business days following declaration *and at least 30 days prior to payment*. Except as provided in subsection B of this section, ~~such~~ the report shall be filed in the format prescribed by Form F and shall include at least the following:

1. A statement stating whether the dividend or distribution is extraordinary. If the dividend or distribution is extraordinary, the insurer also shall state the date of approval, if any, obtained pursuant to ~~§ 38.2-1330 C~~ § 38.2-1330.1 A of the Act, or the earliest date on which ~~such~~ approval may be deemed;

2. *Earned surplus as of the immediately preceding December 31;*

3. The amount of the proposed dividend;

~~3.~~ 4. The date of declaration, date of record and date established for payment of the dividend;

~~4.~~ 5. A statement as to whether the dividend is to be in cash or other property and, if in property, a description thereof, its cost, and its fair market value together with an explanation of the basis for valuation;

~~5.~~ 6. The amounts, dates and form of payment of all dividends or distributions (including regular dividends but excluding distributions of the insurer's own securities) paid within the period of 12 consecutive months ending on the date fixed for payment of the proposed dividend for which approval is sought and commencing on the day after the same day of the same month in the last preceding year; ~~and~~

~~6.~~ 7. A brief statement as to the effect of the proposed dividend upon the insurer's surplus and the reasonableness of surplus in relation to the insurer's outstanding liabilities and the adequacy of surplus relative to the insurer's financial needs; *and*

8. *A statement identifying any and all revaluations of assets.*

B. If payment of an extraordinary dividend or distribution has been approved prior to its declaration, the insurer may comply with the requirements of § 38.2-1329 E of the Act by filing written confirmation under oath or affirmation that the extraordinary dividend or distribution, as approved by the commission, ~~as~~ *has* been declared. Confirmation shall be filed within ~~two~~ *five* business days following declaration.

C. An insurer may obtain prior approval of an extraordinary dividend or distribution, as required by ~~§ 38.2-1330 C~~ § 38.2-1330.1 A of the Act, by filing a request for approval with the commission. The request for approval shall be filed in the format prescribed by Form F and shall include at least the following:

1. All the information required in subsection A of this section;

Proposed Regulations

2. Statements of financial condition and earnings for the period intervening from the last annual statement filed with the commission and the end of the month preceding the month in which the request for dividend approval is submitted; and, if the date of payment or distribution is more than 60 days removed from the date of the most current financial statement submitted by the insurer, the insurer shall include also a pro forma statement as of the day after the distribution or payment of the dividend showing its effect and other known and reasonably projected adjustments to the financial condition and earnings of the insurer; and

3. A copy of the calculations determining that the proposed dividend is extraordinary. The work paper shall include the following information:

a. The amounts, dates and form of payment of all dividends or distributions (including regular dividends but excluding distributions of the insurer's own securities) paid within the period of 12 consecutive months ending on the date fixed for payment of the proposed dividend for which approval is sought, and commencing on the day after the same day of the same month in the last preceding year;

b. Surplus as regards policyholders (total capital and surplus) as of the ~~31st day of immediately preceding~~ December ~~next preceding~~ 31;

c. If the insurer is a life insurer, the net gain from operations for the 12-month period ending the ~~31st day of immediately preceding~~ December ~~next preceding~~ 31; and

d. If the insurer is not a life insurer, the net income less realized capital gains for the 12-month period ending the ~~31st day of December next preceding and the two preceding 12-month periods; and immediately preceding~~ December 31, but shall not include pro rata distributions of any class of the insurer's own securities.

~~e. If the insurer is not a life insurer, the dividends paid to stockholders (excluding distributions of the insurer's own securities) in the preceding two calendar years.~~

4. Statements on each factor set forth in ~~subsection B of~~ § 38.2-1330 B of the Act must be submitted in support of the request for approval of an extraordinary dividend or distribution, although these factors are not intended to be an exhaustive list. In determining the adequacy and reasonableness of an insurer's surplus no single factor is controlling. The commission, instead, will consider the net effect of all of these factors plus other factors bearing on the financial condition of the insurer. In comparing the surplus maintained by other insurers, the commission will consider the extent to which each of these factors varies from company to company and in determining the quality and liquidity of investments in subsidiaries, the commission will consider the individual subsidiary and may discount or disallow its valuation to the extent that the individual investments so warrant.

5. In addition, in order to determine the possibility of any financial effect on the insurer, the commission may request the means of funding and the purpose of the extraordinary dividend or distribution.

D. No declaration of an extraordinary dividend or distribution shall confer any rights on shareholders without the prior approval thereof pursuant to ~~§ 38.2-1330 C~~ § 38.2-1330.1 C of the Act. However, an insurer may declare an extraordinary dividend or distribution which is ~~conditional~~ *conditioned* upon the commission's approval, and the declaration shall confer no rights upon shareholders until (i) the commission has approved the payment of the dividend or distribution or (ii) the commission has not disapproved the payment within the 30-day period provided by ~~§ 38.2-1330 C~~ § 38.2-1330.1 A of the Act.

14 VAC 5-260-110. Severability clause.

If any provision of this chapter or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of the chapter and the application of the provision to other persons or circumstances shall not be affected thereby.

VA.R. Doc. No. R06-278; Filed June 21, 2006, 10:28 a.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

BOARD OF GAME AND INLAND FISHERIES

REGISTRAR'S NOTICE: The Board of Game and Inland Fisheries is exempt from the Administrative Process Act pursuant to subdivision A 3 of § 2.2-4002 of the Code of Virginia when promulgating regulations regarding the management of wildlife. The board is required by § 2.2-4031 of the Code of Virginia to publish all proposed and final wildlife management regulations, including length of seasons and bag limits allowed on the wildlife resources within the Commonwealth of Virginia.

Title of Regulation: 4 VAC 15-20. Definitions and Miscellaneous: In General (adding 4 VAC 15-20-65).

Statutory Authority: §§ 29.1-103, 29.1-501 and 29.1-502 of the Code of Virginia.

Effective Date: July 1, 2006.

Agency Contact: Phil Smith, Policy Analyst and Regulatory Coordinator, Board of Game and Inland Fisheries, 4016 West Broad Street, Richmond, VA 23230, telephone (804) 367-1000, FAX (804) 367-0488, or e-mail regcomments@dgif.virginia.gov.

Summary:

The amendments (i) increase hunting, trapping, and fishing license fees and some permit fees, for persons 16 years of age and older, \$5 per license or permit, effective July 1, 2006 and (ii) increase the permit to fish for one day at board-designated stocked trout fishing areas with daily use fees, \$2 per permit, effective January 1, 2007.

4 VAC 15-20-65. Hunting, trapping, and fishing license and permit fees.

In accordance with the authority of the board under § 29.1-103 (16) of the Code of Virginia, the following fees are established for hunting, trapping, and fishing licenses and permits:

Virginia Resident Licenses to Hunt	
Type license	Fee
Resident License to Hunt, for licensees 16 years of age or older	\$17.00
County or City Resident License to Hunt in County or City of Residence Only, for licensees 16 years of age or older	\$10.00
Resident Senior Citizen Annual License to Hunt, for licensees 65 years of age or older	\$6.00

<i>Resident Junior License to Hunt, for licensees 12 through 15 years of age, optional for licensees under 12 years of age</i>	\$7.50
<i>Resident Youth Combination License to Hunt, and to hunt bear, deer, and turkey, to hunt with bow and arrow during archery hunting season, [and] to hunt with muzzleloading guns during muzzleloading hunting season, for licensees under 16 years of age</i>	\$15.00
<i>Resident Sportsman License to Hunt and Freshwater Fish, and to hunt bear, deer, and turkey, to hunt with bow and arrow during archery hunting season, to hunt with muzzleloading guns during muzzleloading hunting season, and to fish in designated stocked trout waters (also listed under Virginia Resident Licenses to Fish)</i>	\$102.00
<i>Resident Junior Lifetime License to Hunt, for licensees under 12 years of age at the time of purchase</i>	\$250.00
<i>Resident Lifetime License to Hunt, for licensees at the time of purchase:</i>	
<i>through 44 years of age</i>	\$255.00
<i>45 through 50 years of age</i>	\$205.00
<i>51 through 55 years of age</i>	\$155.00
<i>56 through 60 years of age</i>	\$105.00
<i>61 through 64 years of age</i>	\$55.00
<i>65 years of age and over</i>	\$15.00
<i>Totally and Permanently Disabled Resident Special Lifetime License to Hunt</i>	\$10.00
<i>Service-Connected Totally and Permanently Disabled Veteran Resident Lifetime License to Hunt and Freshwater Fish (also listed under Virginia Resident Licenses to Fish)</i>	\$10.00

Virginia Resident Licenses for Additional Hunting Privileges	
Type license or permit	Fee
<i>Resident Bear, Deer, and Turkey Hunting License, for licensees 16 years of age or older</i>	\$17.00
<i>Resident Junior Bear, Deer, Turkey Hunting License, for licensees under 16 years of age</i>	\$7.50
<i>Resident Archery License to Hunt with bow and arrow during archery hunting season</i>	\$17.00
<i>Resident Crossbow License to Hunt with crossbow during archery hunting season</i>	\$17.00
<i>Resident Muzzleloading License to Hunt during muzzleloading hunting season</i>	\$17.00
<i>Resident Bonus Deer Permit</i>	\$17.00

Virginia Nonresident Licenses to Hunt	
Type license	Fee
<i>Nonresident License to Hunt, for licensees 16 years of age or older</i>	\$85.00
<i>Nonresident Three-Day Trip License to Hunt</i>	\$45.00

Final Regulations

<i>Nonresident Youth License to Hunt, for licensees:</i>	
<i>under 12 years of age</i>	\$12.00
<i>12 through 15 years of age</i>	\$15.00
<i>Nonresident Youth Combination License to Hunt, and to hunt bear, deer, and turkey, to hunt with bow and arrow during archery hunting season, [and] to hunt with muzzleloading guns during muzzleloading hunting season, for licensees under 16 years of age</i>	\$30.00
<i>Nonresident Lifetime License to Hunt</i>	\$505.00

<i>Virginia Nonresident Licenses for Additional Hunting Privileges</i>	
<i>Type license or permit</i>	<i>Fee</i>
<i>Nonresident Bear, Deer, and Turkey Hunting License, for licensees:</i>	
<i>16 years of age or older</i>	\$65.00
<i>12 through 15 years of age</i>	\$15.00
<i>under 12 years of age</i>	\$12.00
<i>Nonresident Archery License to Hunt with bow and arrow during archery hunting season</i>	\$30.00
<i>Nonresident Crossbow License to Hunt with crossbow during archery hunting season</i>	\$30.00
<i>Nonresident Muzzleloading License to Hunt during muzzleloading hunting season</i>	\$30.00
<i>Nonresident Shooting Preserve License to Hunt within the boundaries of a licensed shooting preserve</i>	\$17.00
<i>Nonresident Bonus Deer Permit</i>	\$30.00

<i>Miscellaneous Licenses or Permits to Hunt</i>	
<i>Type license or permit</i>	<i>Fee</i>
<i>Waterfowl Hunting Stationary Blind in Public Waters License</i>	\$22.50
<i>Waterfowl Hunting Floating Blind in Public Waters License</i>	\$40.00
<i>Public Access Lands for Sportsmen Permit to Hunt, Trap, or Fish on Designated Lands (also listed under Miscellaneous Licenses or Permits to Fish)</i>	\$17.00

<i>Virginia Resident and Nonresident Licenses to Trap</i>	
<i>Type license</i>	<i>Fee</i>
<i>Resident License to Trap, for licensees 16 years of age or older</i>	\$40.00
<i>County or City Resident License to Trap in County or City of Residence Only</i>	\$15.00
<i>Resident Junior License to Trap, for licensees under 16 years of age</i>	\$10.00
<i>Resident Senior Citizen License to Trap, for licensees 65 years of age or older</i>	\$6.00
<i>Resident Senior Citizen Lifetime License to Trap, for licensees 65 years of age or older</i>	\$15.00
<i>Totally and Permanently Disabled Resident Special Lifetime License to Trap</i>	\$10.00
<i>Service-Connected Totally and Permanently Disabled Veteran Resident Lifetime License to Trap</i>	\$10.00
<i>Nonresident License to Trap</i>	\$155.00

<i>Virginia Resident Licenses to Fish</i>	
<i>Type license</i>	<i>Fee</i>
<i>Resident License to Freshwater Fish</i>	\$17.00
<i>County or City Resident License to Freshwater Fish in County or City of Residence Only</i>	\$10.00
<i>Resident License to Freshwater Fish, for licensees 65 years of age or older</i>	\$6.00
<i>Resident License to Fish in Designated Stocked Trout Waters</i>	\$17.00
<i>Resident License to Freshwater and Saltwater Fish</i>	\$29.00
<i>Resident License to Freshwater Fish for Five Consecutive Days</i>	\$10.00
<i>Resident License to Freshwater and Saltwater Fish for Five Consecutive Days</i>	\$15.00
<i>Resident Sportsman License to Hunt and Freshwater Fish, and to hunt bear, deer, and turkey, to hunt with bow and arrow during archery hunting season, to hunt with muzzleloading guns during muzzleloading hunting season, and to fish in designated stocked trout waters (also listed under Virginia Resident Licenses to Hunt)</i>	\$102.00
<i>Resident Special Lifetime License to Freshwater Fish, for licensees at the time of purchase:</i>	
<i>through 44 years of age</i>	\$255.00
<i>45 through 50 years of age</i>	\$205.00
<i>51 through 55 years of age</i>	\$155.00
<i>56 through 60 years of age</i>	\$105.00
<i>61 through 64 years of age</i>	\$55.00
<i>65 years of age and over</i>	\$15.00
<i>Resident Special Lifetime License to Fish in Designated Stocked Trout Waters, for licensees at the time of purchase:</i>	
<i>through 44 years of age</i>	\$255.00
<i>45 through 50 years of age</i>	\$205.00
<i>51 through 55 years of age</i>	\$155.00
<i>56 through 60 years of age</i>	\$105.00
<i>61 through 64 years of age</i>	\$55.00
<i>65 years of age and over</i>	\$15.00
<i>Totally and Permanently Disabled Resident Special Lifetime License to Freshwater Fish</i>	\$10.00
<i>Service-Connected Totally and Permanently Disabled Veteran Resident Lifetime License to Hunt and Freshwater Fish (also listed under Virginia Resident Licenses to Hunt)</i>	\$10.00

<i>Virginia Nonresident Licenses to Fish</i>	
<i>Type license</i>	<i>Fee</i>
<i>Nonresident License to Freshwater Fish</i>	\$35.00
<i>Nonresident License to Freshwater Fish in Designated Stocked Trout Waters</i>	\$35.00
<i>Nonresident License to Freshwater and Saltwater Fish</i>	\$47.00
<i>Nonresident License to Freshwater Fish for Five Consecutive Days</i>	\$15.00
<i>Nonresident License to Freshwater and Saltwater Fish for Five Consecutive Days</i>	\$20.00

Nonresident Special Lifetime License to Freshwater Fish	\$505.00
Nonresident Special Lifetime License to in Fish in Designated Stocked Trout Waters	\$505.00

Miscellaneous Licenses or Permits to Fish	
Type license or permit	Fee
Permit to Fish for One Day at Board-Designated Stocked Trout Fishing Areas with Daily Use Fees	[\$8.50 \$3.50; effective January 1, 2007: \$5.50]
Public Access Lands for Sportsmen Permit to Hunt, Trap, or Fish on Designated Lands (also listed under Miscellaneous Licenses or Permits to Hunt)	\$17.00
Special Guest Fishing License	\$55.00

V.A.R. Doc. No. R06-233; Filed June 21, 2006, 11:24 a.m.

Title of Regulation: 4 VAC 15-90. Game: Deer (amending 4 VAC 15-90-80).

Statutory Authority: §§ 29.1-501 and 29.1-502 of the Code of Virginia.

Effective Date: July 1, 2006.

Agency Contact: Phil Smith, Policy Analyst and Regulatory Coordinator, Department of Game and Inland Fisheries, 4016 West Broad Street, Richmond, VA 23230, telephone (804) 367-1000, FAX (804) 367-0488, or e-mail regcomments@dgif.virginia.gov.

Summary:

The amendments (i) reinstate the early muzzleloading season either-sex deer hunting day on private lands in Grayson County and (ii) make the early muzzleloading season in Grayson Highlands State Park and national forest lands in Grayson County buck only.

4 VAC 15-90-80. Muzzleloading gun hunting.

A. It shall be lawful to hunt deer during the early special muzzleloading season with muzzleloading guns from the Saturday prior to the first Monday in November through the Friday prior to the third Monday in November, both dates inclusive, in all cities, towns, and counties where deer hunting with a rifle or muzzleloading gun is permitted east of the Blue Ridge Mountains, except on national forest lands in Amherst, Bedford and Nelson counties and in the cities of Chesapeake, Suffolk (east of the Dismal Swamp Line) and Virginia Beach. It shall be lawful to hunt deer during the early special muzzleloading season with muzzleloading guns from the Saturday prior to the second Monday in November through the Friday prior to the third Monday in November, both dates inclusive, in all cities, towns, and counties where deer hunting with a rifle or muzzleloading gun is permitted west of the Blue Ridge Mountains and on national forest lands in Amherst, Bedford, and Nelson counties.

B. It shall be lawful to hunt deer during the late special muzzleloading season with muzzleloading guns from the Saturday prior to the third Monday in December through the first Saturday in January, both dates inclusive, in all cities, towns, and counties west of the Blue Ridge Mountains (except Clarke County and on non-national forest lands in Frederick County), and east of the Blue Ridge Mountains in the counties (including the cities and towns within) of Amherst (west of U.S. Route 29), Bedford, Campbell (west of Norfolk Southern Railroad), Franklin, Henry, Nelson (west of Route 151), Patrick and Pittsylvania (west of Norfolk Southern Railroad) and on national forest lands in Frederick County and in the cities of Chesapeake and Virginia Beach.

C. Deer of either sex may be taken during the entire early special muzzleloading season in all cities, towns, and counties east of the Blue Ridge Mountains (except on national forest lands, state forest lands, state park lands except Occoneechee State Park, department-owned lands and Philpott Reservoir) and on the second Saturday only east of the Blue Ridge Mountains on state forest lands, state park lands except Occoneechee State Park, department-owned lands and on Philpott Reservoir. Deer of either sex may be taken during the entire early special muzzleloading season on Occoneechee State Park. Deer of either sex may be taken during the early special muzzleloading season only on the second Monday in November in all counties west of the Blue Ridge Mountains (except Clarke, Buchanan, Dickenson, Floyd, ~~Grayson~~, Lee, Russell, Scott, Smyth, Tazewell, Washington, Wise, and in Grayson Highlands State Park and national forest lands in Grayson County, and on private lands in Frederick, Roanoke, and Warren counties) and on national forest and department-owned lands in Roanoke County and on national forest lands in Frederick and Warren counties and on national forest lands in Amherst, Bedford, and Nelson counties. Additionally, deer of either sex may be taken during the entire early special muzzleloading season in Clarke and Floyd counties and on private lands in Frederick, Roanoke and Warren counties.

D. Deer of either sex may be taken during the entire late special muzzleloading season in the counties (including the cities and towns within) of Amherst (west of U.S. Route 29 except on national forest lands), Bedford (except on national forest lands), Campbell (west of Norfolk Southern Railroad), Franklin, Henry, Nelson (west of Route 151 except on national forest lands), Patrick, and Pittsylvania (west of Norfolk Southern Railroad). It shall be lawful to hunt deer of either sex during the last six days of the late special muzzleloading season in all counties west of the Blue Ridge Mountains (except Buchanan, Dickenson, Floyd, Grayson, Lee, Russell, Scott, Smyth, Tazewell, Washington, Wise, and on private lands in Roanoke County) and on national forest and department-owned lands in Roanoke County and on national forest lands in Amherst, Bedford, Frederick, and Nelson counties and in the cities of Chesapeake and Virginia Beach. Provided further it shall be lawful to hunt deer of either sex during the last day only of the late special muzzleloading season in the counties of Grayson, Lee, Russell, Scott, Smyth, Tazewell, and Washington. Additionally, deer of either-sex may be taken during the entire late special muzzleloading season in Floyd County and on private lands in Roanoke County.

Final Regulations

E. Deer of either sex may be taken full season during the special muzzleloading seasons within the incorporated limits of any city or town in the Commonwealth that allows deer hunting except in the counties of Buchanan, Dickenson, and Wise and in the cities of Chesapeake, Suffolk, and Virginia Beach.

F. It shall be unlawful to hunt deer with dogs during any special season for hunting with muzzleloading guns.

G. A muzzleloading gun, for the purpose of this section, means a single shot flintlock or percussion weapon, excluding muzzleloading pistols, .45 caliber or larger, firing a single projectile or sabot (with a .38 caliber or larger projectile) of the same caliber loaded from the muzzle of the weapon and propelled by at least 50 grains of black powder (or black powder equivalent).

H. It shall be unlawful to have in immediate possession any firearm other than a muzzleloading gun while hunting with a muzzleloading gun in a special muzzleloading season.

VA.R. Doc. No. R06-235; Filed June 21, 2006, 11:24 a.m.

TITLE 8. EDUCATION

STATE BOARD OF EDUCATION

Title of Regulation: 8 VAC 20-660. Regulations Governing the Reenrollment of Students Committed to the Department of Juvenile Justice (adding 8 VAC 20-660-10 through 8 VAC 20-660-40).

Statutory Authority: §§ 16.1-293, 22.1-17.1 and 22.1-343 of the Code of Virginia.

Effective Date: August 23, 2006.

Agency Contact: Dr. Cynthia Cave, Director of Student Services, Department of Education, P.O. Box 2120, Richmond, VA 23218, telephone (804) 225-2818, FAX (804) 225-2524, or e-mail ccave@mail.vak12ed.edu.

Summary:

This regulation provides a structured procedure for reenrollment of students into the public schools when they have been in the custody of the juvenile justice system and receiving instruction through the Department of Correctional Education. The regulation provides for the exchange of educational information concerning students among the Department of Juvenile Justice, the Department of Correctional Education and the public school divisions. By establishing a process for exchange of student records, with procedures, responsibilities, and timelines delineated, reenrollment and planning for the student's continued education can take place on a timely basis prior to a student's release from the juvenile justice system.

Changes were made to the proposed regulation as a result of the public comments received. The changes (i) expand the application to students aged 18 and over, (ii) include specific references to detention homes/centers personnel

and the Individualized Education Plan (IEP) team, (iii) require consultation with the student to specify participation in planning for reenrollment, (iv) add a reference to inclusion of contact information in the reenrollment plan for agencies to promote communication, (v) require weekly counseling with the student upon reenrollment for a time specified by the school division, and (vi) add a requirement for the protection of the confidentiality of the student's juvenile justice record.

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

CHAPTER 660. REGULATIONS GOVERNING THE REENROLLMENT OF STUDENTS COMMITTED TO THE DEPARTMENT OF JUVENILE JUSTICE.

8 VAC 20-660-10. Definitions.

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

"Educational programs" means educational programs that are designed to provide educational services to [eligible] students who are [subject to compulsory school attendance and are] receiving such services in school divisions, juvenile correctional centers, jails, juvenile detention homes [/centers], or state-operated programs.

["Educational status" includes but is not limited to the most recent assessment results, including standardized tests, inclusion of a student's special education eligibility and related evaluations, most recent Individualized Education Plan (IEP), if applicable, academic credits and partial credits earned, and participation in career and technical programs, if applicable.

"Eligible" means of school age or eligible for special education services as defined in §§ 22.1-1, 22.1-5, and 22.1-213 of the Code of Virginia.]

"Final reenrollment plan" means the written documentation developed by the receiving school division that addresses the student's education program, placement, and support services upon reenrollment.

"Preliminary reenrollment plan" means the written documentation for a person to be released from Department of Juvenile Justice custody who is of [compulsory] school attendance age or is eligible for special education services pursuant to § 22.1-213 of the Code of Virginia. The plan describes the student's educational history while in the custody of the Department of Juvenile Justice, current status, identification of school placement upon release, recommendations for an education program following reenrollment, and recommendations for student supports, such as counseling services.

"Receiving school division" means the school division or state-operated program where the student will enroll upon release from the custody of the Department of Juvenile Justice.

["Reenrollment" means the process of transitioning eligible youth released from Department of Juvenile Justice custody into attendance in public schools.]

"Reenrollment coordinator" means the school division or state-operated program staff person designated to work with the parole officer, the Department of Correctional Education [or detention home/center educational personnel,] the transition team, [~~and~~] the reenrollment team [, and the IEP team, if applicable,] to coordinate the development of the reenrollment plan.

"Reenrollment team" means the group convened by the division superintendent or designee of the receiving school division to prepare for and implement the reenrollment of the student. The reenrollment team shall include, at a minimum, the guidance counselor, the special education director [or qualified designee] as appropriate, the principal or assistant principal if designated, the reenrollment coordinator, and the parole officer. The student's parent(s) or legal guardians(s) and the school social worker or psychologist shall be invited to participate in meetings of the reenrollment team. [The reenrollment team shall consult the student. If a student is eligible for special education services, the reenrollment team shall coordinate planning with the student's IEP team.]

"Scholastic record" means records that are directly related to a student and that are maintained by an educational agency or institution or by a party acting for the agency or institution. These include, but are not limited to, documentation pertinent to the educational growth and development of students as they progress through school, the high school transcript, student disciplinary records, achievement and test data, cumulative health records to include immunization records, reports of assessment for eligibility for special education services, and Individualized Education Programs.

The term "scholastic record" does not include records of instructional, supervisory, administrative, and ancillary educational personnel that are kept in the sole possession of the maker of the record and are not accessible or revealed to any other person except a temporary substitute for the maker of the record. Also, in accordance with § 22.1-289 of the Code of Virginia, a notice of adjudication or conviction received by a superintendent relating to an incident that did not occur on school property or during a school-sponsored activity shall not be part of a student's scholastic record.

["Students in detention homes/centers" means those students residing in detention homes or centers for more than 30 calendar days.]

"Transition team" means the Department of Correctional Education (DCE) [or detention home/center] principal or assistant principal, the DCE [or detention home/center] counselor, the DCE transition specialist [; or the detention home/center teacher,] the juvenile correctional center counselor, [a representative of the student's IEP team, if applicable,] and the student's parole officer. This team assembles the student's scholastic record and other relevant documents, develops the preliminary reenrollment plan [; in consultation with the student,] and provides information and the preliminary plan to the receiving school division. Transition team members may also include the school division

of origin for the student, if different from the receiving school division, and the reenrollment coordinator. Transition team members may also be part of the reenrollment team.

8 VAC 20-660-20. Reenrollment plan components.

Reenrollment plans shall include but not be limited to:

1. Educational status and recommendations [~~at~~ prior to] commitment;
2. Educational status and recommendations of the Department of Correctional Education during the student's stay at the Reception and Diagnostic Center;
3. Educational status and recommendations while in the custody of the Department of Juvenile Justice;
4. Educational and reentry goals for the student [developed in coordination with the student's IEP team, if applicable];
5. Other student supports needed to promote the student's successful reentry to public school, such as counseling services;
6. Anticipated dates and timelines for scheduled release to the receiving school division or for court review of the case, and for reenrollment; [~~and~~]
7. Establishment of school placement upon release [; and]
- [8. Contact information for representatives of detention homes/centers, if applicable, the Department of Juvenile Justice, the Department of Correctional Education, and the reenrollment coordinator of the school division.]

8 VAC 20-660-30. Reenrollment process and responsibilities.

A. Notification and convening of teams.

1. The Department of Juvenile Justice, through the Juvenile Correctional Center's counselor, shall provide written notification to the Department of Correctional Education principal [, detention home/center educational program principal] or designated educational authority at least 30 calendar days prior to the scheduled release of a student or a scheduled case review in court.
2. Upon notification, the transition team shall prepare and assemble the documents and scholastic record that support the development of the reenrollment plan. Also upon notification, the Department of Correctional Education [or detention home/center superintendent] will provide a letter of pending release and an informative outline of the reenrollment process within five business days to the reenrollment coordinator for the receiving school division and the student's parent(s) or guardian(s). The school division shall confirm receipt of notification with the Department of Correctional Education [or detention home/center] within five business days.
3. At least 25 calendar days prior to the court review or pending release of a student, and after review with the student, the Department of Correctional Education [or detention home educational program] shall forward the [~~student~~ student's] scholastic record and a preliminary

Final Regulations

reenrollment plan [developed in consultation with the student] to the school division reenrollment coordinator.

4. Within 10 business days of receipt of the materials, the reenrollment coordinator shall convene the reenrollment team to review the preliminary reenrollment plan and develop the final plan. The student's parent(s) or legal guardian(s) shall be invited by the reenrollment coordinator to attend a meeting where the final reenrollment plan will be developed. The parent(s) or legal guardian(s) may designate a member of the transition team, or someone else, to represent him at the meeting. [The student shall be consulted in the development of the plan.]

5. Notice of the scheduled meeting to develop the reenrollment plan will be given to all potential participants by the receiving school division a minimum of one week prior to the meeting.

6. Other individuals who have knowledge or expertise regarding the student may participate, at the discretion of the members of the reenrollment team or parent(s) or legal guardian(s), or if the student is of majority age and eligible for special education services, at the discretion of the student.

B. Development of final reenrollment plan.

1. The reenrollment team shall develop a final reenrollment plan that clearly states:

a. The educational placement of the student and timeframe for placement,

b. The names of persons with responsibility and authority for prompt enrollment and their contact information,

c. The student's scheduled academic program and other supportive activities or services as appropriate,

d. The names [and contact information] of the members of transition and reenrollment teams, and

e. Any other required components [including an approved IEP if the student is enrolled in special education].

2. Copies of the final plan shall be provided to the student, parent(s) or legal guardian(s), and to all transition and reenrollment plan members no later than 10 calendar days prior to release.

C. Reenrollment.

1. The reenrollment plan shall make it possible for the student to enroll and receive instruction in the receiving school district within two school days of release.

2. After the Department of Juvenile Justice gives notice of a student's scheduled release, the student may not be suspended or expelled from school programs for the offenses for which he was committed.

3. Placement of students in alternative education programs shall be in accordance with § 22.1-277.2 of the Code of Virginia.

[4. Upon reenrollment the student shall received weekly counseling for a determined period of time.

5. The receiving school division shall protect the confidentiality of the student's juvenile justice record according to applicable federal and state laws and regulations.]

8 VAC 20-660-40. Maintenance and transfer of the scholastic record.

A. Within two business days of the court's order of commitment to the Department of Juvenile Justice, the student's probation/parole officer will request the scholastic record from the school division where the student was last enrolled.

B. The reenrollment coordinator for that school division will provide the record [, including information concerning special education eligibility and services,] and any other requested information to the Reception and Diagnostic Center [or detention home/center] to the attention of the Department of Correctional Education [or detention home education program] within five business days of receipt of the probation officer's request.

C. The school division where the student was last enrolled (sending school division) will maintain the student's scholastic record during the period that the student is in the custody of the Department of Juvenile Justice. The Department of Correctional Education [or detention home education program] will provide copies of year-end transcripts to the reenrollment coordinator of the sending school division at the same time the transcripts are sent to parents or legal guardians.

D. The transfer and management of scholastic records between educational programs shall be in accordance with the Code of Virginia and the Family Educational Rights and Privacy Act.

E. School divisions shall provide current contact information for reenrollment coordinators to the Departments of Education and Correctional Education that shall be made available to the public.

VA.R. Doc. No. R05-93; Filed June 16, 2006, 10:40 p.m.



TITLE 11. GAMING

CHARITABLE GAMING BOARD

REGISTRAR'S NOTICE: The Charitable Gaming Board is claiming an exemption from the Administrative Process Act in accordance with § 2.2-4006 A 4 a of the Code of Virginia, which excludes regulations that are necessary to conform to changes in Virginia statutory law where no agency discretion is involved. The Charitable Gaming Board will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: 11 VAC 15-22. Charitable Gaming Rules and Regulations (amending 11 VAC 15-22-10 through 11 VAC 15-22-80, 11 VAC 15-22-110 and 11 VAC 15-22-120).

Statutory Authority: § 18.2-340.19 of the Code of Virginia.

Effective Date: August 9, 2006.

Agency Contact: Harry M. Durham, Interim Director, Department of Charitable Gaming, 101 North 14th Street, Richmond, VA 23219, telephone (804) 786-2444, FAX (804) 786-1079 or e-mail harry.durham@dcg.virginia.gov.

Summary:

The amendments conform the regulation with Chapters 644 of the 2006 Acts of Assembly. The substantive changes include establishing additional games to "conduct of games," establishing age limits for selling types of games, and adding requirements for recordkeeping and financial reporting.

11 VAC 15-22-10. Definitions.

In addition to the definitions contained in § 18.2-340.16 of the Code of Virginia, the words and terms below, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise:

"Board" means the Virginia Charitable Gaming Board.

"Board of directors" means the board of directors, managing committee or other supervisory body of a qualified organization.

"Calendar day" means the period of 24 consecutive hours commencing at 12:01 a.m. and concluding at midnight.

"Calendar week" means the period of seven consecutive calendar days commencing at 12:01 a.m. on Sunday and ending at midnight the following Saturday.

"Cash" means United States currency or coinage.

"Concealed face bingo card" means a nonreusable bingo card constructed to conceal the card face. This type of card is commonly referred to under trade names such as "Tear-open" or "Bonanza Bingo."

"Conduct" means the actions associated with the provision of a gaming operation during and immediately before or after the permitted activity, which may include, but not be limited to (i) selling bingo cards or packs, electronic devices, instant bingo or pull-tab cards, or raffle tickets; (ii) calling bingo games; (iii) distributing prizes; ~~or~~ and (iv) any other services provided by volunteer workers.

"DCG number" means a unique identification number issued by the department.

"Daubing" means covering a square containing a number called with indelible ink or otherwise concealing the number on a card or an electronic facsimile of a card.

"Deal" means each separate package or series of packages consisting of one game of instant bingo, ~~pull-tab raffle pull-tabs~~ or seal cards with the same serial number.

"Decision bingo" means a bingo game where the cost to a player to play is dependent on the number of balls called and the prize payout is in direct relationship to the number of participants and the number of balls called, but shall not exceed statutory prize limits for a regular bingo game.

"Department" means the Virginia Department of Charitable Gaming.

"Director" means the Director of the Virginia Department of Charitable Gaming.

"Discount" means any reduction in cost of admission or game packs or any other purchases through use of coupons, free packs or other similar methods.

"Disinterested player" means a player who is unbiased.

"Disposable paper card" means a nonreusable, paper bingo card manufactured with preprinted numbers.

"Door prize" means any prize awarded by the random drawing or random selection of a name or number based solely on attendance at a gaming session.

"Electronic bingo device" means an electronic device that uses proprietary software or hardware, or in conjunction with commonly available software and computers, displays facsimiles of bingo cards and allows a player to daub such cards.

"Fiscal year" or "annual reporting period" means the 12-month period beginning January 1 and ending December 31 of any given year.

"Flare" means a piece of paper, cardboard or similar material that bears printed information relating to the name of the manufacturer or logo, name of the game, card count, cost per play, serial number, the number of prizes to be awarded and the specific prize amounts in a deal of instant bingo, pull-tab or seal cards.

"Free space number," "perm number," "center number," "card number" or "face number" means the number generally printed in the center space of a bingo card that identifies the unique pattern of numbers printed on that card.

"Game program" means a written list of all games to be played including, but not limited to, the sales price of all bingo paper and electronic bingo devices, pack configuration, prize amounts to be paid during a session for each game, and an indication whether prize amounts are fixed or are based on attendance.

"Immediate family" means one's spouse, parent, child, sibling, grandchild, grandparent, mother or father-in-law or stepchild.

"Interested persons" means the president, an officer or bingo manager of any qualified organization which is exempt or is a permit applicant or holds a permit ~~or exempt authorization~~ to conduct charitable gaming or the owner, director, officer or partner of an entity engaged in supplying charitable gaming supplies to organizations.

"IRS" means the United States Internal Revenue Service.

"Lucky Seven" means a bingo game as authorized in § 18.2-340.33 (9a) (b) of the Code of Virginia.

Final Regulations

"Management" means the provision of oversight of a gaming operation, which may include, but *is not* be limited to, the responsibilities of applying for and maintaining a permit or authorization, compiling, submitting and maintaining required records and financial reports, and ensuring that all aspects of the operation are in compliance with all applicable statutes and regulations.

"Manufacturer" means a person who assembles from raw materials or subparts a completed piece of bingo or other charitable gaming equipment or supplies. "Manufacturer" also means a person who modifies, converts, adds or removes parts to or from bingo or other charitable gaming equipment or supplies to further their promotion or sale for the conduct of charitable gaming.

"Operation" means the activities associated with production of a charitable gaming activity, which may include, but not be limited to (i) the direct on-site supervision of the conduct of charitable gaming; (ii) coordination of volunteers; and (iii) all responsibilities of charitable gaming designated by the organization's management.

"Owner" means any individual with financial interest of 10% or more in a supplier.

"Pack" means sheets of bingo paper or electronic facsimiles assembled in the order of games to be played. This may include specials and jackpots, but shall not include any winner-take-all, Lucky Seven or raffle.

"Prize" means cash, merchandise, certificate or other item of value awarded to a winning player.

"Progressive seal card" means a seal card game in which a prize is carried forward to the next deal if not won when a deal is completed.

"Remuneration" means payment in cash or the provision of anything of value for goods provided or services rendered.

"Seal card" means a board or placard used in conjunction with a deal of the same serial number which contains one or more concealed areas that, when removed or opened, reveal a predesignated winning number, letter or symbol located on that board or placard.

"Serial number" means a unique number printed by the manufacturer on each bingo card in a set, each instant bingo or, pull-tab, or seal card in a deal, each electronic bingo device, or each door prize ticket.

"Series number" means the number of unique card faces contained in a set of disposable bingo paper cards or bingo hard cards. A 9000 series, for example, has 9000 unique faces.

"Session" means a period of time during which one or more bingo games are conducted that begins with the selection of the first ball for the first game and ends with the selection of the last ball for the last game.

"Treasure chest" means a raffle including a locked treasure chest containing a prize that a participant, selected through some other authorized charitable game, is afforded the chance to select from a series of keys a predetermined key that will open the locked treasure chest to win a prize.

"Use of proceeds" means the use of funds derived by an organization from its charitable gaming activities which are disbursed for those lawful religious, charitable, community or educational purposes. This includes expenses relating to the acquisition, construction, maintenance or repair of any interest in the real property involved in the operation of the organization and used for lawful religious, charitable, community or educational purposes.

"WINGO" is a variation of a traditional bingo game that uses visual devices rather than a verbal caller and is played by hearing impaired persons.

PART II. PERMITS, EXEMPT NOTIFICATIONS, REGISTRATION CERTIFICATES.

11 VAC 15-22-20. Eligibility for permit to conduct charitable gaming; when valid; permit requirements.

A. The conduct of charitable gaming is a privilege that may be granted or denied by the department. Except as provided in § 18.2-340.23 of the Code of Virginia, every eligible organization and volunteer fire department and rescue squad with anticipated gross gaming receipts that exceed \$25,000 in any 12-month period shall obtain a permit ~~or exempt authorization~~ from the department prior to the commencement of charitable gaming activities. To be eligible for a permit an organization must meet all of the requirements of § 18.2-340.24 of the Code of Virginia.

B. Pursuant to § 18.2-340.24 B of the Code of Virginia, the department shall review a tax exempt request submitted to the IRS for a tax exempt status determination and may issue an interim certification of tax-exempt status solely for the purpose of charitable gaming, conditioned upon a determination by the IRS. A nonrefundable fee of \$500 payable to the Treasurer of Virginia shall be charged for this review.

C. A permit ~~or exempt authorization~~ shall be valid only for activities, locations, days, dates and times as listed on the permit ~~or exempt authorization~~.

D. In accordance with ~~subdivision 4 of~~ § 18.2-340.19 A 1 of the Code of Virginia, as a condition of receiving a permit ~~or exempt authorization~~, a minimum of 10% of charitable gaming gross receipts shall be used for (i) those lawful religious, charitable, community or educational purposes for which the organization is specifically chartered or organized or (ii) those expenses relating to the acquisition, construction, maintenance or repair of any interest in real property involved in the operation of the organization and used for lawful religious, charitable, community or educational purposes:

E. If an organization fails to meet the minimum use of proceeds requirement, its permit may be suspended or revoked. However, the department shall not suspend or revoke the permit of any organization solely because of its failure to meet the required percentage without having first provided the organization with an opportunity to implement a corrective action plan. In such a case, the organization shall be afforded the opportunity to enter into a consent order with the department specifying the proposed corrective action and the timeframe to accomplish the plan.

F. An organization may request a temporary reduction in the predetermined percentage specified in subsection D of this section from the department. In reviewing such a request, the department shall consider such factors appropriate to and consistent with the purpose of charitable gaming, which may include, but not be limited to (i) the organization's overall financial condition; (ii) the length of time the organization has been involved in charitable gaming; (iii) the extent of the deficiency; and (iv) the progress that the organization has made in attaining the minimum percentage in accordance with a corrective action plan pursuant to subsection E of this section.

G. An organization whose permit is revoked for failure to comply with provisions set forth in subsection D of this section shall be eligible to reapply for a permit at the end of one year from the date of revocation. The department, at its discretion, may issue the permit if it is satisfied that the organization has made substantial changes to its management, operations or both.

11 VAC 15-22-30. Permit application and exempt notification process.

A. Organizations anticipating gross gaming receipts that exceed \$25,000 (~~except volunteer fire departments and rescue squads~~) shall complete a department-prescribed application to request issuance or renewal of an annual permit to conduct charitable gaming. The application shall be accompanied by a nonrefundable fee payable to the Treasurer of Virginia in the amount of \$200. *Volunteer fire departments or rescue squads or auxiliary units thereof that have been recognized in accordance with § 15.2-955 of the Code of Virginia shall be exempt from the payment of applications fees.*

~~B. Volunteer fire departments and rescue squads anticipating gross receipts that exceed \$25,000 shall file an exempt notification on a form prescribed by the department to request an authorization to conduct charitable gaming.~~

~~G. B. The department may initiate action against any organization exempt from permit requirements when it reasonably believes the organization is not in compliance with the provisions of charitable gaming laws or applicable regulations, or both, of the board. The department may decline to issue an authorization to conduct charitable gaming to volunteer fire departments and rescue squads failing to meet the requirements of § 18.2-340.23 of the Code of Virginia.~~

~~D. C. Permit holders requiring a special permit pursuant to § 18.2-340.27 D E of the Code of Virginia shall convey their request on a form prescribed by the department. There shall be a \$50 fee for special permits. Volunteer fire departments or rescue squads or auxiliary units thereof that have been recognized in accordance with § 15.2-955 of the Code of Virginia shall be exempt from the payment of applications fees.~~

~~E. D. Permits and exempt authorizations shall be valid for a period of one year from the date of issuance or for a period specified on the permit or authorization. The department may issue permits for periods of less than one year.~~

~~F. E. Permits shall be granted only after a background investigation of an organization or interested persons, or both, to ensure public safety and welfare as required by § 18.2-340.25 of the Code of Virginia. Investigations shall consider the nature, the age and severity and the potential harm to public safety and welfare of any criminal offenses. The investigation may include, but shall not be limited to, the following:~~

~~1. A search of Virginia criminal history records for the chief executive officer and chief financial officer of the organization. Information and authorization to conduct these records checks shall be provided in the permit application. In addition, the department shall require that the organization provides assurances that all other members involved in the management ~~or~~, operation, or conduct of charitable gaming meet the requirements of subdivision 42 13 of § 18.2-340.33 of the Code of Virginia. Applications may be denied if ~~any game manager or officer has been convicted within five years preceding the date of application for any:~~~~

~~a. Any person participating in the management of any charitable gaming has ever been:~~

~~(1) Convicted of a felony; or~~

~~b. (2) Convicted of any misdemeanor ~~crimes~~ involving moral turpitude, fraud, theft, or financial crimes within the preceding five years.~~

~~b. Any person participating in the conduct of charitable gaming has been:~~

~~(1) Convicted of any felony in the preceding 10 years, or~~

~~(2) Convicted of any misdemeanor involving fraud, theft or financial crimes within the preceding five years.~~

~~2. An inquiry as to whether the organization has been granted tax-exempt status pursuant to § 501 (c) by the Internal Revenue Service and is in compliance with IRS annual filing requirements;~~

~~3. An inquiry as to whether the organization has entered into any contract with, or has otherwise employed for compensation, any persons for the purpose of organizing or managing, operating or conducting any charitable gaming activity;~~

~~4. Inquiries into the finances and activities of an organization and the sources and uses of funds; and~~

~~5. Inquiries into the level of community or financial support to the organization and the level of community involvement in the membership and management of the organization.~~

~~G. F. The permit application for an organization that has not previously held a permit shall include:~~

~~1. A list of members participating in the management or operation of charitable gaming. For any organization that is not composed of members, a person who is not a bona fide member may volunteer in the conduct of a charitable game as long as that person is directly supervised by a bona fide official member of the organization;~~

Final Regulations

2. A copy of the articles of incorporation, bylaws, charter, constitution or other appropriate organizing document;
 3. A copy of the determination letter issued by the IRS under § 501(c) of the Internal Revenue Code, if appropriate, or a letter from the national office of an organization indicating the applicant organization is in good standing and is currently covered by a group exemption ruling. A letter of good standing is not required if the applicable national or state office has furnished the department with a listing of member organizations in good standing in the Commonwealth as of January 1 of each year and has agreed to promptly provide the department any changes to the listing as they occur;
 4. A copy of the organization's most recent annual financial statement and balance sheet, or most recent Form 990 that has been filed with the IRS;
 5. A copy of the written lease or proposed written lease agreement and all other agreements if the organization rents or intends to rent a facility where bingo is or will be conducted. Information on the lease shall include name, address, phone number of the landlord, square footage and maximum occupancy of the building and the rental amount per session; and
 6. An authorization by an officer or other appropriate official of an organization to permit the department to determine whether the organization has been investigated or examined by the Internal Revenue Service in connection with charitable gaming activities during the previous three years.
- ~~H.~~ G. Copies of minutes of meetings of an organization and any contracts with landlords or suppliers to which the organization is, or may be a party, may be requested by the department prior to rendering a permitting decision.
- ~~I.~~ H. Organizations applying to renew a permit previously issued by the department shall submit articles of incorporation, bylaws, charter, constitution or other organizing document and IRS determination letter only if there are any amendments or changes to these documents that are directly related to the management, operation or conduct of charitable gaming.
- ~~J.~~ I. Organizations may request permits to conduct joint bingo games as provided in § 18.2-340.29 of the Code of Virginia:
1. In the case of a joint game ~~between a volunteer fire department or rescue squad and an organization not exempt from permit requirements, they, all the organizations shall file the exempt notification form and a permit application respectively. Benefits extended by the Code of Virginia or these regulations to a volunteer fire department or rescue squad shall not extend to a nonexempt organization due to operation of a joint game.~~
 2. The nonrefundable permit fee for joint games shall be a total of \$200. *Volunteer fire departments or rescue squads or auxiliary units thereof that have been recognized in accordance with § 15.2-955 of the Code of Virginia shall be exempt from the payment of applications fees.*
3. A single permit shall be issued in the names of ~~both~~ *all the* organizations conducting a joint game. All restrictions and prohibitions applying to single organizations shall apply to qualified organizations jointly conducting bingo games pursuant to § 18.2-340.29 of the Code of Virginia.
 4. No charitable gaming shall be conducted prior to the issuance of a joint permit.
 5. Applications for joint games shall include an explanation of the division of manpower, costs and proceeds for the joint game.
- ~~K.~~ J. An organization wishing to change dates, times or locations of its charitable gaming shall request a change in the permit. Change requests shall be made in writing on a form prescribed by the department at least 30 days in advance of the proposed effective date.
- ~~L.~~ K. Changes in dates, times or locations due to inclement weather, disasters, or other circumstances outside the organization's control may be made without a change in the permit. The organization shall request such a change on a form prescribed by the department as soon as the necessity for the change is known.
- ~~M.~~ L. A nonrefundable fee of \$50, payable to the Treasurer of Virginia, shall be submitted with a request for a permit change. The fee shall not be charged for changes as described in subsection ~~L~~ K of this section. *Volunteer fire departments or rescue squads or auxiliary units thereof that have been recognized in accordance with § 15.2-955 of the Code of Virginia shall be exempt from the fee for a permit change.*
- ~~N.~~ M. An organization ~~located in the Northern Virginia Planning District~~ may sell raffle tickets for a drawing to be held ~~in another state outside of the Commonwealth of Virginia~~ in the United States provided:
1. The raffle is conducted by the organization in conjunction with a meeting outside the Commonwealth of Virginia or with another organization which is licensed to conduct raffles outside the Commonwealth of Virginia;
 2. The raffle is conducted in accordance with these regulations and the laws and regulations of the state where the drawing is to be held; and
 3. The portion of the proceeds derived from the sale of raffle tickets in the Commonwealth is reported to the department.
- ~~O.~~ N. Any permitted organization that ceases to conduct charitable gaming shall immediately notify the department in writing, return its permit to the department, and provide the department a report as to the disposition of all unused gaming supplies.
- 11 VAC 15-22-35. Suspension, revocation, or denial of permit or authorization.**
- A. Pursuant to § 18.2-340.20 of the Code of Virginia, the department may suspend, revoke, or deny the permit ~~or authorization~~ to conduct charitable gaming of any organization for cause including, but not limited to, any of the following reasons:

1. The organization is found to be in violation of or has failed to meet any of the requirements of the statutes or regulations governing the operation, management, and conduct of charitable gaming in the Commonwealth.

2. The organization is found to be not in good standing with its state or national organization.

3. The IRS revokes or suspends the organization's tax-exempt status.

4. The organization willfully and knowingly provides false information in its application for a permit ~~or authorization~~ to conduct charitable gaming.

5. The organization is found to have a member involved in the management, operation or conduct of its charitable gaming who has been convicted of any felony or any misdemeanor ~~crime involving moral turpitude, fraud, theft or financial crime within the past five years. as follows:~~

a. For any person participating in the management or operation of any charitable gaming:

(1) Convicted of a felony, or

(2) Convicted of any misdemeanor involving fraud, theft or financial crimes within the preceding five years.

b. For any person participating in the conduct of charitable gaming:

(1) Convicted of any felony within the preceding 10 years, or

(2) Convicted of any misdemeanor involving fraud, theft or financial crimes within the preceding five years.

~~B.~~ The failure to meet any of the requirements of § 18.2-340.24 of the Code of Virginia shall cause the automatic denial of the permit, and no organization shall conduct any charitable gaming until the requirements are met and a permit is obtained.

~~B- C.~~ Except when an organization fails to meet any of the requirements of § 18.2-340.24, in lieu of suspending, revoking or denying a permit ~~or authorization~~ to conduct charitable gaming, the department may afford an organization an opportunity to enter into a consent order specifying additional conditions or requirements as it may deem necessary to ensure an organization's compliance with the statutes and regulations governing the conduct of charitable gaming activities and may require that an organization participates in such training as is offered by the department.

~~C- D.~~ If a permit ~~or authorization~~ is suspended, the department shall set the terms of the suspension, which shall include the length of the suspension and a requirement that, prior to reinstatement of the permit ~~or authorization~~, the organization shall submit a corrective action plan to address the conditions that resulted in the suspension.

11 VAC 15-22-40. Conduct of bingo, instant bingo , pull-tabs, seal cards, and raffles.

A. Organizations subject to this chapter shall post their permit ~~or exempt authorization~~ at all times on the premises where charitable gaming is conducted.

B. No individual shall provide any information or engage in any conduct that alters or is intended to alter the outcome of any charitable game.

C. Individuals under 18 years of age may play bingo provided such persons are accompanied by a parent or legal guardian. It shall be the responsibility of the organization to ensure that such individuals are eligible to play. An organization's house rules may further limit the play of bingo or purchase raffle tickets by minors.

D. Individuals under the age of 18 may sell raffle tickets for a qualified organization raising funds for activities in which they are active participants.

~~E.~~ No individual under the age of 18 may participate in the management or operation of bingo games. Individuals 14 through 17 years of age may participate in the conduct of a bingo game provided the organization permitted for charitable gaming obtains and keeps on file written parental consent from the parent or legal guardian and verifies the date of birth of such youth. ~~Individuals 11 through 13 years of age may only participate in the conduct of a bingo game provided they are accompanied by a parent or legal guardian.~~ An organization's house rules may further limit the involvement of minors in the conduct of bingo games.

~~F.~~ No qualified organization shall sell any instant bingo, pull-tab, or seal card to any individual under 18 years of age. No individual under 18 years of age shall play or redeem any instant bingo, pull-tab, or seal card.

~~F- G.~~ Immediate family members of bona fide members and surviving spouses of deceased bona fide members may participate as volunteer game workers.

~~G- H.~~ All volunteer game workers shall have in their possession a picture identification, such as a driver's license or other government-issued identification, while participating in the management, operation or conduct of a bingo game.

~~H- I.~~ A game manager who is a bona fide member of the organization and is designated by the organization's management as the person responsible for the operation of the bingo game during a particular session shall be present any time a bingo game is conducted.

~~I- J.~~ Organizations shall ensure that all charitable gaming equipment is in working order before charitable gaming activities commence.

~~J- K.~~ Any organization selling bingo, instant bingo, ~~raffles~~ pull-tabs, or seal cards shall:

1. Maintain a supplier's invoice or a legible copy thereof at the location where the gaming is taking place and cards are sold. The original invoice or legible copy shall be stored in the same storage space as the gaming supplies. All gaming supplies shall be stored in a secure area that has access limited only to bona fide members of the organization; and

2. Pay for all gaming supplies only by a check drawn on the charitable gaming account of the organization.

Final Regulations

~~A~~ complete inventory of all such gaming supplies shall be maintained by the organization on the premises where the gaming is being conducted.

~~K~~ L. A volunteer working a bingo session may receive complimentary food and nonalcoholic beverages provided on premises, as long as the retail value of such food and beverages does not exceed \$15 for each session.

~~L~~ M. Permitted organizations shall not commingle records, supplies or funds from permitted activities with those from *instant bingo*, *pull-tabs*, or *seal cards* sold in social quarters in accordance with § 18.2-340.26:1 of the Code of Virginia.

~~M~~ N. Individuals who are not members of an organization or are members who do not participate in any charitable gaming activities may be paid reasonable fees for preparation of quarterly and annual financial reports.

~~N~~ O. No free packs, free electronic bingo devices, discounts or remuneration in any other form shall be provided directly or indirectly to volunteers, members of their family or individuals residing in their household. The reduction of tuition, dues or any fees or payments due as a result of a member or shareholder, or anyone in their household, working bingo games or raffles is prohibited.

~~O~~ P. Individuals providing security for an organization's charitable gaming activity shall not participate in the charitable gaming activity and shall not be compensated with charitable gaming supplies or with rentals of electronic bingo devices.

~~P~~ Q. No organization shall award any prize money or any merchandise valued in excess of the amounts specified by the Code of Virginia.

~~Q~~ R. Multiple bingo sessions shall be permitted in a single premises as long as the sessions are distinct from one another and are not used to advertise or do not result in the awarding of more in prizes than is permitted for a single qualified organization. All leases for organizations to conduct charitable gaming in a single premises shall be for sessions separated by an interval of at least one hour. Bingo sales for the subsequent session may take place during the one-hour break once the building is cleared of all patrons and workers from the previous session.

~~R~~ S. All bingo and instant bingo, *pull-tabs*, or *seal card* sales must occur within the time specified on the charitable gaming permit.

~~S~~ T. Instant bingo, *pull-tabs*, or *seal cards* shall only be sold in conjunction with a regular bingo session. No instant bingo, *pull tabs*, or *seal card* sales shall take place more than two hours before or after a session. If multiple sessions are held at the same location, no instant bingo, *pull-tab*, or *seal card* sales shall be conducted during the required one hour break between sessions. The department may take action if it believes that a regular bingo session is not legitimate or is being conducted in a manner such that instant bingo, *pull-tabs*, or *seal cards* are not being sold in conjunction with a normal, regular bingo session.

~~T~~ U. Only a volunteer game worker of qualified organizations may rent, exchange or otherwise provide electronic bingo devices to players.

~~U~~ V. A qualified organization shall conduct only bingo games and raffles listed on a game program for that session. The program shall list all prize amounts. If the prize amounts are determined by attendance or at the end of a game, the game program shall list the attendance required for the prize amount or disclose that prizes shall be determined at the end of a game and the method for determining the prize amount. In such case, the organization shall announce the prize amount at the end of the game.

~~V~~ W. A qualified organization selling instant bingo or ~~pull-tab~~, *pull-tabs*, or *seal cards* shall post a flare provided by the manufacturer at the location where such cards are sold. All such sales and prize payouts shall be in accordance with the flare for that deal.

~~W~~ X. Only qualified organizations, facilities in which qualified organizations play bingo and suppliers ~~registered with~~ *permitted by* the department, shall advertise a bingo game. Providing players with information about bingo games through printed advertising is permitted, provided the name of the qualified organization shall be in a type size equal to or larger than the name of the premises, hall or the word "bingo." Printed advertisements shall identify the use of proceeds percentage reported in the past quarter or fiscal year.

~~X~~ Y. Raffles which award prizes based on a percentage of gross receipts shall use prenumbered tickets.

~~Y~~ Z. The following rules shall apply to instant bingo, *pull-tab*, or *seal card* dispensing devices:

1. A dispenser shall only be used at a location and time during which a qualified organization holds a permit to conduct charitable gaming. Only cards purchased by an organization to be used during the organization's charitable gaming activity shall be in the dispenser.
2. Keys to the dispensing area and coin/cash box shall be in the possession and control of the game manager or designee of the organization's board of directors at all times. Keys shall at all times be available at the location where the dispensing device is being used.
3. The game manager or designee shall provide access to a department agent for inspection upon request.
4. Only a volunteer game worker of an organization may stock the device, remove cash or pay winners' prizes.

~~Z~~ AA. Organizations shall only purchase gaming supplies from a supplier who has a current ~~certificate of registration~~ *permit* issued by the department.

~~AA~~ BB. An organization shall not alter bingo paper from its original form as invoiced from the supplier.

~~BB~~ CC. The total amount of all discounts given by any organization during any fiscal year shall not exceed 1.0% of the organization's prior year gross receipts.

11 VAC 15-22-50. Rules of play.

A. Each organization shall adopt "house rules" regarding conduct of the game. Such rules shall be consistent with the provisions of the law and this chapter. "House rules" shall be

conspicuously posted or, at an organization's option, printed on the game program.

B. All players shall be physically present at the location where the balls for a bingo game are drawn to play the game or to claim a prize. Seal card prizes that can only be determined after a seal is removed or opened must be claimed within 30 days of the close of a deal. All other prizes must be claimed on the game date.

C. The following rules of play shall govern the sale of instant bingo, *pull-tabs*, and seal cards:

1. No cards that have been marked, defaced, altered, tampered with or otherwise constructed in a manner that tends to deceive the public or affect the chances of winning or losing shall be placed into play.
2. Winning cards shall have the winning symbol or number defaced or punched immediately after redemption by the organization's authorized representative.
3. An organization may commingle unsold instant bingo cards and *pull-tabs* with no more than one additional deal. The practice of commingling deals shall be disclosed to the public via house rules or in a similar manner. Seal card deals shall not be commingled.
4. If a deal is not played to completion and unsold cards remain, the remaining cards shall be sold on the next date the same type of ticket is scheduled to be sold. If no future date is anticipated, the organization shall, after making diligent efforts to sell the entire deal, consider the deal closed or completed. The unsold cards shall be retained for three years following the close of the fiscal year and shall not be opened.
5. All seal card games purchased shall contain the sign-up sheet, seals and the cards packaged together in each deal.
6. Progressive seal card prizes not claimed within 30 days shall be carried forward to the next progressive game in progress and paid to the next progressive game prize winner.

D. Volunteer game workers may not play bingo at any session they have worked after the session has started. Volunteer game workers may not purchase directly or through others instant bingo, *pull-tab*, or seal card products from organizations they assist on the day they have volunteered or from any deal they have helped sell, whichever is later.

E. Electronic bingo.

1. Electronic bingo devices may be used by bingo players in the following manner:
 - a. Players must input into the device each number called;
 - b. Players must notify the game operator or caller of a winning pattern of bingo by a means other than use of the electronic device;
 - c. Players are limited to playing a maximum of 54 card faces per device per game;
 - d. Electronic bingo devices shall not be reserved for players. Each player shall have an equal opportunity to

use the available devices on a first come, first served basis;

e. Each electronic bingo device shall produce a player receipt with the organization name, date, time, location, sequential transaction or receipt number, number of electronic bingo cards loaded, cost of electronic bingo cards loaded, date and time of the transaction, and device identification number. Images of cards or faces stored in an electronic device must be exact duplicates of the printed faces if faces are printed;

f. Department agents may examine and inspect any electronic bingo device and related system. Such examination and inspection shall include immediate access to the device and unlimited inspection of all parts and associated systems and may involve the removal of equipment from the game premises for further testing;

g. All electronic bingo devices must be loaded or enabled for play on the premises where the game will be played;

h. All electronic bingo devices shall be rented or otherwise provided to a player only by an organization and no part of the proceeds of the rental of such devices shall be paid to a landlord, his employee, agent or member of his immediate family; and

i. If a player's call of a bingo is disputed by another player or if a department agent makes a request, one or more cards stored on an electronic bingo device shall be printed by the organization.

2. Players may exchange a defective electronic bingo device for another device provided a disinterested player verifies that the device is not functioning. A disinterested player shall also verify that no numbers called for the game in progress have been keyed into the replacement device prior to the exchange.

F. The following rules of play shall govern the conduct of raffles:

1. Before a prize drawing, each stub or other detachable section of each ticket sold shall be placed into a receptacle from which the winning tickets shall be drawn. The receptacle shall be designed so that each ticket placed in it has an equal chance to be drawn.

2. All prizes shall be valued at fair market value.

G. The following rules shall apply to "decision bingo" games:

1. Decision bingo shall be played on bingo cards in the conventional manner.

2. Players shall enter a game by paying a predetermined amount for each card face in play.

3. After the calling of each set of three numbers, players wishing to continue playing shall pay an additional predetermined fee for each card in play.

4. The prize amount shall be the total of all fees not to exceed \$100. Any excess funds shall be retained by the organization.

Final Regulations

5. The predetermined amounts in subdivisions 2 and 3 of this subsection shall be printed in the game program. The prize amount for a game shall be announced before the prize is paid to the winner.
- H. The following rules shall apply to "treasure chest" games:
1. The organization shall list the treasure chest game on the bingo game program as a "Treasure Chest Raffle."
 2. The organization shall have house rules posted that describe how the game is to be played.
 3. The treasure chest participant shall only be selected through some other authorized charitable game at the same bingo session.
 4. The organization shall account for all funds as treasure chest/raffle sales on the session reconciliation form.
 5. If the player does not open the lock on the treasure chest, the game manager or his designee shall proceed to try every key until the correct key opens the treasure chest lock to show all players that one of the keys will open the lock.
- I. The following rules shall apply to "Lucky Seven" games:
1. General rules.
 - a. A "Lucky Seven" bingo card shall have a single face where seven numbers shall be chosen.
 - b. A "Lucky Seven" sheet shall have multiple faces where seven numbers shall be chosen per face.
 - c. A player shall select seven numbers between the numbers of 1 and 75.
 - d. No duplicate numbers shall be played on a purchased face.
 - e. If a duplicate number appears on a face, then the card shall be void.
 - f. "Lucky Seven" shall be played on a bingo card or sheet, or electronic facsimile thereof.
 - g. "Lucky Seven" bingo paper (i.e., card(s) and sheet(s)) shall conform to the construction and randomization standards in the Charitable Gaming Supplier Regulations (11 VAC 15-31).
 - h. "Lucky Seven" shall be sold separately from the bingo card(s) or sheet(s) issued for any other bingo game.
 - i. "Lucky Seven" shall not be a part of any pack of any kind such as a convenience pack, super pack, etc.
 - j. The financial accounting for "Lucky Seven" must include separate accounting for the "Lucky Seven" sales and prize payouts as well as informational entries for each session that records the following for the progressive jackpot: beginning balance, additions to the progressive jackpot, payouts and ending balance that is to be carried over to the next session.
 - k. "Lucky Seven" shall be listed on the game program for the session it is played.
 - l. "Lucky Seven" game card(s) or sheet(s) pricing shall be listed on the game program.
 - m. The pricing of "Lucky Seven" bingo card(s) or sheet(s) shall be by the number of faces.
 - n. The price for a "Lucky Seven" bingo card or sheet face shall be the same regardless of the number of faces purchased by a player.
 - o. No discounts shall be allowed.
 - p. "Lucky Seven" paper shall not be given away as a door prize.
 - q. There shall be no more than one "Lucky Seven" game per organization per calendar day.
 - r. No volunteer may play "Lucky Seven" at any session where he has worked.
 - s. The pricing for "Lucky Seven" faces shall remain constant from when the progressive jackpot is first started until the same jackpot has been won.
2. Progressive jackpot rules.
- a. "Lucky Seven" shall begin with the calling of 16 random numbers by the game caller. These numbers will determine the winner of the "Lucky Seven" progressive jackpot. If the progressive jackpot has not been won during the session, then the maximum number of numbers called for the following session shall be increased by one number. This shall continue until the progressive jackpot has been won.
 - b. The amount of the progressive jackpot shall be announced prior to the game being played at the session. Multiple winners shall evenly split the progressive jackpot.
 - c. The initial progressive jackpot for the "Lucky Seven" game shall not exceed \$500.
 - d. The organization shall take into consideration the number of players at its sessions when deciding the starting amount for its progressive jackpot.
 - e. Any increase in the amount for the "Lucky Seven's" progressive jackpot game shall be 50% of the moneys received from the sales of "Lucky Seven" bingo card(s) or sheet(s) during the previous session for which the sales occurred or \$100 per session, whichever amount is less.
 - f. Once the progressive jackpot has reached \$5,000, the organization shall not add any additional money generated from the sales of its "Lucky Seven" bingo card(s) or sheet(s) from a session to the jackpot.
 - g. The amount of numbers needed to win the "Lucky Seven" progressive jackpot and the amount of the jackpot shall be posted in a conspicuous place inside the bingo hall.
 - h. Once the progressive jackpot has been won, the next progressive jackpot shall not start in excess of \$500.
3. Regular or special prize rules.

- a. If the progressive jackpot has not been won during the session, then the game caller shall continue to call numbers at random until there is a verified bingo winner of the regular or special prize amount.
- b. The regular or special prize amount shall be announced prior to the game being played. Multiple winners shall evenly split the regular or special prize.
- c. The regular or special prize amount shall be 50% of the moneys received from the sales of "Lucky Seven" bingo card(s) or sheet(s) during the current session or \$100, whichever amount is less.
- d. The regular or special prize amount shall not be awarded when the progressive jackpot is won by a player.

J. The following rules shall apply to "WINGO":

1. "WINGO" shall be played only for the hearing impaired players.
2. "WINGO" shall utilize a visual device such as an oversized deck of cards in place of balls selected from a blower.
3. A caller must be in an area visible to all players and shall randomly select cards or other visual devices one at a time and display them so that all players can see them.
4. The organization must have house rules for "WINGO" and the rules shall identify how players indicate that they have won.
5. All financial reporting shall be consistent with reporting for a traditional bingo game.

11 VAC 15-22-60. Bank accounts.

- A. Qualified organizations shall maintain a charitable gaming bank account that is separate from any other bank account and all gaming receipts shall be deposited into the charitable gaming bank account.
- B. Disbursements for expenses other than prizes and reimbursement of meal expenses shall be made by check directly from a charitable gaming account.
- C. All charitable gaming bank account records, including but not limited to monthly bank statements, canceled checks or facsimiles thereof, and reconciliations shall be maintained for three years following the close of a fiscal year.
- D. All receipts from each session of bingo games and instant bingo, *pull-tabs*, or *seal cards* shall be deposited by the second business day following the session at which they were received.
- E. Raffle proceeds shall be deposited at least once every calendar week.

11 VAC 15-22-70. Recordkeeping.

- A. In addition to the records required by § 18.2-340.30 D of the Code of Virginia, qualified organizations conducting bingo shall maintain a system of records for a minimum of three years, unless otherwise specified for each gaming session on forms prescribed by the department, or reasonable facsimiles of those forms approved by the department, that include:

1. Charitable gaming supplies purchased and used;
2. A session reconciliation form and an instant bingo, *pull-tab*, or *seal card* reconciliation form completed and signed within 48 hours of the end of the session by the bingo manager;
3. All discounts provided;
4. A reconciliation to account for cash received from floor workers for the sale of extra bingo sheets for any game;
5. Number of electronic bingo devices rented, unique serial numbers of such devices, number of faces sold by each unit and a summary report for each session to include date, time, location and detailed information on income and expenses;
6. An admissions control system that provides a cross-check on the number of players in attendance and admission sales. This may include a ticket control system, cash register or any similar system;
7. All operating expenses including rent, advertising and security. Copies of invoices for all such expenses shall also be maintained;
8. Expected and actual receipts from games played on hard cards and number of games played on hard cards;
9. A record of the name and address of each winner for all seal cards in addition, the winning ticket and seal card shall be maintained for a minimum of 90 days after the session; ~~and~~
10. A record of all door prizes awarded; *and*
11. *The name and address of each individual to whom any prize or jackpot in excess of \$599 from any charitable gaming is awarded, as well as the amount of the award.*

- B. Qualified organizations conducting raffles, ~~other than pull tabs or seal cards~~, shall have a recordkeeping system to account for cash receipts, cash disbursements and raffle tickets purchased or sold and prizes awarded. All records shall be maintained for three years from the close of the fiscal year. The recordkeeping system shall include:

1. Invoices for the purchase of raffle cards which shall reflect the following information:
 - a. Name and address of supplier;
 - b. Name of purchaser;
 - c. Date of purchase;
 - d. Invoice price for each deal;
 - e. Form number and name of card;
 - f. Serial numbers;
 - g. Quantity purchased; and
 - h. Sales price of cards.
2. A record of cash receipts from raffle ticket sales (~~other than pull tabs~~) by tracking the total number of tickets available for sale, the number issued to sellers, the number

Final Regulations

returned, the number sold and reconciliation of all raffle sales to receipts;

3. Serial numbers of tickets for raffle sales initiated and concluded at a bingo game or sequentially numbered tickets which shall state the name, address and telephone number of the organization, the prize or prizes to be awarded, the date of the prize drawing or selection, the selling price of the raffle ticket and the charitable gaming permit ~~or exempt authorization~~ number;

4. Receipts for all raffle prizes valued at \$600 or more on which prize winners must provide printed name, residence address and the amount and description of the prize received; and

5. Deposit records of the required weekly deposits of raffle receipts.

C. All raffle tickets shall have a detachable section; be consecutively numbered with the detachable section having the same number; provide space for the purchaser's name, complete address and telephone number; and state the name and address of the organization, the prize or prizes to be awarded, the date, time and location of the prize drawing, and the selling price of the ticket and the charitable gaming permit ~~or authorization~~ number. Winning tickets and unsold tickets shall be maintained for three years from the close of the fiscal year.

D. All unused charitable gaming supplies shall either be returned for refund to the original supplier in unopened original packaging in resalable condition as determined by the supplier or turned in to the department for destruction. The organization shall maintain a receipt for all such supplies returned to the supplier or turned in to the department.

11 VAC 15-22-80. Financial reporting, penalties, inspections and audits.

A. Each charitable gaming permit holder shall file an annual report of receipts and disbursements by March 15 of each year on a form prescribed by the department. The annual report shall cover the activity for the fiscal year. ~~Volunteer fire departments and rescue squads shall file a resolution of their board of directors on a form prescribed by the department by March 15 each year in lieu of the financial report.~~

B. The annual report shall be accompanied by the audit and administration fee as established by the department for the fiscal year unless the fee has been remitted with quarterly reports. *Volunteer fire departments or rescue squads or auxiliary units thereof that have been recognized in accordance with § 15.2-955 of the Code of Virginia shall be exempt from the payment of audit and administration fees.*

C. *Except for volunteer fire departments or rescue squads or auxiliary units thereof that have been recognized in accordance with § 15.2-955 of the Code of Virginia, an organization desiring an extension to file annual reports for good cause shall pay the projected audit and administration fee by March 15 and request the extension in writing on a form prescribed by the department.*

D. Unless exempted by § 18.2-340.23 of the Code of Virginia, qualified organizations realizing any gross gaming receipts in

any calendar quarter shall file a quarterly report of receipts and disbursements on a form prescribed by the department as follows:

Quarter Ending	Date Due
March 31	June 1
June 30	September 1
September 30	December 1
December 31	March 1

Quarterly reports shall be accompanied by the appropriate audit and administration fee. *Volunteer fire departments or rescue squads or auxiliary units thereof that have been recognized in accordance with § 15.2-955 of the Code of Virginia shall be exempt from the payment of audit and administration fees.* An annual financial report may substitute for a quarterly report if the organization has no further charitable gaming income during the remainder of the reporting period and the annual report is filed by the due date for the applicable calendar quarter.

E. Organizations failing to file required reports, request an extension or make fee payments when due shall be charged a penalty of \$25 per day from the due date until such time as the required report is filed.

F. Any qualified organization in possession of funds derived from charitable gaming (including those who have ceased operations), regardless of when such funds may have been received or whether it has a valid permit from the department, shall file an annual financial report on a form prescribed by the department on or before March 15 of each year until such funds are depleted. ~~Volunteer fire departments and rescue squads that have ceased gaming but are still in possession of funds derived from charitable gaming shall file a resolution of their board of directors by March 15 each year, in lieu of the financial report, on a form prescribed by the department.~~ If an organization ceases the conduct of charitable gaming, it shall provide the department with the name of an individual who shall be responsible for filing financial reports. If no such information is provided, the president of an organization shall be responsible for filing reports until all charitable gaming proceeds are depleted.

G. If an organization has been identified through inspection, audit or other means as having deficiencies in complying with statutory or regulatory requirements or having ineffective internal controls, the department may impose restrictions or additional recordkeeping and financial reporting requirements.

H. Any records deemed necessary to complete an inspection, audit or investigation may be removed by the department, its employees or agents from the premises of an organization or any location where charitable gaming is conducted. The department shall provide a written receipt of such records at the time of removal.

11 VAC 15-22-110. Procedural rules for the conduct of fact-finding conferences and hearings.

A. Fact-finding conference; notification, appearance, conduct.

1. Unless automatic revocation or immediate suspension is required by law, no ~~authorization or~~ permit to conduct charitable gaming shall be denied, suspended or revoked

except upon notice stating the proposed basis for such action and the time and place for a fact-finding conference, as set forth in § 2.2-4019 of the Administrative Process Act.

2. If a basis exists for a refusal to renew a suspension or a revocation of a permit ~~or authorization~~, the department shall notify, by certified mail or by hand delivery, the interested persons at the address of record maintained by the department.

3. Notification shall include the basis for the proposed action and afford interested persons the opportunity to present written and oral information to the department that may have a bearing on the proposed action at a fact-finding conference. If there is no withdrawal, a fact-finding conference shall be scheduled at the earliest mutually agreeable date, but no later than 60 days from the date of the notification. Organizations or suppliers who wish to waive their right to a conference shall notify the department at least 14 days before the scheduled conference.

4. If after consideration of evidence presented during an informal fact-finding conference, a basis for action still exists, the interested persons shall be notified in writing within 60 days of the fact-finding conference, via certified or hand-delivered mail, of the decision and the right to a formal hearing. Parties to the conference may agree to extend the report deadline if more time is needed to consider relevant evidence.

B. Hearing; notification, appearance, conduct.

1. If, after a fact-finding conference, a sufficient basis still exists to deny, suspend or revoke a permit ~~or authorization~~, interested persons shall be notified by certified mail or hand delivery of the proposed action and of the opportunity for a hearing on the proposed action. If an organization desires to request a hearing, it shall notify the department within 14 days of receipt of a report on the conference. Parties may enter into a consent agreement to settle the issues at any time prior to, or subsequent to, an informal fact-finding conference.

2. If an interested party or representative fails to appear at a hearing, the hearing officer may proceed in his absence and make a recommendation.

3. Oral and written arguments may be submitted to and limited by the hearing officer. Oral arguments shall be recorded in an appropriate manner.

C. Hearing location. Hearings before a hearing officer shall be held, insofar as practicable, in the county or city in which the organization is located. If the parties agree, hearing officers may conduct hearings at locations convenient to the greatest number of persons or by telephone conference, video conference or similar technology, in order to expedite the hearing process.

D. Hearing decisions.

1. Recommendations of the hearing officer shall be a part of the record and shall include a written statement of the hearing officer's findings of fact and recommendations as well as the reasons or basis for the recommendations.

Recommendations shall be based upon all the material issues of fact, law or discretion presented on the record.

2. The department shall review the recommendation of the hearing officer and render a decision on the recommendation within 30 days of receipt. The decision shall cite the appropriate rule, relief or denial thereof as to each issue.

E. Agency representation. The director's designee may represent the department in an informal conference or at a hearing.

11 VAC 15-22-120. Reporting violations.

A. Unless otherwise required by law, the identity of any individual who provides information to the department or its agents regarding alleged violations shall be held in strict confidence.

B. Any officer, director or game manager of a qualified organization shall immediately report to the department any information pertaining to the suspected misappropriation or theft of funds or any other violations of charitable gaming statutes or these regulations.

C. Failure to report the information required by subsection B of this section may result in the denial, suspension or revocation of a charitable gaming permit ~~or authorization~~.

D. Any officer, director or game manager of a qualified organization involved in the management, operation or conduct of charitable gaming shall immediately notify the department upon conviction of a felony ~~or a crime of moral turpitude~~ or a crime involving fraud, theft or financial crimes.

E. Failure to report information required by subsection D of this section by any officer, director or game manager of a qualified organization or supplier may result in the denial, suspension or revocation of a permit ~~or authorization~~.

F. Any officer, director or game manager of a qualified organization involved in charitable gaming shall immediately report to the department any change the Internal Revenue Service makes in the tax status of the organization, or if it is a chapter of a national organization covered by a group tax exempt determination, the tax status of the national organization.

G. All organizations regulated by the department shall display prominently a poster advising the public of a phone number where complaints relating to charitable gaming may be made. Such posters shall be provided by the department to organizations at no charge.

VA.R. Doc. No. R06-276; Filed June 20, 2006, 4:31 p.m.

Title of Regulation: 11 VAC 15-31. Supplier Regulations (amending 11 VAC 15-31-10 through 11 VAC 15-31-60).

Statutory Authority: §§ 2.2-2456, 18.2-340.15, 18.2-340.19 and 18.2-340.34 of the Code of Virginia.

Effective Date: August 9, 2006.

Final Regulations

Agency Contact: Harry M. Durham, Interim Director, Department of Charitable Gaming, 101 North 14th Street, Richmond, VA 23219, telephone (804) 786-2444, FAX (804) 786-1079 or e-mail harry.durham@dcg.virginia.gov.

Summary:

The amendments change the name of the suppliers "certification" with the department to "permit," increase the application fee for this permit, and add changes to the construction standards for selling of games.

11 VAC 15-31-10. Definitions.

In addition to the definitions contained in § 18.2-340.16 of the Code of Virginia, the words and terms below, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise:

"Agent" means any person authorized by a supplier to act for or in place of such supplier.

"Board" means the Virginia Charitable Gaming Board.

"Cash" means United States currency or coinage.

"Concealed face bingo card" means a nonreusable bingo card constructed to conceal the card face. This type of card is commonly referred to under trade names such as "Tear-open" or "Bonanza Bingo."

"Conduct" means the actions associated with the provisions of a gaming operation during and immediately before or after the permitted activity, which may include, but *is not be* limited to (i) selling bingo cards or packs, electronic devices, instant bingo or pull-tab cards, or raffle tickets; (ii) calling bingo games; (iii) distributing prizes; ~~or~~ *and* (iv) any other services provided by volunteer workers.

"DCG number" means a unique identification number issued by the department.

"Deal" means each separate package or series of packages consisting of one game of instant bingo, ~~pull-tab raffle~~ *pull-tabs*, or seal cards with the same serial number.

"Department" means the Virginia Department of Charitable Gaming.

"Designator" means an object used in the number selection process, such as a ping-pong ball, upon which bingo letters and numbers are printed.

"Director" means the Director of the Virginia Department of Charitable Gaming.

"Disposable paper card" means a nonreusable paper bingo card manufactured with preprinted numbers.

"Electronic bingo device" means an electronic device that uses proprietary software or hardware, or is used in conjunction with commonly available software and computers, to display facsimiles of bingo cards and allows a player to daub such cards.

"Equipment and video systems" includes equipment which facilitates the conduct of charitable gaming such as ball blowers, flashboards, electronic verifiers and replacement parts for such equipment.

"Fiscal year" or "annual reporting period" means the 12-month period beginning January 1 and ending December 31 of any given year.

"Flare" means a piece of paper, cardboard or similar material which bears printed information relating to the name of the manufacturer or logo, name of the game, card count, cost per play, serial number, the number of prizes to be awarded and the specific prize amounts in a deal of instant bingo, ~~pull-tab~~ *pull-tabs*, or seal cards.

"Immediate family" means one's spouse, parent, child, sibling, grandchild, grandparent, mother or father-in-law or stepchild.

"Interested persons" means the owner, director, officer or partner of an entity engaged in supplying charitable gaming supplies to organizations.

"Management" means the provision of oversight of a gaming operation, which may include, but *is not be* limited to, the responsibilities of applying for and maintaining a permit or authorization; compiling, submitting and maintaining required records and financial reports; and ensuring that all aspects of the operation are in compliance with all applicable statutes and regulations.

"Manufacturer" means a person or entity that assembles from raw materials or subparts a completed piece of bingo or other charitable gaming equipment or supplies. "Manufacturer" also means a person or entity that modifies, converts, adds or removes parts to or from bingo or other charitable gaming equipment or supplies to further their promotion or sale for the conduct of charitable gaming.

"Operation" means the activities associated with production of a charitable gaming activity, which may include, but *is not be* limited to (i) the direct on-site supervision of the conduct of charitable gaming, (ii) coordination of volunteers, ~~or~~ *and* (iii) all responsibilities of charitable gaming designated by the organization's management.

"Owner" means any individual with financial interest of 10% or more in a supplier.

"Pack" means sheets of bingo paper or electronic facsimiles assembled in the order of games to be played. This may include specials and jackpots but shall not include any winner-take-all, Lucky Seven or raffle.

"Prize" means cash, merchandise, certificate or other item of value awarded to a winning player.

"Progressive seal card" means a seal card game in which a prize is carried forward to the next deal if not won when a deal is completed.

"Remuneration" means payment in cash or the provision of anything of value for goods provided or services rendered.

"Seal card" means a board or placard used in conjunction with a deal of the same serial number which contains one or more concealed areas that, when removed or opened, reveal a predesignated winning number, letter or symbol located on that board or placard.

"Selection device" means a manually or mechanically operated device to randomly select bingo numbers.

"Serial number" means a unique number printed by the manufacturer on each bingo card in a set, each instant bingo ~~or pull-tab card~~, *pull-tabs or seal card* in a deal, each electronic bingo device or each door prize ticket.

"Series number" means the number of unique card faces contained in a set of disposable bingo paper cards or bingo hard cards. A 9000 series, for example, has 9000 unique faces.

"Session" means a period of time during which one or more bingo games are conducted that begins with the selection of the first ball for the first game and ends with the selection of the last ball for the last game.

PART II.
PERMITS, EXEMPT NOTIFICATIONS, REGISTRATION
CERTIFICATE RECORDS.

11 VAC 15-31-20. Suppliers of charitable gaming supplies: application, qualifications, suspension, revocation or refusal to renew certificate; permit, maintenance, and production of records.

A. Prior to providing any charitable gaming supplies, a supplier shall submit an application on a form prescribed by the department and receive a ~~registration certificate permit~~. A ~~\$500~~ \$1,000 application fee payable to the Treasurer of Virginia is required. In addition, a supplier must be authorized to conduct business in the Commonwealth of Virginia, which may include, but not be limited to, registration with the State Corporation Commission, the Department of Taxation, and the Virginia Employment Commission. The actual cost of background investigations for a ~~registration certificate permit~~ may be billed by the department to an applicant. The department shall act on an application within 90 days of the date of the application.

B. The department may refuse to ~~register a supplier~~ *issue a permit* or may suspend or revoke a ~~registration certificate permit~~ if an officer, director, employee, agent or owner:

1. Is operating without a valid license, permit or certificate as a supplier or manufacturer in any state in the United States;
2. Fails or refuses to recall a product as directed by the department;
3. Conducts business with unauthorized entities or is not authorized to conduct business in the Commonwealth of Virginia;
4. Has been convicted of or pleaded nolo contendere to any crime as specified by § 18.2-340.34 B of the Code of Virginia; has had any license, permit certificate or other authority related to activities defined as charitable gaming in the Commonwealth suspended or revoked in the Commonwealth or in any other jurisdiction; ~~or~~ has failed to file or has been delinquent in excess of one year in the filing of any tax returns or the payment of any taxes due the Commonwealth; *or has failed to establish a registered office or registered agent in the Commonwealth if so required by § 13.1-634 or 13.1-763 of the Code of Virginia.* As this provision relates to employees or agents, it shall only apply

to individuals involved in sales to or solicitations of customers in the Commonwealth of Virginia;

5. Fails to notify the department within 20 days of the occurrence, knowledge, or receipt of the filing of any administrative or legal action relating to charitable gaming or the distribution of charitable gaming supplies involving or concerning the supplier, any officers or directors, employees, agent, or owner during the term of its ~~registration certificate permit~~;

6. Fails to provide to the department upon request a current Letter for Company Registration on file with the U.S. Department of Justice--Gambling Devices Registration Unit, if required in accordance with The Gambling Devices Act of 1962, 15 USC §§ 1171-1178, for any device that it sells, distributes, services or maintains in the Commonwealth of Virginia; or

7. Has been engaged in conduct that would compromise the department's objective of maintaining the highest level of integrity in charitable gaming.

C. A supplier shall not sell, offer to sell or otherwise provide charitable gaming supplies for use by anyone in the Commonwealth of Virginia other than to an organization with a ~~permit or authorization~~ from the department or another ~~registered~~ *permitted* supplier. However, a supplier may:

1. Sell charitable gaming supplies to an organization that expects to gross \$25,000 or less in any 12-month period, providing that the amount of such purchase would not be reasonably expected to produce more than \$25,000 in gross sales. For each such organization, the supplier shall maintain the name, address and telephone number. The supplier shall also obtain a written and signed statement from an officer or game manager of such organization confirming that gross receipts are expected to be \$25,000 or less. Such statement shall be dated and kept on file for three years from the end of a fiscal year.
2. Sell bingo cards and paper to persons or entities other than qualified organizations provided such supplies shall not be sold or otherwise provided for use in charitable gaming activities regulated by the department or in unlawful gambling activities. For each such sale, the supplier shall maintain the name, address and telephone number of the purchaser. The supplier shall also obtain a written statement from the purchaser verifying that such supplies will not be used in charitable gaming or any unlawful gambling activity. Such statement shall be dated and kept on file for three years from the end of a fiscal year. Payment for such sales in excess of \$50 shall be accepted in the form of a check.
3. Sell pull-tabs and seal cards to organizations for use only upon the premises owned or exclusively leased by the organization and at such times as the portion of the premises in which the pull-tabs or seal cards are sold is open only to members and their guests as authorized by § 18.2-340.26:1 of the Code of Virginia. Each such sale shall be accounted for separately and the accompanying invoice shall be clearly marked: "For Use in Social Quarters Only."

Final Regulations

All such sales shall be documented pursuant to subsection H of this section and reported to the department pursuant to subsection J of this section. This provision shall not apply to the sale to landlords of equipment and video systems as defined in this chapter. Equipment and video systems shall not include dispensing devices and electronic bingo devices.

D. A supplier shall not sell, offer to sell or otherwise provide charitable gaming supplies to any individual or organization in the Commonwealth of Virginia unless the charitable gaming supplies are purchased or obtained from a manufacturer or another ~~registered~~ *permitted* supplier. Suppliers may take back for credit and resell supplies received from an organization with a permit ~~or exempt authorization which~~ *that* has ceased charitable gaming or is returning supplies not needed.

E. No supplier, supplier's agent, or employee may be involved in the management, operation or conduct of charitable gaming in the Commonwealth of Virginia. No member of a supplier's immediate family or person residing in the same household as a supplier may be involved in the management, operation or conduct of charitable gaming of any customer of the supplier in the Commonwealth of Virginia. No supplier, supplier's agent or employee may participate in any charitable gaming of any customer of the supplier in the Commonwealth of Virginia. For the purposes of this regulation, servicing of electronic devices shall not be considered conduct or participation.

F. The department shall conduct a background investigation prior to the issuance of a ~~certificate~~ *permit* to any supplier. The investigation may include, but shall not be limited to, the following:

1. A search of the Virginia Central Criminal Records Exchange (CCRE) on all officers, directors and owners; *and*
2. Verification of current compliance with Commonwealth of Virginia state tax laws; ~~and~~.

~~3.~~ If the officers, directors or owners are domiciled outside of the Commonwealth of Virginia, or have resided in the Commonwealth of Virginia for fewer than five years, a criminal history search conducted by the appropriate authority in any state in which they have resided during the previous five years shall be provided by the applicant.

G. Appropriate information and authorizations shall be provided to the department to verify information cited in subsection F of this section.

H. Suppliers shall document each sale or rental of charitable gaming supplies to an organization in the Commonwealth of Virginia on an invoice which reflects the following:

1. Name, address, and DCG number of the organization;
2. Date of sale or rental and location where bingo supplies are shipped if different from the billing address;
3. Name, form number and serial number of each deal of instant bingo ~~or pull-tab raffle cards~~, *pull-tabs*, *seal cards* or bundles, and the number of cards in each deal;
4. Quantity of deals sold, the cost per deal, the selling price per card, the cash take-in per deal and the cash payout per deal;

5. Serial number of the top sheet in each pack of disposable bingo paper, the number of sheets in each pack or pad, the cut and color and the number of packs or pads sold;

6. Serial number for each series of uncollated bingo paper and the number of sheets sold;

7. Detailed information concerning the type, quantity and individual price of any other charitable gaming supplies or related items including, but not limited to, concealed face bingo cards, hard cards, markers or daubers and refills, or any other merchandise. For concealed face bingo cards, the number of sets, price per set and the serial number of each set shall be included; and

8. Any type of equipment, device or product manufactured for or intended to be used in the conduct of charitable games including, but not limited to, designators, designator receptacles, number display boards, selection devices, dispensing machines and verification devices.

I. Suppliers shall ensure that two copies of the detailed invoice are provided to the customer for each sale of charitable gaming supplies.

J. Each supplier shall provide a report to the department by March 1 of each year on sales of charitable gaming supplies for the fiscal year ending December 31 of the previous year to each organization in the Commonwealth of Virginia. This report shall be provided to the department on computer disk or other department-approved media. The report shall include the name and address of each organization and the following information for each sale or transaction:

1. Bingo paper sales including purchase price, description of paper to include number of sheets in pack and number of faces on sheet, quantity of single sheets or packs shipped;
2. Deals of instant bingo, pull-tabs, seal cards, or any other raffle sales including purchase price, deal name, deal form number, number of tickets in deal, ticket price, cash take-in per deal, cash payout per deal, and number of deals;
3. Electronic bingo device sales including purchase or rental price and number of units; and
4. Sales of miscellaneous items such as daubers, markers, and other merchandise including purchase price, description of product, and number of units.

K. The department shall set manufacturing and testing criteria for all electronic bingo devices and other equipment used in the conduct of charitable gaming. An electronic bingo device shall not be sold, leased or otherwise furnished to any person in the Commonwealth of Virginia for use in the conduct of charitable gaming until an identical sample device containing identical proprietary software has been approved by a testing facility that has been formally recognized by the department as a testing facility that upholds the standards of integrity established by the department. The testing facility must certify that the device conforms, at a minimum, to the restrictions and conditions set forth in these regulations. Once the testing facility reports the test results to the department, the department will either approve or disapprove the submission and inform the manufacturer of the results within 10 business days. If any such equipment does not meet the department's

criteria, it shall be recalled and shall not be distributed in the Commonwealth of Virginia. The cost of testing shall be borne by the manufacturer of such equipment.

L. Department employees shall have the right to inspect all electronic and mechanical equipment used in the conduct of charitable gaming.

M. Suppliers, their agents and employees, members of the supplier's immediate family or persons residing in their household shall not make any loan directly or indirectly to any organization or officer, director, game manager or entity involved in the management, operation or conduct of charitable gaming of a supplier's customer located in the Commonwealth of Virginia.

N. No supplier, supplier's agent or employee shall directly or indirectly provide a rebate, discount or refund to any person other than an organization which purchases supplies or leases or purchases equipment from the supplier. All such transactions shall be recorded on the supplier's account books.

O. A supplier shall not rent, sell or otherwise provide electronic bingo devices unless he possesses a valid ~~registration certificate~~ *permit* in the Commonwealth of Virginia.

P. A written agreement specifying the terms of lease or rental shall be required for any electronic bingo devices provided to an organization.

11 VAC 15-31-30. Construction and other standards for bingo, instant bingo, pull-tabs, seal cards, raffles, electronic bingo devices, and instant bingo, pull-tab and seal card dispensers.

A. No supplier shall knowingly sell or otherwise provide to an organization and no organization shall knowingly use bingo supplies unless they conform to the following construction standards:

1. Disposable paper sold shall be of sufficient weight and quality to allow for clearly readable numbers and to prevent ink from spreading, bleeding or otherwise obscuring other numbers or cards.
2. Each sheet of disposable bingo paper shall be comprised of cards bearing a serial number. No serial number shall be repeated on or in the same style, series and color of cards within a three-year period.
3. Disposable bingo paper assembled in books or packs shall not be separated except for single-sheet specials. This provision does not apply to two-part cards on which numbers are filled by players and one part is separated and provided to an organization for verification purposes.
4. Each unit of disposable bingo paper shall have an exterior label listing the following information:
 - a. Description of product;
 - b. Number of packs or loose sheets;
 - c. Series numbers;
 - d. Serial number of the top sheet;

- e. Number of cases;
- f. Cut of paper; and
- g. Color of paper.

5. "Lucky Seven" bingo cards or electronic facsimiles thereof shall have a single face where seven numbers shall be chosen. "Lucky Seven" sheets or electronic facsimiles thereof shall have multiple faces where seven numbers shall be chosen per face.

B. No supplier shall knowingly sell or otherwise provide to an organization and no organization shall knowingly use instant bingo, pull-tab or seal cards unless they conform to the following construction standards:

1. Cards shall be constructed so that concealed numbers, symbols or winner protection features cannot be viewed or determined from the outside of the card by using a high intensity lamp of 500 watts, with or without utilizing a focusing lens.

2. Deals shall be designed, constructed, glued and assembled in a manner to prevent determination of a winning or losing ticket without removing the tabs or otherwise uncovering the symbols or numbers as intended.

3. Each card in a deal shall bear the same serial number. Only one serial number shall be used in a deal. No serial number used in a deal shall be repeated by the same manufacturer on that same manufacturer's form within a three-year period. The flare of each deal shall accompany the deal and shall have affixed to it the same serial number as the tickets in such deal.

4. Numbers or symbols on cards shall be fully visible in the window and shall be placed so that no part of a number or symbol remains covered when the tab is removed.

5. Cards shall be glued on all edges and around each window. Glue shall be of sufficient strength and type to prevent the undetectable separation or delamination of the card. For banded tickets, the glue must be of sufficient strength and quality to prevent the separation of the band from the ticket.

6. The following minimum information shall be printed on a card:

- a. Break open pull-tab, instant bingo cards:
 - (1) Name of the manufacturer or its distinctive logo;
 - (2) Name of the game;
 - (3) Manufacturer's form number;
 - (4) Price per individual card or bundle;
 - (5) Unique minimum five-digit game serial number printed on the game information side of the card; and
 - (6) Number of winners and respective winning number or symbols and specific prize amounts, unless accompanied by a manufacturer's preprinted publicly posted flare with that information.
- b. Banded pull-tabs:

Final Regulations

- (1) Manufacturer;
- (2) Serial number;
- (3) Price per individual card or bundle, unless accompanied by a manufacturer's preprinted publicly posted flare with that information; and
- (4) Number of winners and respective winning numbers or symbols and prize amounts, or a manufacturer's preprinted publicly posted flare giving that information.

7. All seal card games sold to organizations shall contain the sign-up sheet, seals and cards packaged together in each deal.

C. No organization shall use raffle tickets (~~other than pull tab cards~~) independent of a bingo game unless they conform to the following construction standards:

1. Each ticket shall have a detachable section and shall be consecutively numbered.
2. Each section of a ticket shall bear the same number. The section retained by the organization shall provide space for the purchaser's name, complete address and telephone number.
3. The following information shall be printed on the purchaser's section of each ticket:
 - a. Dates and times of drawings;
 - b. Locations of the drawings;
 - c. Name of the charitable organization conducting the raffle;
 - d. Price of the ticket;
 - e. Charitable gaming permit or authorization number; and
 - f. Prizes.

D. Electronic bingo.

1. The department, at its discretion, may require additional testing of electronic bingo devices at any time. Such additional testing shall be at the manufacturer's expense and shall be a condition of the continued use of such device.
2. All electronic bingo devices shall use proprietary software and hardware or commonly available software and computers and shall be enabled for play on the premises where the game is to be played.
3. Each electronic bingo device shall have a unique identification number permanently coded into the software of such device. Manufacturers of electronic bingo devices shall employ sufficient security safeguards in designing and manufacturing the devices such that it may be verified that all proprietary software components are authentic copies of the approved software components and all functioning components of the device are operating with identical copies of approved software programs. The device must also have sufficient security safeguards so that any restrictions or requirements authorized by the department or any approved proprietary software are protected from

alteration by unauthorized personnel. The device shall not contain hard-coded or unchangeable passwords. Security measures that may be employed to comply with these provisions include, but are not limited to, the use of dongles, digital signature comparison hardware and software, secure boot loaders, encryption, and key and callback password systems.

4. Electronic bingo devices shall not allow a player to create a card by the input of specific numbers on each card. Manufacturers shall ensure that an electronic bingo device does not allow for the play of any bingo card faces other than those verifiably purchased by the patron.

5. Electronic bingo devices shall not accept cash, currency or tokens for play.

6. Electronic bingo devices shall require the manual entry of numbers as they are called or the manual verification of numbers as they have been electronically transmitted to the device. The transmission of data to electronic bingo devices shall be limited to one-way communication to the device and shall consist only of the number called.

7. A device shall not allow the play of more than 54 cards per device per game.

8. The electronic bingo device system shall record a sequential transaction number or audit tracking number for each transaction. The system shall not allow the manual resetting or changing of this number.

9. The system shall produce a receipt and a transaction log containing the following:

- a. Organization name;
- b. Location of bingo game;
- c. Sequential transaction or receipt number;
- d. Number of electronic bingo cards loaded;
- e. Cost of electronic bingo cards loaded;
- f. Electronic device number issued to a player; and
- g. Date and time of each transaction.

In addition, the system shall produce a summary report identifying the date and time of the report, voided transactions, including the date and time of each voided transaction and total gross receipts for each session.

10. Each device shall be programmed to automatically erase all stored electronic cards at the end of the last game of a session, within a set time from their rental to a player, or by some other clearance method approved by the department.

11. All devices shall be reloaded with another set of cards at the beginning of each session if the devices are to be reused at the same location.

E. In instances where a defect in packaging or in the construction of deals or electronic devices is discovered by or reported to the department, the department shall notify the manufacturer of the deals or devices containing the alleged defect. Should the department, in consultation with the

manufacturer, determine that a defect exists, and should the department determine the defect affects game security or otherwise threatens public confidence in the game, the department may, with respect to deals or electronic devices for use still located within the Commonwealth of Virginia, require the supplier to:

1. Recall the deals or electronic devices affected that have not been sold or otherwise provided; or
2. Issue a total recall of all affected deals or electronic devices.

F. After January 1, 2006, no ~~pull-tab~~ or instant bingo, *pull-tab* or *seal card* dispenser may be sold, leased or otherwise furnished to any person or organization in the Commonwealth of Virginia or used in the conduct of charitable gaming until an identical sample device containing identical proprietary software, if applicable, has been approved by a testing facility that has been formally recognized by the department as a testing facility that upholds the standards of integrity established by the department. The cost of testing shall be borne by the manufacturer of such equipment. In addition, suppliers and manufacturers of such dispensers shall comply with the requirements of The Gambling Devices Act of 1962 (15 USC §§ 1171-1178).

G. All *instant bingo*, *pull-tab* or *seal card* dispensing devices must meet the following standards:

1. Each dispenser shall be manufactured in a manner that ensures a pull-tab ticket is dispensed only after insertion of United States currency or coinage into the dispenser. Such ticket and any change due shall be the only items dispensed from the machine.
2. Each dispenser shall be manufactured in a manner that ensures the device neither displays nor has the capability of displaying or otherwise identifying ~~a~~ *an instant bingo*, *pull-tab* ~~as a~~, or *seal card* winning or nonwinning ticket.
3. Each dispenser shall be manufactured in such a manner that any visual animation does not simulate or display rolling or spinning reels or produce audible music or enhanced sound effects.
4. Each dispenser shall be equipped with separate locks for the *instant bingo*, *pull-tab*, or *seal card* supply modules and money boxes. Locks shall be configured so that no one key will operate both the supply modules and money boxes.

H. No dispensing devices shall be linked to other such devices so as to permit the play of progressive games.

I. The department may require additional testing of a dispensing device at any time to ensure that it meets construction standards and allows for fair play. Such tests shall be conducted at the cost of the manufacturer of such devices.

J. The face value of cards being dispensed shall match the amount deposited in the currency/coin acceptor less change provided.

11 VAC 15-31-40. Instant bingo ~~and pull-tab~~, *pull-tabs*, or *seal card* randomization standards.

All instant bingo ~~and pull-tab~~, *pull-tabs*, or *seal* cards shall meet the following randomization standards:

1. Deals shall be assembled so that winning tickets are placed throughout each deal.
2. Deals shall be assembled and packaged in a manner that prevents isolation of winning cards due to variations in printing, graphics, colors, sizes, appearances of cut edges or other markings of cards.
3. Winning cards shall be distributed and mixed among all other cards in a deal so as to eliminate any pattern between deals or portions of deals from which the location or approximate location of any winning card may be determined.

11 VAC 15-31-50. Procedural rules for the conduct of fact-finding conferences and hearings.

A. Fact-finding conference; notification, appearance, conduct.

1. Unless automatic revocation or immediate suspension is required by law, no ~~certificate~~ *permit* to sell charitable gaming supplies shall be denied, suspended or revoked except upon notice stating the basis for such proposed action and the time and place for a fact-finding conference, as set forth in § 2.2-4019 of the Administrative Process Act.
2. If a basis exists for a refusal to renew, suspend or revoke a ~~certificate~~ *permit*, the department shall notify, by certified mail or by hand delivery, the interested persons at the address of record maintained by the department.
3. Notification shall include the basis for the proposed action and afford interested persons the opportunity to present written and oral information to the department which may have a bearing on the proposed action at a fact-finding conference. If there is no withdrawal, a fact-finding conference shall be scheduled at the earliest mutually agreeable date, but no later than 60 days from the date of the notification. Organizations or suppliers who wish to waive their right to a conference shall notify the department at least 14 days before the scheduled conference.
4. If, after consideration of evidence presented during an informal fact-finding conference, a basis for action still exists, the interested persons shall be notified in writing within 60 days of the fact-finding conference, via certified or hand-delivered mail, of the decision and the right to a formal hearing. Parties to the conference may agree to extend the report deadline if more time is needed to consider relevant evidence.

B. Hearing; notification, appearance, conduct.

1. If, after a fact-finding conference, a sufficient basis still exists to deny, suspend or revoke a ~~certificate~~ *permit*, interested persons shall be notified by certified or hand-delivered mail of the proposed action and of the opportunity for a hearing on the proposed action. If a supplier desires to request a hearing, it shall notify the department within 14 days of receipt of a report on the conference. Parties may enter into a consent agreement to settle the issues at any

Final Regulations

time prior to or subsequent to an informal fact-finding conference.

2. If an interested party or representative fails to appear at a hearing, the hearing officer may proceed in his absence and make a recommendation.

3. Oral and written arguments may be submitted to and limited by the hearing officer. Oral arguments shall be recorded in an appropriate manner.

C. Hearing location. Hearings before a hearing officer shall be held, insofar as practicable, in the county or city in which the supplier is located. If the parties agree, hearing officers may conduct hearings at locations convenient to the greatest number of persons or by telephone conference, video conference or similar technology, in order to expedite the hearing process.

D. Hearing decisions.

1. Recommendations of the hearing officer shall be a part of the record and shall include a written statement of the hearing officer's findings of fact and recommendations as well as the reasons or bases for the recommendations. Recommendations shall be based upon all the material issues of fact, law or discretion presented on the record.

2. The department shall review the recommendation of the hearing officer and render a decision on the recommendation within 30 days of receipt. The decision shall cite the appropriate rule, relief or denial thereof as to each issue.

E. Agency representation. The director's designee may represent the department in an informal conference or at a hearing.

11 VAC 15-31-60. Reporting violations.

A. Unless otherwise required by law, the identity of any individual who provides information to the department or its employees regarding alleged violations shall be held in strict confidence.

B. Any officer or director of a supplier, or his agent or employee, shall immediately report to the department any information pertaining to the suspected misappropriation or theft of funds or any other violations of the law.

C. Failure to report the information required by subsection B of this section may result in the denial, suspension or revocation of a ~~certificate of registration~~ permit.

D. Any officer, director, partner or owner of a supplier shall immediately notify the department upon conviction or plea of nolo contendere to a felony or a crime involving gambling or an action against any license or certificate held by the supplier in any state in the United States.

E. Failure to report information required by subsection D of this section by any supplier may result in the denial, suspension or revocation of a ~~registration certificate~~ permit.

VA.R. Doc. No. R06-277; Filed June 20, 2006, 4:32 p.m.

TITLE 12. HEALTH

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Titles of Regulations: **12 VAC 30-60. Standards Established and Methods Used to Assure High Quality Care (amending 12 VAC 30-60-40; adding 12 VAC 30-60-350).**

12 VAC 30-90. Methods and Standards for Establishing Payment Rates for Long-Term Care (amending 12 VAC 30-90-41).

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

Effective Date: August 9, 2006.

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

Summary:

The amendments provide additional reimbursement of \$10 per day to nursing facilities for residents who require specialized treatment beds due to their having at least one treatable Stage IV pressure ulcer.

Summary of Public Comments and Agency's Response: No public comments were received by the promulgating agency.

REGISTRAR'S NOTICE: The proposed regulation was adopted as published in 22:8 VA.R. 1087-1091 December 26, 2005, without change. Therefore, pursuant to § 2.2-4031 A of the Code of Virginia, the text of the final regulation is not set out.

VA.R. Doc. No. R05-198; Filed June 21, 2006, 10:35 a.m.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF ACCOUNTANCY

Title of Regulation: **18 VAC 5-21. Board of Accountancy Regulations (amending 18 VAC 5-21-10 through 18 VAC 5-21-40 and 18 VAC 5-21-170).**

Statutory Authority: §§ 54.1-4402 and 54.1-4410 of the Code of Virginia.

Effective Date: August 9, 2006.

Agency Contact: Nancy Taylor Feldman, Executive Director, Board of Accountancy, 3600 West Broad Street, Suite 378, Richmond, VA 23230, telephone (804) 367-8505, FAX (804) 367-2174, or e-mail boa@boa.virginia.gov.

Summary:

The amendments (i) establish the qualifications for, and implementation of, the current computerized CPA exam and (ii) set forth the requirements for continuing professional education (CPE) in ethics.

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

18 VAC 5-21-10. Definitions.

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

"Accredited institution" means any degree-granting college or university accredited at the time of the applicant's degree or attendance by any of the following: Middle States Association of Colleges and Schools, New England Association of Schools and Colleges, North Central Association of Colleges and Schools, Northwest Association of Schools and Colleges, Southern Association of Colleges and Schools, and Western Association of Schools and Colleges.

"Assurance" means any act or action, whether written or oral, expressing an opinion or conclusion about the reliability of a financial statement or about its conformity with any financial accounting principles or standards.

"Audit" means expressing an opinion about the fairness of presentation of financial statements in accordance with prescribed criteria.

"Board" means the Board of Accountancy.

"Certify," "audit," "examine," "review," or "express or disclaim an opinion," when referenced to financial information or the practice of public accountancy, are terms which, when used in connection with the issuance of reports, state or imply assurance of conformity with generally accepted accounting principles, generally accepted auditing standards, and review standards. The terms include forms of language disclaiming an opinion concerning the reliability of the financial information referred to or relating to the expertise of the issuer.

"Client" means a person or entity that contracts with or retains a firm for performance of services by a CPA certificate holder or registration certificate holder subject to Chapter 44 (§ 54.1-4400 et seq.) of Title 54.1 of the Code of Virginia and this chapter.

"Commission" means compensation generated from the purchase or sale of a product or service and which would not be generated but for the purchase or sale of the product or service.

"Conditional CPA exam credit" means credit for successfully passing a section of the CPA exam.

"Contact hour" means 50 minutes of participation in a group program or 50 minutes of average completion time in a self-study program.

"Contingent fee" means a fee established for the performance of a service pursuant to an arrangement in which no fee will

be charged unless a specified finding or result is obtained, or in which the amount of the fee is dependent upon the finding or result obtained. Fees shall not be considered contingent if fixed by courts or other public authorities, or in tax matters if determined based on the results of judicial proceedings or the findings of governmental agencies. A CPA certificate holder's fees may vary depending on the complexity of services rendered, and such variation shall not be considered a contingent fee.

"Continuing Professional Education (CPE)" means an integral part of the lifelong learning required to provide competent service to the public; the formal set of activities that enables accounting professionals to maintain and increase their professional competence.

"CPA certificate" means a certificate as a certified public accountant (CPA) issued by the board pursuant to Chapter 44 (§ 54.1-4400 et seq.) of Title 54.1 of the Code of Virginia and this chapter, which shall function as a license, or a corresponding certificate as a certified public accountant issued after meeting ~~examination~~ *the CPA exam* and other requirements under the laws of any other state.

"CPA exam" means the National Uniform CPA exam approved and administered by the Board of Accountancy to candidates for a CPA certificate.

"CPA wall certificate" means the symbolic document suitable for wall display that is issued by the board to an individual meeting the requirements for a CPA certificate set forth in 18 VAC 5-21-30.

"CPE" means continuing professional education.

"CPE credit" means 50 minutes of participation in a group, independent study or self-study program.

"CPE reporting cycle" means the three CPE reporting years immediately preceding the year the CPA certificate is renewed pursuant to 18 VAC 5-21-80.

"CPE reporting year" means for the purposes of this chapter a calendar year.

~~"Credit hour" means successful completion of a course of study measured in a contact hour.~~

"Ethics CPE" means subjects relating to standards of conduct, Chapter 44 (§ 54.1-4400 et seq.) of Title 54.1 of the Code of Virginia, and regulations of the board.

"Examination" means, when used in the context of services provided by CPAs, expressing an opinion about the fairness of presentation of financial information in accordance with prescribed criteria.

"Financial statement" means writing or other presentation, including accompanying notes, which presents, in whole or in part, historical or prospective financial position, results of operations or changes in financial position of any person, corporation, partnership or other entity.

"Firm" means a sole proprietorship, partnership, corporation, limited liability company, limited liability partnership, or any other form of organization permitted by law.

Final Regulations

"Good character" means a lack of a history of dishonest or felonious acts.

"Group program" means an educational process designed to permit a participant to learn a given subject through interaction with an instructor and other participants.

"Interactive self-study program" means a program using interactive learning methodologies simulating a classroom learning process by employing software, other courseware, or administrative systems and providing significant ongoing, interactive feedback to the learner regarding his learning process. Substantial written or electronic evidence of satisfactory completion of each program segment by the learner is required. Interactive self-study programs must clearly define lesson objectives and manage students through the learning process by requiring frequent student response to questions that test for understanding of the material presented, providing evaluative feedback to incorrectly answered questions, and providing reinforcement feedback to correctly answered questions. Capabilities must, based on student response, provide appropriate ongoing written or electronic format feedback to the student regarding his learning progress through the program.

"Noninteractive self-study program" means any self-study program that does not meet the criteria for interactive self-study programs.

"Original CPA certificate" means a CPA certificate issued by the board other than a CPA certificate by endorsement.

"Peer review" means a study, appraisal, or review, by a CPA certificate holder who is not affiliated with the firm being reviewed, of one or more aspects of the professional work of a firm that engages in the practice of public accounting or compiles financial statements in accordance with the American Institute of Certified Public Accountants' Statements on Standards for Accounting and Review Services (SSARS).

"Practice of public accountancy" or "public accounting" means the giving of an assurance, in a report or otherwise, whether expressly or implicitly, unless this assurance is given by an employee to his employer.

"Practice of taxation" means the providing of tax compliance and tax advice services.

"Registration" means the process through which a firm obtains a registration certificate from the board.

"Registration certificate" means a certificate issued to a firm that has met all of the requirements for registration under this chapter.

"Regulant" means any CPA certificate holder or registration certificate holder who is subject to Chapter 44 (§ 54.1-4400 et seq.) of Title 54.1 of the Code of Virginia and this chapter.

"Renewal month" means the month of the calendar year in which a firm is required to renew its registration certificate.

"Report" or "reports," when used with reference to financial statements, means an opinion or disclaimer of opinion or other form of language or representation that states or implies any form of assurance or denial of assurance.

"Self-study program" means an educational process designed to permit a participant to learn a given subject without major involvement of an instructor. Self-study programs do not include informal learning.

"SSARS" means Statements on Standards for Accounting and Review Services established by the American Institute of Certified Public Accountants.

"Standards of conduct" means the standards set forth in 18 VAC 5-21-120.

"Standards of practice for CPA certificate holders" means the standards set forth in 18 VAC 5-21-130, 18 VAC 5-21-140 and 18 VAC 5-21-150.

"State" means any state of the United States, the District of Columbia, Puerto Rico, the U.S. Virgin Islands and Guam.

"Substantial equivalency" means a determination by the board or its designee that the education, ~~examination~~ CPA exam and experience requirements contained in the statutes and administrative rules of another jurisdiction are comparable to, or exceed, the education, ~~examination~~ CPA exam and experience requirements contained in this chapter, or that an individual CPA from another jurisdiction has met education, ~~examination~~ CPA exam and experience requirements that are comparable to, or exceed, the education, ~~examination~~ CPA exam, and experience requirements contained in Chapter 44 (§ 54.1-4400 et seq.) of Title 54.1 of the Code of Virginia and this chapter.

"Window" means the four times (each being a three-month period) in a year that a CPA candidate may take the computer-based CPA exam.

"Year" means a calendar year unless otherwise indicated.

18 VAC 5-21-20. Fees.

A. All fees are nonrefundable and the date of receipt by the board or its agent is the date that will be used to determine whether it is on time.

B. The following fees shall apply:

Initial examination CPA exam application fee	\$25
Original CPA certificate application	\$24
CPA certificate by endorsement application	\$24
Registration certificate application	\$24
CPA certificate renewal	\$24
Registration certificate renewal	\$24
CPA certificate late renewal	\$25
Registration certificate late renewal	\$25
CPA certificate reinstatement	\$250
Registration certificate reinstatement	\$250
Noninteractive processing fee	\$5

If the renewal fee is not received by the board within 30 days after the expiration date printed on the CPA certificate or the registration certificate, the regulant shall pay the renewal and the late renewal fees. Regulants applying for reinstatement shall pay all unpaid renewal fees in addition to the late renewal and the reinstatement fees.

C. The late filing fee for CPA certificate holders who fail to complete or report their CPE as required by this chapter shall be:

1. If received by the board up to four months late, \$25.
2. If received by the board more than four months late but not more than six months late, \$50.
3. If received by the board more than six months late, \$75.

D. The fee for a replacement wall certificate shall be \$25.

E. A fee of \$25 will be charged in addition to the fees established in this section for submitting a check to the board which is dishonored by the institution upon which it is drawn.

F. A noninteractive processing fee will be assessed when the online payment option is not chosen by the applicant or regulant.

G. The fee for the ~~examination~~ CPA exam provided for in 18 VAC 5-21-30 C shall consist of the CPA exam contract charges. ~~An administrative fee of \$25 that will be assessed at the time of initial application for examination the CPA exam but not for reexamination. No administrative fee will be assessed for re-examination.~~ Examination CPA exam service contracts shall be established through competitive negotiation in compliance with the Virginia Public Procurement Act (§ 2.2-4300 et seq. of the Code of Virginia). The ~~examination~~ CPA exam fee shall not exceed \$1,000.

18 VAC 5-21-30. Qualifications for CPA certificate.

A. Each applicant must be a person of good character as defined in 18 VAC 5-21-10.

B. Education prior to taking the ~~examination~~ CPA exam.

1. Each ~~applicant~~ candidate whose application to sit for an ~~examination~~ a CPA exam administered prior to July 1, 2006, shall have received a baccalaureate degree or its equivalent conferred by an accredited college or university as required by § 54.1-4409 B 1 of the Code of Virginia and shall at the time the application is received have completed the following courses at the undergraduate or graduate level to meet the accounting concentration requirement of § 54.1-4409 B 1 of the Code of Virginia:

- a. At least 24 semester hours of accounting including courses covering the subjects of financial accounting, auditing, taxation, and management accounting; and
- b. At least 18 semester hours in business courses (other than the courses described in subdivision 1 a of this subsection).

~~An applicant~~ A candidate whose application is received under the requirements of this subdivision may take the ~~examination~~ CPA exam so long as the requirements of subsection C of this section are met.

2. Each ~~applicant~~ candidate whose application to sit for an ~~examination~~ a CPA exam administered on or after July 1, 2006, shall meet the requirements of § 54.1-4409 B 2 of the Code of Virginia and shall at the time the application is received have completed the following courses at the

undergraduate or graduate level to meet the accounting concentration requirement of § 54.1-4409 B 2 of the Code of Virginia:

- a. At least 30 semester hours of accounting, including courses covering the subjects of financial accounting, auditing, taxation, and management accounting; and
- b. At least 24 semester hours in business courses (other than the courses described in subdivision 2 a of this subsection).

3. A quarter hour of coursework shall be considered the equivalent of two-thirds of a semester hour of coursework.

4. Each ~~applicant~~ candidate with a degree or coursework earned at a nonaccredited college or university shall, if credit for such degree or coursework is to be considered by the board, (i) have his educational credentials evaluated by an academic credentials service approved by the board or an accredited institution, as defined in 18 VAC 5-21-10, to determine the extent to which such credentials are equivalent to the education requirements set forth in subdivisions 1 and 2 of this subsection and (ii) submit such evaluations to the board, which may accept or reject the evaluator's recommendations in whole or in part.

5. Evidence of having obtained the required education shall be submitted in the form of official transcripts transmitted in a manner determined by the board. In unusual circumstances, the board may accept other evidence it deems to be substantially equivalent.

C. ~~Examination~~ CPA exam.

1. Each ~~applicant~~ candidate shall pass (i) a national uniform ~~examination~~ CPA exam, as approved by the board, in auditing and attestation, regulation, business environment and concepts, business law and professional responsibilities, accounting and reporting (taxation, managerial, governmental and not-for-profit organizations), financial accounting and reporting, and other such related subject areas as deemed appropriate by the board and (ii) an ethics ~~examination~~ exam approved by the board. Each part of the ~~examination~~ CPA exam must be passed with a ~~minimum~~ by attaining a uniform passing grade established through a psychometrically acceptable standard-setting procedure approved by the board ~~based upon the recommendation of a psychometrician who has determined the valid passing grade by conducting a scientific analysis of the examination.~~

2. The following rules for granting CPA exam credits are applicable until the computer-based CPA exam becomes effective.

If at a given sitting of the ~~examination~~ an applicant CPA exam a candidate passes two or more but not all sections, then the ~~applicant~~ candidate shall be given credit for those sections that the ~~applicant~~ candidate has passed and need not sit for reexamination in those sections provided the following conditions are met:

- a. At that sitting, the ~~applicant~~ candidate wrote all sections of the ~~examination~~ CPA exam for which the ~~applicant~~ candidate did not have credit;

Final Regulations

b. The ~~applicant~~ candidate attained a minimum grade of 50 on each section taken at that sitting when the first two sections were passed and in each subsequent sitting attains a minimum grade of 50 on all sections taken at that sitting;

c. The ~~applicant~~ candidate passes the remaining sections of the ~~examination~~ CPA exam within six consecutive ~~examinations~~ CPA exams (irrespective of the date on which the ~~examination~~ CPA exam credit was earned) given after the one at which the first sections were passed; and

d. At each subsequent sitting at which the ~~applicant~~ candidate seeks to pass any additional sections, the ~~applicant~~ candidate writes all sections for which the ~~applicant~~ candidate does not have credit.

3. The following rules for granting CPA exam credits will take effect beginning with the first computer-based CPA exam:

a. Granting of credit.

(1) Candidates will be allowed to sit for each section of the CPA exam individually and in any order.

(2) Candidates will retain credit for any section(s) passed for 18 months, without having to attain a minimum score on failed sections and without regard to whether they have taken other sections. Candidates will not be allowed to retake a failed section(s) within the same CPA exam window.

(3) Candidates must pass all four sections of the CPA exam within a "rolling" 18-month period, which begins on the date that the first section(s) passed is taken.

(4) In the event all four sections of the CPA exam are not passed within the rolling 18-month period, credit for any section(s) passed outside that 18-month period will expire and that section(s) must be retaken.

b. Conditional CPA exam credits.

(1) Candidates who have earned conditional credits on the noncomputer-based CPA exam as of the date of the first computer-based CPA exam will be given credits for the corresponding sections of the computer-based CPA exam as follows:

Noncomputer-Based CPA Exam	Computer-Based CPA Exam
Auditing	Auditing and Attestation
Financial Accounting and Reporting (FARE)	Financial Accounting and Reporting
Accounting and Reporting (ARE)	Regulation
Business Law and Professional Responsibilities (LPR)	Business Environment and Concepts

(2) Candidates who have attained conditional status as of the launch date of the first computer-based CPA exam will be allowed a transition period to complete any remaining test sections of the CPA exam. The

transition is the maximum number of opportunities that a candidate who has conditioned under the noncomputer-based CPA exam has remaining, at the launch of the computer-based CPA exam, to complete all remaining test sections, or the number of remaining opportunities under the noncomputer-based CPA exam, multiplied by six months, which is first exhausted.

~~3.~~ 4. The board may, at its discretion, waive any of the above requirements for carryover ~~examination~~ CPA exam credits, if such waiver is in the public interest.

~~4.~~ 5. Each ~~applicant~~ candidate shall follow all rules and regulations established by the board with regard to conduct at the ~~examination~~ CPA exam. Such rules shall include instructions communicated prior to the ~~examination~~ CPA exam date and instructions communicated at the ~~examination~~ CPA exam site on the date of the ~~examination~~ CPA exam.

~~5.~~ 6. Failure to comply with the rules and regulations governing conduct in the ~~examination~~ CPA exam may result in the loss of established eligibility to sit for the ~~examination~~ CPA exam or credit for ~~examination~~ CPA exam parts passed.

~~6.~~ 7. An ~~applicant~~ A candidate to sit for the ~~examination~~ CPA exam shall obtain an application form from the board or its designee, complete the application in accordance with the instructions on the application, and submit the application together with all required documents to the board or its designee by the date determined by the board or its designee.

~~7.~~ 8. An ~~applicant~~ A candidate who fails to appear for the ~~examination~~ CPA exam or reexamination shall forfeit the fees charged for that ~~examination~~ CPA exam or reexamination unless excused by the board.

~~8.~~ 9. The fee to sit for the ~~examination~~ CPA exam is established in 18 VAC 5-21-20 F G, whether paid directly to the board or to a designee under contract to the board.

10. The board or its designee will forward notification of eligibility for the computer-based CPA exam to NASBA's National Candidate Database.

11. Cheating by a candidate in applying for, taking or subsequent to the CPA exam will be deemed to invalidate any grade otherwise earned by a candidate on any test section of the CPA exam, and may warrant summary expulsion from the CPA exam site and disqualification from taking the CPA exam for a specified period of time.

12. Notwithstanding any other provisions under these rules, the board may postpone scheduled CPA exams, the release of grades, or the issuance of certificates due to a breach of CPA exam security; unauthorized acquisition or disclosure of the contents of a CPA exam; suspected or actual negligence, errors, omissions, or irregularities in conducting a CPA exam; or for any other reasonable cause or unforeseen circumstances.

D. Experience.

1. Each applicant for initial issuance of a CPA certificate under this section shall provide documentation of having met the experience requirements established by § 54.1-4409 C of the Code of Virginia, which requires at least one year of acceptable experience in accounting or a related field. The experience may include providing any type of service or advice involving the use of accounting, management, financial, tax, or consulting advisory skills or services. Acceptable experience shall include employment in government, industry, academia or public accounting or related services. The applicant's experience may be supervised by a non-CPA certificate holder, although, when completing the application for the CPA certificate, the experience must be verified by a CPA certificate holder.

2. One year of experience shall consist of full- or part-time employment that extends over a period of no less than a year and no more than three years and includes no fewer than 2,000 hours of performance of services described in subdivision 1 of this subsection.

18 VAC 5-21-40. Issuance of original CPA certificate; CPA certificate by endorsement; and substantial equivalency.

A. Practicing as a CPA in the Commonwealth of Virginia. Only an individual who (i) holds a valid CPA certificate or (ii) meets the substantial equivalency requirements in this section may practice as a CPA in the Commonwealth of Virginia.

B. Original CPA certificate.

1. Each individual who desires to use the CPA designation shall first obtain a CPA certificate.

2. Each applicant for an original CPA certificate shall submit an application, on a form provided by the board, which shall document that the requirements of 18 VAC 5-21-30 have been met. If the application is received by the board three or more years after the successful completion of the CPA ~~examination~~ exam by the applicant, the applicant shall, in addition, submit evidence of having met the CPE requirements set forth in 18 VAC 5-21-170 A 3 or B 3, and completed the most recent ethics CPE course. Each applicant shall agree to comply with the statutes and regulations of any other state in which he is authorized to practice.

3. Each application for an original CPA certificate shall be accompanied by the fee established in 18 VAC 5-21-20.

C. CPA certificate by endorsement.

1. Each individual who holds a CPA certificate in a state other than Virginia and either (i) has moved his principal place of business to Virginia or (ii) does not meet the substantial equivalency provision outlined in subsection G of this section must obtain a CPA certificate by endorsement prior to practicing as a CPA in Virginia.

2. Each applicant for a CPA certificate by endorsement shall submit an application, on a form provided by the board, which shall document that the applicant holds a corresponding CPA certificate as a certified public accountant issued after meeting ~~examination~~ CPA exam and other requirements under laws of the state(s) from

which the applicant is seeking a CPA certificate by endorsement. The application shall include the following:

a. From each state from which the applicant has received a CPA certificate (or from the applicant directly if the state is unable to provide the information), a written statement from the board of each state confirming that the applicant (i) is in good standing in that state; (ii) has not been found guilty of violating that state's standards of conduct or practice; (iii) has no pending actions alleging violations of that state's standards of conduct or practice; (iv) has met the education requirements in effect in that state when the applicant passed the national uniform ~~examination~~ CPA exam described in 18 VAC 5-21-30 C; and (v) has met the experience requirement for a CPA certificate in effect in Virginia when the CPA certificate by endorsement application is received by the board. An applicant who holds a CPA certificate from a state that the board has determined meets the substantial equivalency provision set forth in § 54.1-4411 of the Code of Virginia shall be considered to have met the requirements of clauses (iv) and (v) of this paragraph.

b. A written statement from the applicant affirming that the applicant has (i) not violated the board's standards of conduct or standards of practice and (ii) met the board's continuing education requirements.

The board may deny the application for a CPA certificate by endorsement if the applicant is not in good standing in the other states which have issued CPA certificates to the applicant or if any information from the applicant indicates a failure to comply with the aforementioned standards.

3. Each application for a CPA certificate by endorsement shall be accompanied by the fee established in 18 VAC 5-21-20.

D. Each CPA certificate holder shall have the privilege of using the CPA designation provided the CPA certificate holder complies with the (i) standards of conduct, (ii) standards of practice, and (iii) the renewal requirements established by the board. Upon expiration of the CPA certificate, the CPA certificate holder shall cease displaying the CPA certificate and the wall certificate, and shall cease affixing and using the CPA designation in any manner.

E. All CPA certificate holders who supervise services involving the practice of public accountancy and who sign or authorize another to sign the report on the financial statements on behalf of the firm shall meet the experience requirement established in 18 VAC 5-21-50.

F. CPA certificates issued under the provisions of this chapter shall expire one year from the last day of the month wherein the initial CPA certificate was issued and shall be renewed in compliance with 18 VAC 5-21-80.

G. Privilege to practice without a CPA certificate by endorsement, substantial equivalency.

1. A holder of a CPA certificate from a state other than Virginia and with a principal place of business in a state other than Virginia shall either obtain a CPA certificate by endorsement as outlined in subsection C of this section or

Final Regulations

meet the substantial equivalency requirements of this subsection before beginning CPA practice in Virginia.

2. To implement the provisions of § 54.1-4411 A of the Code of Virginia, the privilege to practice under substantial equivalency shall be evidenced by the following:

a. If the individual's CPA certificate is issued by a state that the board has determined is substantially equivalent, the CPA certificate issued by that state shall constitute evidence of the privilege to practice.

b. If the individual's CPA certificate is issued by a state that the board has determined is not substantially equivalent, the CPA certificate holder shall notify the board in writing that he intends to practice in the Commonwealth and shall provide documentation acceptable to the board that he has personally satisfied the requirements for substantial equivalency. An approval letter from the board shall constitute evidence of the privilege to practice.

c. A CPA certificate by endorsement shall be obtained if the CPA exercising the privilege to practice under substantial equivalency moves his principal place of business to Virginia or ceases to have an office in any other state.

3. For the purposes of implementing § 54.1-4411 B 2 of the Code of Virginia relating to the privilege of practicing public accounting extended to nonresident CPA certificate holders, the board shall determine the state to be served based on whose statutes and regulations most closely correspond to those of the Commonwealth of Virginia.

4. The board shall determine whether a state meets the substantial equivalency provisions for nonresident CPA certificate holders by periodically obtaining, reviewing and approving a list of states, which in the opinion of the board, meet the substantial equivalency provisions for nonresident CPA certificate holders.

18 VAC 5-21-170. Continuing professional education requirements for CPA certificate applicants and for CPA certificate holders.

A. Use of CPA designation and performing services for the public.

1. As provided in § 54.1-4410 B of the Code of Virginia, any person referring to himself as a Certified Public Accountant or "CPA," including the use of the "CPA" title on individual business cards, letterhead and all other documents and devices except the CPA wall certificate, and who is performing or offering to perform any services involving accounting skills or auditing skills, issuing reports on financial advisory or consulting services, preparing tax returns, or furnishing advice on tax matters, for the public, shall obtain 120 ~~hours~~ of CPE credits during each CPE reporting cycle with a minimum of 20 ~~hours~~ CPE credits per CPE reporting year. The CPA certificate holder may choose the areas of study and courses.

2. Any person covered by this provision who, prior to implementation of § 54.1-4410 B of the Code of Virginia on October 4, 1999, provided one or more of the services

described in subdivision 1 of this subsection, but was not required to obtain CPE, shall obtain at least 20 ~~hours~~ of CPE credits in each of the CPE reporting years 2000, 2001 and 2002 and meet the 120-~~hour~~ CPE-credit requirement for the CPE reporting cycle ending December 31, 2002.

3. Any person applying for a CPA certificate pursuant to 18 VAC 5-21-40 three or more years after his successful completion of the CPA ~~examination~~ exam who intends to provide the services described in subdivision 1 of this subsection shall, in addition, submit evidence of having met the 120-~~hour~~ CPE-credit requirement in subdivision 1 of this subsection as though subdivision 1 of this subsection had been applicable to the applicant during the three ~~calendar~~ years prior to the date of his application.

4. Any CPA certificate holder whose original CPA certification application was received by the board fewer than three years after his successful completion of the CPA ~~examination~~ exam who commences the services described in subdivision 1 of this subsection after December 31, 2000, shall have obtained 40 ~~hours~~ of CPE credits within the 12 months preceding the date such services are first offered to the public and obtain the remaining 80 ~~hours~~ of CPE credits by the end of the second CPE reporting year following the date of commencing such services with no less than 20 ~~hours~~ CPE credits in each of these two CPE reporting years. *In addition, such CPE shall include the most recent ethics CPE course.*

B. Use of CPA designation and performing services other than for the public.

1. As provided in § 54.1-4410 C of the Code of Virginia, effective July 1, 2002, any person referring to himself as a Certified Public Accountant or "CPA," including the use of the "CPA" title on individual business cards, letterhead and all other documents and devices except the CPA wall certificate, who is performing or offering to perform any services involving accounting skills or auditing skills, issuing reports on financial advisory or consulting services, preparing tax returns, or furnishing advice on tax matters, for an employer or other organization and not for the public, or who is employed as an educator in the field of accounting, shall meet the following CPE requirements as a condition of renewal of the person's CPA certificate: (i) for the three-year reporting period beginning ~~July 1, 2002~~ *January 1, 2003*, a minimum of 45 ~~credit hours~~ CPE credits with a minimum of 10 ~~hours~~ CPE credits per year, (ii) for the three-year reporting period beginning ~~July 1, 2005~~ *January 1, 2006*, a minimum of 90 ~~credit hours~~ CPE credits with a minimum of 15 ~~hours~~ CPE credits per year, and (iii) for the three-year reporting periods beginning on or after ~~July 1, 2008~~ *January 1, 2009*, a minimum of 120 ~~credit hours~~ CPE credits with a minimum of 20 ~~hours~~ CPE credits per year. The CPA certificate holder may choose the areas of study and courses.

2. Individuals failing to meet the CPE requirements may be subject to requalification, including possible reexamination and submission of experience qualifications. The board may, at its discretion, waive or defer CPE requirements so long as such waiver or deferral is in the public interest.

3. Any person applying for a CPA certificate pursuant to 18 VAC 5-21-40 three or more years after his successful completion of the CPA ~~examination~~ exam who intends to provide the services described in subdivision 1 of this subsection shall, in addition, submit evidence of having met the CPE requirement of subdivision 1 of this subsection as though subdivision 1 of this subsection had been applicable to the applicant during the three ~~calendar~~ years prior to the date of his application. Furthermore, if such person obtained his CPA certificate at a time when he did not intend to provide services for the public and subsequently decides to provide for the public the services described in subdivision A 1 of this section, then such regulant shall, prior to performing such services, meet the ~~120-hour~~ CPE credit requirement of subdivision A 1 of this section.

C. Use of CPA designation and not performing services

1. Any CPA certificate holder who is not performing or offering to perform any of the services described in subdivision A 1 or B 1 of this section is not required to meet CPE requirements.

2. Any CPA certificate holder who ceases to perform services for the public shall meet the CPE requirements described in subdivision A 1 of this section for any reporting year in which he performed those services. Any CPA certificate holder who performs services for the public for less than a complete reporting cycle shall complete at least 20 ~~hours~~ CPE credits in each reporting year that he did perform services for the public during the reporting cycle.

D. CPE in standards of conduct, Code of Virginia statutes relating to public accountancy, and board's regulations. Beginning with the CPE reporting year ending immediately subsequent to the year in which these regulations become effective, each CPA to which the CPE requirements in subsections A and B of this section apply will obtain annually two CPE credits relating to standards of conduct, Chapter 44 (§ 54.1-4400 et seq.) of Title 54.1 of the Code of Virginia, and regulations of the board. The course will be a self-contained course presented in not more than two CPE credit parts and may be presented in conjunction with other CPE programs. The course may be a self-study course so long as the self-study requirements of [~~18 VAC 5-21-470~~ subdivision] F 3 [of this section] are met. An outline of the required content for the course will be provided by the board to CPE providers who must state in their ethics CPE course material and related catalog summaries whether the content of the course includes the material required by the board for the calendar year the course is provided.

~~D.~~ E. Requirements for retaining records.

1. It is the responsibility of the CPA certificate holder to retain evidence of satisfactory completion of CPE ~~hours~~ credits for a period of three years from the anniversary date of renewal. Such documentation shall be in the form of the certificate of completion provided by the sponsor, verification from the institution offering the course, written statement from the course provider verifying the regulant's attendance, or any other documentation deemed agreeable by the board.

2. The CPA certificate holder shall provide such documentation to the board or its authorized agent upon request.

~~E.~~ F. Continuing professional education credit.

1. One credit hour shall be given for each 50-minute period of instruction. One semester hour of college credit is 15 CPE ~~credit hours~~ credits and one quarter hour of college credit is 10 CPE ~~credit hours~~ credits.

2. A CPA certificate holder who instructs courses that qualify for CPE credit for participants will be awarded two additional ~~hours of~~ CPE credits for each CPE credit ~~hour~~ of instruction. The instructor shall retain evidence to support the request for CPE credit. The instructor shall be given no CPE credit for subsequent sessions involving substantially identical subject matter. The CPE credit given for instructing shall not exceed 30 ~~credit hours~~ CPE credits per CPE reporting cycle.

3. CPE ~~credit hours~~ credits for successful completion of a self-study course shall be established by the sponsor according to the type of CPE self-study program and pre-tests to determine average completion time. Interactive self-study programs shall receive CPE credit equal to the average completion time. Noninteractive self-study programs shall receive CPE credit equal to one-half of the average completion time. For example, an interactive self-study program that takes an average of two contact hours to complete shall receive two CPE ~~credit hours~~ credits, and a noninteractive self-study program that takes an average of two contact hours to complete shall receive one CPE credit ~~hour~~.

VA.R. Doc. No. R04-76; Filed June 19, 2006, 2:56 p.m.

DEPARTMENT OF HEALTH PROFESSIONS

REGISTRAR'S NOTICE: The following regulation filed by the Department of Health Professions is exempt from the Administrative Process Act in accordance with § 2.204002 B 18 of the Code of Virginia, which exempts regulations for the implementation of the Health Practitioners' Intervention Program, Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1 of the Code of Virginia.

Title of Regulation: 18 VAC 76-10. Regulations Governing the Health Practitioners' Intervention Program for the Department of Health Professions (amending 18 VAC 76-10-20 and 18 VAC 76-10-65).

Statutory Authority: §§ 54.1-2505 and 54.1-2516 of the Code of Virginia.

Effective Date: June 19, 2006.

Agency Contact: Peggy Call, Program Coordinator, Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9424, FAX (804) 662-9114 or e-mail peggy.call@dhp.virginia.gov.

Final Regulations

Summary:

The amendments set expectations of the Program Committee for attendance and notice of absence and provide clear grounds for dismissal of nonparticipating members by adding a requirement for any member who is unable to attend a scheduled meeting to give notice to the program coordinator as soon as practical but no later than 48 hours prior to that scheduled meeting, except in cases of an emergency. An amendment further establishes grounds for removal by providing that failure of any member to attend two successive meetings without reasonable excuse or failure to give notice shall constitute grounds for removal. The amendments are necessary to provide a standard for member attendance and notification to avoid situations in which the committee is unable to convene a quorum. The amendments also allow the chairperson to act on the committee's behalf when a scheduled meeting is canceled due to failure to convene a quorum.

18 VAC 76-10-20. Organization of committee.

A. Except for the initial appointments, members shall be appointed for a term of four years and shall be eligible for reappointment for one additional four-year term. A member who is appointed to fill a vacancy for the remainder of an unexpired term shall be eligible for two full four-year terms. Terms of appointment shall begin on July 1 of each calendar year.

B. The initial appointees to the committee shall begin their terms on July 1, 1997, and shall be appointed as follows:

1. Two members shall serve for a term of one year, two members shall serve for a term of two years, and two members shall serve for a term of three years. All of the above shall be eligible for reappointment to two four-year terms.

2. One member shall serve for a term of four years and shall be eligible for reappointment to one four-year term.

C. Members of the committee shall not be current members of a health regulatory board within the department.

D. The committee shall elect a chairman and vice chairman for a one-year term ending June 30 of each calendar year.

E. The committee shall meet not less than once every two months and shall conduct all business according to Robert's Rules of Order. Four members shall constitute a quorum. The committee may adopt bylaws to govern its operations as it deems necessary to conduct its business and as consistent with law and regulations.

F. Except in the event of an emergency, any member who is unable to attend a scheduled meeting shall give notice to the program coordinator as soon as practical but no later than 48 hours prior to that scheduled meeting.

F. G. The director shall have the authority to remove a member and shall report such removal to the Board of Health Professions at its next scheduled meeting. Failure of any member to attend two successive meetings without reasonable excuse or failure to give notice as required in

subsection F of this section shall constitute grounds for removal.

~~G. H.~~ By December 31 of each calendar year, each health regulatory board within the department shall designate, in accordance with § 54.1-2400 (8) of the Code of Virginia, a liaison to the committee for a term of one year. Likewise, each board shall select an alternate to serve in the absence of the liaison.

18 VAC 76-10-65. Authority of the chairperson of the committee.

The chairperson of the committee, following consultation with and briefing by the program coordinator, shall have the authority to act, including immediately vacating a stay, in cases where a program participant has been granted a stay or has been placed on probation, or both, by order of a health regulatory board and information has been received that a program participant no longer satisfies the conditions of § 54.1-2516 C of the Code of Virginia. Further, the chairperson may act on behalf of the committee when a scheduled meeting is canceled due to failure to convene a quorum.

VA.R. Doc. No. R06-272; Filed June 19, 2006, 9:47 a.m.

TITLE 22. SOCIAL SERVICES

STATE BOARD OF SOCIAL SERVICES

REGISTRAR'S NOTICE: The State Board of Social Services is claiming an exclusion from the Administrative Process Act in accordance with § 2.2-4006 A 4 a of the Code of Virginia, which excludes regulations that are necessary to conform to changes in Virginia statutory law where no agency discretion is involved. The 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 40-90. Regulation for Background Checks for Assisted Living Facilities and Adult Day Care Centers (amending 22 VAC 40-90-10 through 22 VAC 40-90-40).

Statutory Authority: §§ 63.2-1702, 63.2-1720 and 63.2-1721 of the Code of Virginia.

Effective Date: September 1, 2006.

Agency Contact: Judy McGreal, Program Development Consultant, Department of Social Services, 7 North 8th Street, Richmond, VA 23219, telephone (804) 726-7157, FAX (804) 726-7132 or e-mail judith.mcgreal@dss.virginia.gov.

Summary:

The amendments are needed due to a change in the Code of Virginia resulting from Chapters 764 and 701 of the 2006 Acts of Assembly, which will take effect on July 1, 2006. The exempt action also includes additional revisions due to Code of Virginia changes resulting from Chapters 610 and 924 of the 2005 Acts of Assembly. This regulation specifies

crimes that are barriers to employment in assisted living facilities and in adult day care centers, and to licensure of assisted living facilities. The regulation also specifies the processes for obtaining and maintaining criminal record reports and sworn statements or affirmations.

The amendments address the provision that allows applicants for employment at assisted living facilities and adult day care centers to be hired if they have been convicted of one misdemeanor crime not involving abuse or neglect or moral turpitude if five years have elapsed following the conviction. The exempt action changes this provision by eliminating moral turpitude. Other revisions include clarification and further specification in the definitions of "applicant for licensure," "barrier crimes," and "sworn statement or affirmation." In addition, the revisions include specific information regarding which persons must undergo a background check when applying for assisted living facility licensure. Other minor changes for clarification are included, as well as changes of a purely technical nature.

22 VAC 40-90-10. Definitions.

The following words and terms when used in conjunction with this chapter shall have the following meanings:

"Applicant for licensure" means the ~~person or persons~~ entity applying for approval as a licensed assisted living facility. An ~~application~~ applicant may be an individual, association, partnership, or limited liability company or, corporation or public agency.

"Barrier crimes" means certain crimes that automatically bar individuals convicted of same from employment at a licensed assisted living facility or adult day care center *and that automatically bar licensure of applicants convicted of same from assisted living facility licensure.* These crimes, as specified by § 63.2-1719 of the Code of Virginia, are murder or manslaughter as set out in Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2; malicious wounding by mob as set out in § 18.2-41; abduction as set out in subsection A of § 18.2-47; abduction for immoral purposes as set out in § 18.2-48; assaults and bodily woundings as set out in Article 4 (§ 18.2-51 et seq.) of Chapter 4 of Title 18.2; robbery as set out in § 18.2-58; carjacking as set out in § 18.2-58.1; threats of death or bodily injury as set out in § 18.2-60; felony stalking as set out in § 18.2-60.3; sexual assault as set out in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2; arson as set out in Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2; drive-by shooting as set out in § 18.2-286.1; use of a machine gun in a crime of violence as set out in § 18.2-289; aggressive use of a machine gun as set out in § 18.2-290; use of a sawed-off shotgun in a crime of violence as set out in subsection A of § 18.2-300; pandering as set out in § 18.2-355; crimes against nature involving children as set out in § 18.2-361; incest as set out in § 18.2-366; taking indecent liberties with children as set out in § 18.2-370 or § 18.2-370.1; abuse and neglect of children as set out in § 18.2-371.1; failure to secure medical attention for an injured child as set out in § 18.2-314; obscenity offenses as set out in § 18.2-374.1; possession of child pornography as set out in § 18.2-374.1:1; electronic facilitation of pornography as set out in § 18.2-374.3; abuse and neglect of incapacitated adults as set out in § 18.2-369;

employing or permitting a minor to assist in an act constituting an offense under Article 5 (§ 18.2-372 et seq.) of Chapter 8 of Title 18.2 as set out in § 18.2-379; delivery of drugs to prisoners as set out in § 18.2-474.1; escape from jail as set out in § 18.2-477; felonies by prisoners as set out in § 53.1-203; or an equivalent offense in another state. Applicants for employment convicted of one misdemeanor barrier crime not involving abuse or neglect ~~or moral turpitude~~ may be hired ~~provided~~ if five years ~~has~~ have elapsed since following the conviction.

"Central Criminal Records Exchange" means the information system containing conviction data of those crimes committed in Virginia, maintained by the Department of State Police, through which the criminal history record request form is processed.

"Criminal history record request" means the Department of State Police form used to authorize the State Police to generate a criminal history record report on an individual.

"Criminal history record report" means either the criminal record clearance or the criminal history record issued by the Central Criminal Records Exchange, Department of State Police. The criminal record clearance provides conviction data only related to barrier crimes; the criminal history record discloses all known conviction data.

"Employee" means compensated personnel working at a facility regardless of role, service, age, function or duration of employment at the facility. Employee also includes those individuals hired through a contract to provide services for the facility.

"Facility" means an assisted living facility or adult day care center subject to licensure by the Department of Social Services.

"Sworn statement or affirmation" means a document to be completed, signed, and submitted for licensure or employment. The document discloses the licensure applicant's or employment applicant's criminal convictions and pending criminal charges that occurred within or outside the Commonwealth of Virginia. *For applicants for licensure as an assisted living facility, the document also discloses whether or not the applicant has been the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth of Virginia.* This is required as specified in §§ 63.2-1720 and 63.2-1721 of the Code of Virginia.

22 VAC 40-90-20. Legal base and applicability.

A. Sections 63.2-1702 and 63.2-1721 of the Code of Virginia require all applicants for licensure as assisted living facilities to undergo background checks consisting of a sworn statement or affirmation and criminal history record check. *If the applicant is an individual, he must undergo a background check. If the applicant is an association, partnership, limited liability company, corporation or public agency, the officers and agents of the applicant must undergo background checks.*

B. Section 63.2-1720 of the Code of Virginia requires all employees of assisted living facilities and adult day care centers, as defined by § 63.2-100 of the Code of Virginia, to obtain a criminal history record report from the Department of State Police.

Final Regulations

C. Section 63.2-1720 of the Code of Virginia requires all applicants ~~of~~ *for employment at* assisted living facilities and adult day care centers to provide the hiring facility with a sworn ~~disclosure~~ *statement or affirmation*.

D. No volunteer shall be permitted to serve in a licensed assisted living facility or licensed adult day care center without the permission or under the supervision of a person who has received a clearance pursuant to § 63.2-1720 of the Code of Virginia.

22 VAC 40-90-30. Sworn statement or affirmation.

A. The applicant for licensure shall complete a sworn statement or affirmation upon application for licensure as an assisted living facility.

B. The sworn statement or affirmation shall be completed for all applicants for employment. (NOTE: A model form is available from the department upon request *and on the department's website.*)

C. Any person making a *materially* false statement on the sworn statement or affirmation shall be guilty of a Class 1 misdemeanor.

D. The sworn statement or affirmation shall be attached and filed with the criminal history record report.

E. The commissioner shall provide a copy of the sworn statement or affirmation to any applicant denied licensure as an assisted living facility because of information on the sworn statement or affirmation.

F. Further dissemination of the sworn statement or affirmation information is prohibited other than to the commissioner's representative or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination.

22 VAC 40-90-40. General requirements.

A. The applicant for licensure shall submit a criminal history record report upon application for licensure as an assisted living facility.

B. The criminal history record report shall be obtained on or prior to the 30th day of employment for each employee.

C. Any person required by this chapter to obtain a criminal history record report shall be ineligible for employment if the report contains convictions of the barrier crimes.

D. If a criminal history record ~~report~~ is requested, it shall be the responsibility of the licensee to ensure that the employee has not been convicted of any of the barrier crimes.

E. Criminal history record reports shall be kept confidential. Reports on employees shall only be received by the facility administrator, licensee, board president, or their designee.

F. A criminal history record report issued by the State Police shall not be accepted by the facility if the report is dated more than 90 days prior to the date of employment.

G. Any applicant denied licensure as an assisted living facility or employment at an assisted living facility or adult day care center because of convictions appearing on his criminal

history record report shall be provided a copy of the report by *the licensing authority or the hiring facility.*

VA.R. Doc. No. R06-266; Filed June 16, 2006, 8:27 a.m.

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<p>REGISTRAR'S NOTICE: The State Board of Social Services is claiming an exclusion from the Administrative Process Act in accordance with § 2.2-4006 A 4 a of the Code of Virginia, which excludes regulations that are necessary to conform to changes in Virginia statutory law where no agency discretion is involved. The 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.</p>

Title of Regulation: **22 VAC 40-191. Background Checks for Child Welfare Agencies (amending 22 VAC 40-191-10, 22 VAC 40-191-20, 22 VAC 40-191-40 through 22 VAC 40-191-70, 22 VAC 40-191-90, 22 VAC 40-191-100, 22 VAC 40-191-120, 22 VAC 40-191-130 and 22 VAC 40-191-150).**

Statutory Authority: §§ 63.2-217, 63.2-901.1, 63.2-1704, and 63.2-1720 through 63.2-1724 of the Code of Virginia.

Effective Date: September 1, 2006.

Agency Contact: Doris Sherrod, Program Consultant, Department of Social Services, 7 North 8th Street, Richmond, VA 23219, telephone (804) 726-7153, FAX (804) 726-7132 or e-mail doris.sherrod@dss.virginia.gov.

Summary:

The amendments incorporate changes to the regulation that are required by Chapters 384, 558, and 885 of the 2006 Acts of Assembly. The action requires child-placing agencies to obtain a national criminal history record check on any individual with whom the agency is considering placing a child on an emergency, temporary or permanent basis, including the birth parent of a child in foster care, per Chapter 558. It further provides for emergency placement without a national criminal history record check if the person submits to fingerprinting and provides necessary personal descriptive information within three days of placement. Noncompliance results in immediate removal of the child from the home.

The action prohibits granting a petition for adoption if an adoptive parent has been convicted of a sexually violent offense or an offense requiring registration in the sex offender registry, per Chapter 384.

The action allows a child-placing agency to approve as an adoptive or foster parent an applicant convicted of felony possession of drugs, who has had his civil rights restored by the Governor, provided 10 years have elapsed following the conviction, per Chapter 885.

The action clarifies that only information from the central registry or the Virginia Central Criminal Records Exchange or both will be disseminated to an entity denied licensure, registration, or approval, or denied employment or volunteer service because of information on a sworn statement or affirmation, a central registry finding, or criminal history

record report, per §§ 63.2-1720 and 63.2-1721 of the Code of Virginia.

In addition, the exempt action reconfigures the current regulation text by separating certain paragraphs or sentences into more discrete units of information to be used for compliance purposes. The current regulation, effective July 1, 2005, is not configured sufficiently to provide the discrete elements required by the Division of Licensing Programs Help and Information Network (DOLPHIN) system. The DOLPHIN is used to manage information about applicants and regulated providers. It also serves as a management tool for the work of licensing staffs.

22 VAC 40-191-10. Defining words and phrases.

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

"Agent" means a person who acts on behalf of, or is an employee or volunteer with, a child welfare agency.

"Applicant" means the person or persons applying for approval as a (i) licensed family day home; (ii) licensed family day system; (iii) licensed child-placing agency; (iv) licensed independent foster home; (v) voluntarily registered family day home; (vi) family day home approved by a licensed family day system; (vii) foster and adoptive home approved by a licensed child-placing agency; or (viii) religious exempt child day center. In the case of a sole proprietorship, the applicant is the individual owner. In the case of a partnership, the applicants are all the partners. If the applicant is a corporation, limited liability company, public agency or similar entity, the applicant must designate at least one individual who must comply with the applicant's obligation on its behalf.

"Approved" means having obtained the status of approval through the process required in Minimum Standards for Family Day-Care Systems (22 VAC-40-180) or Minimum Standards for Child-Placing Agencies (22 VAC 40-130). Approved facilities are (i) family day homes approved by licensed family day systems and (ii) foster and adoptive homes approved by licensed child-placing agencies.

"Background checks" means a sworn statement or affirmation, a criminal history record report, and a child protective services central registry check.

"Barrier crime" means a conviction identified at § 63.2-1719 in the Code of Virginia. The convictions, and Code of Virginia references, are: murder or manslaughter as set out in Article 1 (§ 18.2-30 et seq.), malicious wounding by mob as set out in § 18.2-41, abduction as set out in subsection A of § 18.2-47, abduction for immoral purposes as set out in § 18.2-48, assault and bodily woundings as set out in Article 4 (§ 18.2-51 et seq.), robbery as set out in § 18.2-58, carjacking as set out in § 18.2-58.1, extortion by threat as set out in § 18.2-59, felony stalking as set out in § 18.2-60.3, sexual assault as set out in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, arson as set out in Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2, burglary as set out in Article 2 (§ 18.2-89 et seq.) of Chapter 5 of Title 18.2, any felony violation relating to possession or distribution of drugs as set out in Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, drive-by shooting

as set out in § 18.2-286.1, use of a machine gun in a crime of violence as set out in § 18.2-289, aggressive use of a machine gun as set out in § 18.2-290, use of a sawed-off shotgun in a crime of violence as set out in subsection A of § 18.2-300, failure to secure medical attention for an injured child as set out in § 18.2-314, pandering as set out in § 18.2-355, crimes against nature involving children as set out in § 18.2-361, incest as set out in § 18.2-366, taking indecent liberties with children as set out in § 18.2-370 or § 18.2-370.1, abuse and neglect of children as set out in § 18.2-371.1, obscenity offenses as set out in § 18.2-374.1, possession of child pornography as set out in § 18.2-374.1:1, electronic facilitation of pornography as set out in § 18.2-374.3, abuse and neglect of incapacitated adults as set out in § 18.2-369, employing or permitting a minor to assist in an act constituting an offense under Article 5 (§ 18.2-372 et seq.) of Chapter 8 of Title 18.2 as set out in § 18.2-379, delivery of drugs to prisoners as set out in § 18.2-474.1, escape from jail as set out in § 18.2-477, felonies by prisoners as set out in § 53.1-203; or an equivalent offense in another state.

"Board" means State Board of Social Services.

"Central registry" means the record of founded complaints of child abuse and neglect maintained by the Department of Social Services.

"Central registry finding" means the record of founded complaints of child abuse and neglect for an individual.

"Central Criminal Records Exchange" or "CCRE" means the information system containing conviction data of crimes committed in Virginia. The system is maintained by the Department of State Police.

"Child day program" means a regularly operating service arrangement for children where, during the absence of a parent or guardian, a person or organization has agreed to assume responsibility for the supervision, protection, and well-being of a child under the age of 13 for less than a 24-hour period.

"Child-placing agency" means any person or agency licensed to place children in foster homes, adoptive homes or independent living arrangements pursuant to § 63.2-1819 of the Code of Virginia or a local board that places children in foster homes or adoptive homes pursuant to §§ 63.2-900, 63.2-903 and 63.2-1221 of the Code of Virginia. Officers, employees, or agents of the Commonwealth, or any locality acting within the scope of its authority as such, who serve as or maintain a child-placing agency, are not required to be licensed.

"Child welfare agency" means a child day center, child-placing agency, children's residential facility, family day home, family day system, or independent foster home. For purposes of this regulation, the requirements for child welfare agencies also apply to foster or adoptive homes requesting approval or with approval by child-placing agencies and foster homes requesting approval or with approval by family day systems.

"Commissioner" means the Commissioner of the Virginia Department of Social Services or his designee.

Final Regulations

"Contract agency" means an entity with which the facility or a parent has an agreement to provide services to a child or children while attending the facility.

"Contract employee" means a person with whom the facility or a parent has an agreement to provide services to a child or children while attending the facility.

"Contracting organization" means an agency that has been designated by the Department of Social Services to administer the voluntary registration program for family day homes.

"Criminal history record check" means the process the Department of State Police uses to generate a criminal record report on a person. *The check may be a state check generated solely through the Central Criminal Records Exchange or a check forwarded through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining national criminal history record information.*

"Criminal history record report" means either the criminal record clearance or the criminal history record issued by the Central Criminal Records Exchange, Department of State Police. The report identifies convictions within the Commonwealth.

"Department" means the Department of Social Services.

"Department representative" means an employee of the department who carries out regulatory duties or an agency acting as an authorized agent of the department carrying out approval functions. Licensed family day systems have authority to approve family day homes. Licensed child-placing agencies have authority to approve foster and adoptive parents.

"Disqualifying background" means (i) having been the subject of a founded complaint of child abuse or neglect even if his record has been purged from the Child Abuse and Neglect Central Registry system, (ii) a barrier crime conviction, or (iii) any other felony not included in the definition of "barrier crime," unless five years have elapsed since the conviction. For the purpose of this regulation, no person is considered to be the subject of a founded complaint of child abuse or neglect until a decision upholding the finding has been rendered by the hearing officer after the administrative hearing, provided the person complies with the requirements for requesting an administrative hearing. No person is considered to be the subject of a founded complaint of child abuse or neglect if the child abuse or neglect finding is overturned by an administrative hearing or a subsequent court decision.

"Employee" means a person hired by a facility or with whom the facility has an employment agreement. A provider assistant in a family day home is considered an employee in this chapter.

"Facility" means (i) a licensed family day home; (ii) a licensed family day system; (iii) a licensed child-placing agency; (iv) a licensed independent foster home; (v) a voluntarily registered family day home; (vi) a family day home approved by a licensed family day system; (vii) a foster and adoptive home approved by a licensed child-placing agency; (viii) a religious

exempt child day center; and (ix) an applicant seeking a waiver in order to establish one of the above listed entities.

"Family day home" means a child day program offered in the residence of the provider or the home of any of the children in care for one through 12 children under the age of 13, exclusive of the provider's own children and any children who reside in the home, when at least one child receives care for compensation. The provider of a licensed or registered family day home must disclose to the parents or guardians of children in their care the percentage of time per week that persons other than the provider will care for the children. Family day homes serving six through 12 children, exclusive of the provider's own children and any children who reside in the home, must be licensed. However, no family day home shall care for more than four children under the age of two, including the provider's own children and any children who reside in the home, unless the family day home is licensed or voluntarily registered. However, a family day home where the children in care are all grandchildren of the provider is not required to be licensed.

"Family day system" means any person who approves family day homes as members of its system; who refers children to available family day homes in that system; and who, through contractual arrangement, may provide central administrative functions including, but not limited to, training of operators of member homes; technical assistance and consultation to operators of member homes; inspection, supervision, monitoring, and evaluation of member homes; and referral of children to available health and social services.

"Good character and reputation" means that the person (i) maintains business, professional, family, and community relationships that are characterized by honesty, fairness, truthfulness and dependability and (ii) has a history or pattern of behavior that demonstrates that the person is suitable and able to care for, guide, supervise, and protect children.

"Independent foster home" means a private family home in which any child, other than a child by birth or adoption of such person, resides as a member of the household and has been placed there independently of a child-placing agency except (i) a home in which are received only children related by birth or adoption of the person who maintains such home and children of personal friends of such person and (ii) a home that receives a child or children committed under the provisions of subdivision A 4 of § 16.1-278.2, subdivision 6 of § 16.1-278.4 or subdivision A 13 of § 16.1-278.8 of the Code of Virginia.

"Involved in the day-to-day operations" means:

1. In a supervisory or management position, making daily decisions regarding the operation of the facility;
2. Counted by the facility for purposes of staff-to-children ratios;
3. Providing casework services for a child-placing agency;
4. Employed by a licensed family day system as a home visitor; or
5. Having access to child- and client-related records or to facility personnel records.

"Licensed" means having met the requirements of and obtained licensure as a licensed family day-care system, licensed independent foster home, licensed private child-placing agency, or licensed family day home.

"Living in" means to reside in a place for an extended or permanent period of time.

"Local agency" means local department of social services.

"May" means has permission.

"Must" means the action is a requirement.

"Must not" means the action is prohibited.

"National criminal background check" means criminal history record information from the Federal Bureau of Investigation.

"Offense" means a (i) conviction of a barrier crime, (ii) conviction of any other felony not included in the definition of barrier crime unless five years have elapsed since conviction, or (iii) founded complaint of child abuse or neglect within or outside the Commonwealth. Convictions include prior adult convictions and juvenile convictions or adjudications of delinquency based on a crime that would be a felony if committed by an adult within or outside the Commonwealth.

"Other felony" means conviction for any felony in the last five years that is not a barrier crime felony.

"Parent-volunteer" means someone supervising, without pay, a group of children that includes the parent-volunteer's own child in a program that operates no more than four hours per day, provided that the parent-volunteer works under the direct supervision of a person who has received a clearance pursuant to § 63.2-1720 or § 63.2-1724 of the Code of Virginia.

"Registered" means having obtained the status of registration through the process required in Voluntary Registration of Family Day Homes - Requirements for Providers (22 VAC 40-180).

"Registered family day home" means any family day home that has met the standards for voluntary registration for such homes pursuant to regulations adopted by the board and that has obtained a certificate of registration from the commissioner.

"Religious exempt center" means an unlicensed child day center operated or conducted under the auspices of a religious institution that has filed with the commissioner a satisfactory annual statement of intent to operate a child day center and other information as specified in § 63.2-1716 of the Code of Virginia and has a letter of exemption from the commissioner.

"Search of central registry" means the process the Virginia Department of Social Services' Child Protective Services Unit uses to generate a central registry report on a person.

"Sex offense felony for family day homes" means conviction of a felony in violation of §§ 18.2-48, 18.2-61, 18.2-63, 18.2-64.1, 18.2-67.1, 18.2-67.2, 18.2-67.3, 18.2-67.5, 18.2-355, 18.2-361, 18.2-366, 18.2-369, 18.2-370, 18.2-370.1, 18.2-371.1 or § 18.2-374.1 that prohibits a sex offender or founded child abuser from residing in a family day home, whether or not the

home is regulated or subject to regulation. The descriptions of the Code of Virginia sections are abduction; actual or attempted rape; carnal knowledge of a child between 13 and 15 years of age; carnal knowledge of a juvenile under the purview of the Juvenile and Domestic Relations District Court, or juvenile committed to the custody of the State Department of Juvenile Justice; actual or attempted forcible sodomy or object sexual penetration; aggravated sexual battery; attempted sexual battery; taking or detaining a person or consenting to the taking of a person for prostitution or unlawful sexual intercourse; crimes against nature; incest; abuse and neglect of incapacitated adults; taking indecent liberties with children; abuse and neglect of children; indecent liberties by a person in a custodial or supervisory relationship; and production, publication, sale, possession with intent to distribute, financing, etc. of sexually explicit items.

"Sworn statement or affirmation" means a statement completed by a person attesting to whether he has ever been (i) convicted of or the subject of pending charges of any crime within or outside the Commonwealth or an equivalent offense outside the Commonwealth or (ii) the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth. Additionally for family day homes, the provider affirms if he, or any person known to the provider who resides in the home, has a sex offense conviction or is the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth. Any person making a false statement regarding any such offense shall be guilty of a Class 1 misdemeanor pursuant to §§ 63.2-1720 and 63.2-1721 of the Code of Virginia.

"22 VAC" means Chapter 22 of the Virginia Administrative Code. This is the social services chapter.

"Visit" means a stay or sojourn as a guest for no longer than 30 calendar days.

"Volunteer" means a person who provides services without pay and who is alone with a child or children in performance of his duties.

22 VAC 40-191-20. Describing background checks.

A. The background checks covered by this regulation are:

1. Sworn statement or affirmation;
2. Criminal history record check; ~~and~~
3. *National criminal background check; and*
- ~~4.~~ 4. Central registry search.

B. The provisions for background checks are in §§ 63.2-1704, 63.2-1720, 63.2-1721, 63.2-1722, 63.2-1724, and 63.2-1727 of the Code of Virginia.

C. Provisions for enforcement of background check regulations and other licensing, registration, and approval standards are in Chapter 17 (§ 63.2-1700 et seq.) of Title 63.2 of the Code of Virginia.

~~B.~~ D. The sworn statement or affirmation is a written document in which a person must disclose any criminal conviction and any pending criminal charges within or outside Virginia.

Final Regulations

1. For the purposes of this regulation, conviction includes any juvenile conviction or determination of delinquency if the offense involved would be a felony if committed by an adult within or outside Virginia.

2. The person must also disclose any instance of being the subject of a founded complaint of child abuse or neglect within or outside Virginia.

3. The person must use either the model form prepared by the department or use a self-created form that includes all of the information that appears on the model form.

The department provides the model sworn statement or affirmation form on its website. Requesters are permitted to submit copies of the form. The person who signs the sworn statement or affirmation affirms the truth of the statement.

G. E. The criminal history record check is the process of the Department of State Police to generate a criminal record report on a person. The report must be either the criminal record clearance or the criminal history record. The criminal record clearance shows whether the person is guilty of:

1. A barrier crime, as defined in § 63.2-1719 of the Code of Virginia; and/or
2. Any other felony not included in the definition of barrier crime unless five years have elapsed since the conviction.

The criminal history record report shows all convictions.

F. The person must use the form and process of the Central Criminal Records Exchange (CCRE) of the Department of State Police for this check. The Department of State Police provides original criminal history record check forms to facilities upon receipt of request. The Department of State Police also provides website access to this form for facilities that are noncriminal justice inquiry interface users. The CCRE verifies criminal history record reports.

G. *The national criminal background check is the process of obtaining criminal history record information from the Federal Bureau of Investigation through the Central Criminal Records Exchange.*

1. *The person must submit to fingerprinting and provide personal descriptive information.*
2. *The person must use the process of the Central Criminal Records Exchange to request and receive a national criminal background check.*

D. H. The search of the central registry is a check to determine if the person has ever been the subject of a founded complaint of child abuse or neglect in Virginia.

I. The person must use the form and process of the Child Protective Services (CPS) Unit of the department. The department provides the central registry request form on its website. Requesters are permitted to submit copies of this form. The CPS Unit verifies child protective services central registry check findings.

The department and registering and approval agencies provide copies of all forms in application packets.

22 VAC 40-191-40. Identifying who is covered by this regulation.

A. This regulation applies to:

1. Licensed family day homes;
2. Licensed family day systems;
3. Family day homes approved by family day systems;
4. Licensed child-placing agencies;
5. Licensed independent foster homes;
6. Foster and adoptive homes approved by child-placing agencies;
7. Voluntarily registered family day homes; and
8. Religious exempt child day centers.

B. Background checks are required at the time of initial application.

1. These background checks are required at the time of application for licensure, registration, or approval:

Who	What	When
a. Any applicant	Sworn statement or affirmation, search of central registry, and criminal history record check	Upon application for licensure or registration as a child welfare agency
b. Any agent at the time of application who is or will be involved in the day-to-day operations of the child welfare agency or who is or will be alone with, in control of, or supervising one or more of the children	Same	Same
c. Any other adult living in the home of an applicant for licensure or registration as a family day home, or any existing employee or volunteer	Same	Upon application for licensure or registration as a family day home
d. Prospective foster or adoptive parent	Same Sworn statement or affirmation, search of central registry, criminal history record check, and national criminal background check	Upon request for approval by child-placing agency
e. Birth parent of a child in a foster care placement	Sworn statement or affirmation, search of central registry, criminal history record check, and national criminal background check	Prior to placement of a child with birth parent
f. Operator of family day home requesting approval by family day system	Same Sworn statement or affirmation, search of central registry, and criminal history record check	Upon request for approval by family day system
g. Any other adult residing in the family day home requesting approval and any employee or volunteer of a family day home	Same	Upon request by operator for approval by family day system

Specific information related to persons aged 14 to 18 is found in subdivisions C 4 and 5 of this section.

h. Exception: In emergency circumstances involving subdivisions 1 d and 1 e of this subsection, a child-placing agency may place a child after receipt of a sworn statement or affirmation, search of the central registry, and criminal history record report.

(1) Within three days of placing a child, a child-placing agency must require the individual for whom a criminal history record check was requested to submit to fingerprinting and provide the personal descriptive information necessary to obtain a national criminal background check.

(2) The child must be removed from the home immediately if any adult resident fails to provide fingerprints and permission to perform a national criminal history record check when requested.

2. These background checks are required at the time of initial application for religious exemption status:

Who	What	When
Any person who will be expected to be alone with one or more children enrolled in a religious exempt child day center except a parent-volunteer, as defined in this regulation, or a parent or guardian who may be left alone with his or her own child	Documentary evidence of sworn statement or affirmation, search of the central registry, and criminal history record check	With the written request for religious exemption status

3. ~~These background checks are required prior to the placement of a child who is in a foster care placement with the child's birth parent.~~

Who	What	When
Birth parent of a child in a foster care placement	Sworn statement or affirmation, search of central registry, criminal history record check	Prior to placement of a child with birth parent

C. Background checks are required after the initial licensure, registration, approval, or receipt of religious exemption status.

1. These background checks are required after initial licensure, registration, or approval:

Who	What	When
a. New person designated as applicant, licensee, registrant, approved individual, or agent who is or will be involved in the day-to-day operations of the facility or who is or will be alone with, in control of, or supervising one or more of the children	Sworn statement or affirmation	Whenever an applicant, licensee, approved individual, or registrant changes
	Search of central registry and criminal history record check	Before the end of 30 days after the change

b. Any employee of a licensed, registered, and approved facility who is involved in the day-to-day operations or who is alone with, in control of, or supervising one or more children	Sworn statement or affirmation	Prior to first day of employment at the facility
	Search of central registry and criminal history record check	Before 30 days of employment at the facility ends
c. Any applicant, licensee, approved individual, agent, employee, volunteer, and person living in the home who is required to have background checks	Sworn statement or affirmation, search of central registry and criminal history record check	Before three years since the dates of the last sworn statement or affirmation, most recent central registry finding and most recent criminal history record check report
d. Voluntary registration provider, provider assistant, substitute provider, if any, and any adult residing in the home	Sworn statement or affirmation, search of central registry and criminal history record check	90 days before the date of application for renewal of the current certificate of registration (The application for renewal must be received by the contracting organization no later than 45 days before the expiration of the current certificate of registration.)
e. Volunteer at licensed, registered, or approved facility who will be alone with any child in the performance of duties, excluding a parent-volunteer for children attending a licensed, registered, or approved program	Sworn statement or affirmation	Prior to first day of service at the facility
	Search of central registry and criminal history record check	Before 30 days of service at the facility elapses
f. Foster parent or other adult member of the household	Search of central registry	If child-placing agency staff believe it is necessary
g. All adult household members residing in the home of the individual with whom the child is to be placed	National criminal background check	If child-placing agency staff believe it is necessary

h. A person whose most recent background checks were before 1990 must request new checks by the end of December 2004. A person whose most recent background checks were from 1991 through 1995 must request new checks by the end of December 2005. A person whose most recent background checks were from 1996 to the present must request new checks by the end of December 2006, or before five years since the dates of the last sworn statement or affirmation, most recent central registry finding and most recent criminal history record check report, whichever is the shorter period of time.

2. These background checks are required after receipt of the initial religious exemption status letter.

Annually, prior to the expiration date in the current exemption letter, the religious exempt child day center must file with the department documentary evidence that the center is in compliance with the following:

Who	What	When
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Final Regulations

Prospective employee, volunteer, or any other person who is expected to be alone with one or more children enrolled in the religious exempt child day center except a parent-volunteer, or a parent or guardian who may be left alone with his or her own child	Sworn statement or affirmation	Before employment or commencement of service at the facility
	Search of central registry and criminal history record clearance check, as requested by the individual	Within 30 days of employment or commencement of service

3. Background checks are required for independent contract employees and employees hired by a contract agency.

If a licensed, registered, or approved facility uses independent contract employees or contract employees hired by a contract agency who will be involved in the day-to-day operations of the facility or who will be alone with, in control of, or supervising one or more children, the facility must:

- a. Obtain background checks according to the above requirements for employees, or view the original required background checks maintained by the contract employee or contract agency;
- b. Accept all satisfactory background checks dated less than six months before independent contract employees or contract employees hired by contract agencies begin providing services at facilities;
- c. Make copies, and keep them at the licensed, registered, or approved facilities. Staff must write on the copies of the criminal record reports that they are photocopies of originals that facility staff verified; and
- d. Provide a sworn statement or affirmation, search of central registry and criminal history record check before three years since the dates of the last sworn statement or affirmation, most recent central registry finding and most recent criminal history record check report.

4. A person 18 years of age and older must have background checks:

Who	What	When
Person living in: The home of an applicant*, The home of a licensed or registered family day home provider, A foster home approved by a licensed child-placing agency, An independent foster home, or An adoptive home approved by a licensed child-placing agency, until the adoption is final	Sworn statement or affirmation	When person age 18 years or older begins residing in the home or when a person in the home becomes 18 years old
	Search of central registry and criminal history record check, as requested by the individual	Within 30 days of an 18-year-old beginning to reside in the home or a person in the home becoming 18 years old

* Note: This does not apply to applicants for family day systems, licensed child-placing agencies, and religious exempt child day centers.

5. A person 14 years of age and older must have a search of the central registry and make the information available for regulatory purposes:

Who	What	When
a. Person living in: An applicant's home, Home of a licensed or registered family day home provider, A foster home approved by a licensed child-placing agency, An independent foster home, or An adoptive home approved by a licensed child-placing agency, until the adoption is final	Child protective services central registry check	Within 30 days of a 14-year-old beginning to reside in the home or a person in the home becoming 14 years old

b. Exception: A person 14 years of age to 18 years of age who is placed in a foster home by a child-placing agency is not required to have a search of the central registry.

6. A facility must not accept a required criminal history record report or a central registry finding from an applicant, licensee, registrant, or other person required to obtain background checks that is dated more than 90 days prior to the date of employment, volunteering, residing in the home, or approving a family day home or foster or adoptive home.

7. Exception: See provisions for contracting agencies at subdivision C 3 of this section.

7. 8. The department must not accept a required criminal history record report or a central registry finding from an applicant, licensee, registrant, or person who signs the statement of intent to operate a religious exempt center that is dated more than 90 days prior to date of licensure, registration, approval or exemption, or from the date when the person designated as the applicant or licensee changes.

8. 9. The background checks remain valid at the facility if no more than 12 consecutive months have passed from when a person (i) began a leave of absence from that facility; (ii) was terminated from employment at that facility; or (iii) was transferred to a facility owned and operated by the same employer or entity, unless there is a criminal conviction or a founded complaint of child abuse and neglect during that period.

22 VAC 40-191-50. Explaining requirements for satisfactory background checks.

A. The department and registering and approving authorities must require documentation of satisfactory background checks for applicants, agents, employees, volunteers, and others living in family day homes as specified in 22 VAC 40-191-40.

1. A satisfactory sworn statement or affirmation is:
 - a. A fully completed original that states that the person:
 - (1) Does not have a criminal conviction that is a barrier crime or is any felony conviction within the last five years; and
 - (2) Is not the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth; and
 - b. When there is no other knowledge that the individual has an unsatisfactory background.

Criminal convictions include prior adult convictions and juvenile convictions or adjudications of delinquency based on a crime that would be a felony if committed by an adult within or outside the Commonwealth. Convictions also include convictions in other states that are equivalent to those specified in this section.

2. A satisfactory central registry finding is one in which:
 - a. A copy of the department's child protective services check form is returned to the requesting agency or state or local Department of Social Services indicating that, as of the date on the reply, the individual whose name was searched is not identified in the Central Registry of Founded Child Abuse/Neglect Investigations as an involved caregiver with a founded disposition of child abuse/neglect; and
 - b. There is no other knowledge that the individual has a founded disposition in Virginia or elsewhere.
3. A satisfactory criminal history record check report is one in which:
 - a. An original hard copy or Internet inquiry reply from the Department of State Police is returned to the agency, individual or authorized agent making the request with:
 - (1) No convictions indicated; or
 - (2) Convictions indicated, but no barrier crimes or other felony convictions in the last five years; and
 - b. There is no other knowledge that the individual has a barrier crime, or other felony conviction in the past five years, in Virginia or elsewhere.

The facility must have viewed an original criminal history record report maintained by a contract employee or contract agency that is dated less than six months before the independent contract employee or contract employee is hired by a contract agency begins providing services at the facility. (See also 22 VAC 40-191-90.)

4. A child-placing agency may approve as an adoptive or foster parent an applicant convicted of not more than one misdemeanor of assault and battery, as defined in § 18.2-57 of the Code of Virginia, not involving abuse, neglect or moral turpitude, or a minor, provided 10 years have elapsed following the conviction.
5. A child-placing agency may approve as a foster parent an applicant convicted of statutory burglary for breaking and

entering a dwelling home or other structure with intent to commit larceny who has had his civil rights restored by the Governor, provided 25 years have elapsed following the conviction.

6. A child-placing agency must consider the results of background checks on a birth parent to placing the child of the birth parent with the birth parent, when the child is in a foster care placement.

7. No petition for adoption shall be granted if an adoptive parent has been convicted of a sexually violent offense or an offense requiring registration pursuant to § 9.1-902 of the Code of Virginia.

8. A child-placing agency may approve as an adoptive or foster parent an applicant convicted of felony possession of drugs, who has had his civil rights restored by the Governor, provided 10 years have elapsed following the conviction.

B. Background checks results are not open ended.

1. When a minor living in a family day home turns 18, the operator is responsible for making sure that the 18-year-old complies with all background check requirements for adults. (22 VAC 40-191-40 C 4)

2. Operators must submit new background checks as part of the renewal application packages of registered family day homes. With the exception of those facilities that are exempt per § 63.2-1716 of the Code of Virginia, background checks are required every three years for all other persons required to have background checks. (See 22 VAC 40-191-40 C.)

3. If a person leaves a facility and the criminal history record report or central registry check finding is less than 91 days old, the person must be permitted to take the report or reports with him. The facility must keep a copy of any report a person takes and write on it that it is a copy, and that the original of any criminal history record report was verified.

4. Unless there is a criminal conviction or a founded complaint of child abuse and neglect during that period, a background check remains valid at a facility if no more than 12 consecutive months have passed from when a person:

- a. Began a leave of absence from that facility;
- b. Was terminated from employment at that facility; or
- c. Was transferred to a center owned and operated by the same employer or entity.

5. The facility, department, or registering or approving authority may require a new background check relevant to this suspicion if there is reason to suspect that a person who has submitted acceptable background checks, as required by this regulation, has:

- a. A barrier crime conviction in Virginia or elsewhere;
- b. A felony conviction that is not for a barrier crime within the last five years in Virginia or elsewhere; or
- c. A founded complaint of child abuse and neglect in Virginia or elsewhere.

Final Regulations

6. When the facility, department, or registering or approving authority chooses to require a new background check:

a. The facility, department, or registering or approving authority may allow the person to continue the same relationship with the child welfare agency until the child care provider or licensing, registering, or approval authority receives the new Virginia background check information or equivalent documentation from another state; or

b. If there is reason to suspect that a person has a barrier crime conviction, a felony conviction in the last five years, or has a founded complaint of child abuse and neglect, the facility, department, or registering or approving authority may require that the person not be alone with children, even if the documentation is not Virginia background check information or equivalent information from another state.

C. With the exception of those facilities that are exempt per § 63.2-1716 of the Code of Virginia, waivers of some criminal convictions are possible. Refer to 22 VAC 40-191-90 through 22 VAC 40-191-130 for an explanation of the waiver.

22 VAC 40-191-60. Explaining consequences of unsatisfactory background checks results.

A. Applicants are denied licensure, registration or approval when there are unsatisfactory background checks results for:

1. Applicants as a child welfare agency;
2. Agents at the time of application who are or will be involved in the day-to-day operations of the child welfare agency or who are or will be alone with, in control of, or supervising one or more of the children;
3. Any other adult, or any child aged 14 or older, living in the home of an applicant for licensure or registration as a family day home with an unsatisfactory central registry finding;
4. Any other adult, or any child aged 14 or older, living in a foster home, or in the home of adoptive parents, until the adoption is final with an unsatisfactory central registry finding;
5. Prospective foster or adoptive parents approved by child-placing agencies; and
6. Prospective family day home operators and family members seeking approval by family day systems.

B. An employee or volunteer of a licensed or registered child welfare agency or of a family day home approved by a family day system must not be employed or provide volunteer service until the agency or home has the person's completed sworn statement or affirmation.

C. An employee or volunteer of a licensed or registered child welfare agency, or of a family day home approved by a family day system, must be denied continued employment or volunteer service if:

1. The licensed or registered child welfare agency or family day system does not have an original criminal history record report within 30 days of employment or volunteer service; or

2. The licensed or registered child welfare agency or family day system does not have a central registry finding within 30 days of employment or volunteer service.

D. No violation will occur and an employee may continue to work, provide service, or live in a licensed, registered, or approved family day home if the facility has documentation that the criminal history record request, or the request for search of the central registry, was submitted within seven calendar days of the person being employed or volunteering, but the report is not returned within 30 calendar days.

1. If a requested report was sent within seven calendar days but was not returned within 30 calendar days, the requester must contact within four working days:

~~1-~~ a. The Central Criminal Records Exchange of the Department of State Police; or

~~2-~~ b. The Child Protective Services Unit of the department.

2. If the request was not received, the requestor must submit another request within five working days after the contact.

3. This provision also applies to someone beginning to live in a family day home after licensure, registration or approval is given or a child who becomes 18 years of age. It also applies to a child protective services central registry check for a person who becomes 14 years of age.

E. If the department or a local agency becomes aware that a person covered by this regulation has a disqualifying background, the department or local agency may release this information to facilities that are covered by this regulation. Those facilities must not further disseminate this information.

This provision also applies to a new adult beginning to live in a family day home or a child living in a family day home who becomes 18 years of age after licensure, registration or approval is given. It also applies to a child protective services central registry clearance for a person who becomes 14 years of age.

F. Licensed, registered, or approved facilities must inform compensated employees and volunteers that the facilities are requesting child protective services registry checks and criminal history record reports for them.

G. A facility may choose to request a national criminal background check, instead of the criminal history record check, for employees and volunteers.

1. The facility must adhere to Department of State Police requirements for obtaining fingerprints, in accordance with § 19.2-392.02 of the Code of Virginia.

2. The department, family day system, and child-placing agency will accept a national criminal background check result of "qualified" from the Department of State Police.

3. If the screening result is "disqualified," the facility must obtain a satisfactory criminal history record check from the Central Criminal Record Exchange for the person if:

~~4-~~ a. The facility wishes to employ the person or approve the person as a volunteer; or

~~2-~~ b. The entity wishes the department to issue a license or registration; or

~~3-~~ c. The facility wishes a family day system or child-placing agency to issue an approval.

H. The facility may also require a background check from another state per the provisions in subdivision B 5 of 22 VAC 40-191-50.

I. A facility that does not comply with this regulation may have its licensure, registration, approval, or religious exempt status revoked or denied.

J. If a facility has knowledge that a person required to have a background check has an offense, and this person has neither a waiver nor an exception per 22 VAC 40-191-50 A, and the facility refuses to separate the person from employment, service, or residence in a family day home, then licensure, registration, or approval must be revoked or denied.

22 VAC 40-191-70. Keeping background check records.

A. A facility must keep background check records at the location where the person is an applicant, agent, employee, contract employee, volunteer, other adult in the home, or is any other adult who is involved in the day-to-day operations of the facility or who is alone with, in control of, or supervising one or more children.

1. If a facility is among two or more owned by the same entity, the background check reports and findings may be kept at corporate headquarters or at the facility and must be made available to the department representative upon request.

2. If a facility is not the primary work place for a person, the facility may keep copies on site, if there is:

a. Documentation of the place where original background check records are kept; and

b. Copies of the sworn disclosure statement or affirmation, criminal history record report with a statement that the facility designee has viewed and verified the original, and the child protective services central registry check form must be kept on site.

B. Contracting organizations and voluntarily registered family day homes certified eligible for registration by contracting organizations must keep background check records.

1. The contracting organization must keep:

a. The original criminal history record report and sworn statement or affirmation for the voluntarily registered provider;

b. The original or a copy of the central registry findings; and

c. A copy of the criminal history record report and central registry findings for all provider assistants, substitute providers, and central registry findings for persons aged 14 and older residing in the home.

2. The voluntarily registered family day home provider must keep:

a. The original criminal history record report and sworn statement of affirmation for any provider assistant, substitute provider, and any adult residing in the home; and

b. The original or a copy of the central registry finding for any provider assistant, substitute provider or any person aged 14 and older residing in the home; and

c. Copies of the provider's own background check records.

C. Family day systems and family day homes approved by family day systems must keep background check records. The requestor identified on the form must keep the original criminal history record check result and the original or copy of the child protective services central registry finding, and the other party keeps copies. The family day system must keep the original sworn disclosure statement or affirmation.

D. A voluntarily registered family day home must keep all background check information for two years after a person required to provide background check terminates his duties with a facility or no longer resides in the home. All other facilities must keep all background check information for one year after a person required to provide background checks terminates his duties with a facility or no longer resides in the home.

E. The sworn statement or affirmation, criminal history record report, and central registry finding must be kept in locked files.

F. Applicants and agents, and their designees, are the only facility staff who may have access to these documents. The board president must have access to these documents.

~~F.~~ G. If a person is denied licensure, registration, or approval, or is denied employment or volunteer service because of information on a sworn statement or affirmation, a central registry finding, or criminal history record report, the facility must provide a copy of the ~~documentation~~ *information obtained from the central registry or the Central Criminal Records Exchange or both* to the person.

H. A facility must also release a copy of the information *obtained from the central registry or the Central Criminal Records Exchange or both* when the subject of the information requests it.

I. Further dissemination of the background check information is prohibited other than to the commissioner's representative or a federal or state authority or court in order to comply with an express requirement in the law for that dissemination. (See the provisions at 22 VAC 40-191-60 E.)

22 VAC 40-191-90. Identifying who may apply for a waiver.

A. Any person who wants to operate or to volunteer or work at a facility covered by this regulation, with the exception of those facilities that are exempt per § 63.2-1716 of the Code of Virginia, but who is disqualified because of a criminal conviction, or a criminal conviction in the background check of any other adult living in a family day home governed by this regulation, may apply in writing to the commissioner of the department for a waiver.

Final Regulations

B. The requirements found in 22 VAC 40-191-100 through 22 VAC 40-191-150 also apply to licensed child day care centers.

~~B-~~ C. A person may apply for a waiver if:

1. A nonbarrier crime felony conviction occurred less than five years previously; or
2. Any other adult living in the home of a family day home applicant or provider has been convicted of not more than one misdemeanor offense of assault and battery or assault and battery against a family or household member. (See §§ 18.2-57 and 18.2-57.2 of the Code of Virginia.) The other adult must not be an assistant or substitute provider. See 22 VAC 40-191-50 A for an exception that applies to prospective adoptive parents.

~~C-~~ D. Except as provided in 22 VAC 40-191-50 A, no person guilty of a barrier crime may operate or volunteer or work at a licensed child care center or facility governed by this regulation.

22 VAC 40-191-100. Explaining waiver application requirements.

A. The person requests a waiver application package from the licensing office that serves the area where the person with the disqualifying background check lives or wants to operate or volunteer or work at a facility covered by this regulation. The person sends the completed application and a waiver application fee made out to "Treasurer of Virginia" to the licensing office. The commissioner establishes the fee. It is identified in the application package.

B. Exception: A person wishing to operate a voluntarily registered family day home requests a waiver application from either the contracting organization or the voluntary registration consultant in the Division of Licensing Programs of the department. The person sends the completed application and application fee to the voluntary registration consultant in the Division of Licensing Programs.

C. The commissioner acknowledges, in writing, receipt of the application and notifies the requester and the sponsor whether the request appears to be complete.

22 VAC 40-191-120. Describing the waiver evaluation criteria.

A. The commissioner may delegate all aspects of processing and evaluating waiver requests, provided that responsibility for making the final decision may not be delegated below the level of a division director.

B. The final decision is based on the following:

1. The content of the waiver application package;
2. The nature of the conviction or convictions and relevance to decision criteria;
3. The extent and pattern of criminal history or child abuse and neglect, including the person's age when the act occurred and how long ago the act occurred; and
4. In the case of prospective foster parents for a licensed child-placing agency, a review of the criminal record requirements of the Safe Families and Adoption Act of 1997

(42 USC § 1305) to determine if this federal law would permit a waiver.

~~C-~~ C. The applicant may be required to provide additional information that is reasonable and necessary to evaluate the application.

~~C-~~ D. The commissioner may interview the applicant or other persons sufficient to verify and evaluate the information in the application package.

~~D-~~ E. The commissioner may grant a waiver if the commissioner determines that:

1. The person is now of good moral character and reputation; and
2. The waiver would not adversely affect the safety and well-being of children in the person's care.

~~E-~~ F. The commissioner will consider a waiver application abandoned, and close the file, when:

1. More than 60 days have passed since the commissioner advised the requester and the sponsoring agency that the waiver application was incomplete, or since the commissioner requested additional information that was reasonably necessary to evaluate the application; and
2. The commissioner informs the requester by certified mail that the waiver application would be considered abandoned unless the requester provides the requested information within 15 days.

~~F-~~ G. Waiver decisions are not appealable.

22 VAC 40-191-130. Describing the waiver decision notification process.

A. The commissioner notifies the requester, or other adult if applicable, and the sponsor of his approval or denial in writing by certified mail.

B. Any approved waiver is for a specific person and a specific facility and must include:

1. Name of individual;
2. Name of facility;
3. Effective dates;
4. Terms, conditions, and stipulations, if any;
5. Criminal conviction for which the waiver was granted;
6. Date of criminal conviction;
7. Relevant court and location;
8. Sentence served; and
9. Signature of commissioner, or designee, and date.

22 VAC 40-191-150. Explaining the waiver public notification requirements.

A. Notification about waivers is conducted in accordance with agency policy.

B. The facility must post in a conspicuous place on the premises any waiver granted by the department.

C. The facility must notify in writing every parent and guardian of the children in its care of any waiver granted for its operators, employees, volunteers, or adult family members living in the home. This notification includes parents and guardians whose child is placed with a foster parent or whose child is to be placed with an adoptive family. This notification also includes parents and guardians who, in the future, enroll children.

~~C. Any facility whose operator's, staff's or volunteer's disqualification has been waived by the commissioner must post a copy of the waiver in a conspicuous place on the premises. In addition, any family day home with an adult who has had a disqualification waived by the commissioner must post a copy of the waiver in a conspicuous place on the premises.~~

VA.R. Doc. No. R06-268; Filed June 16, 2006, 8:30 a.m.



FAST-TRACK REGULATIONS

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

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF ACCOUNTANCY

Title of Regulation: 18 VAC 5-21. Board of Accountancy Regulations (amending 18 VAC 5-21-20).

Statutory Authority: § 54.1-4402 and 54.1-4403 of the Code of Virginia.

Public Hearing Date: N/A -- Public comments may be submitted until September 8, 2006.

(See Calendar of Events section for additional information)

Effective Date: September 23, 2006.

Agency Contact: Nancy Taylor Feldman, Executive Director, Board of Accountancy, 3600 West Broad Street, Suite 378, Richmond, VA 23230, telephone (804) 367-8505, FAX (804) 367-2174, or e-mail boa@boa.virginia.gov.

Basis: Section 54.1-4409 of the Code of Virginia states that the board "shall issue a CPA certificate only to a person who meets the character, education, experience, continuing professional education (CPE), and CPA exam requirements established in this chapter and by regulations of the Board." Before an applicant for a CPA certificate may sit for the CPA exam, that applicant must meet the prescribed education requirement in the statutes and regulations of the board.

Further, § 54.1-4403 of the Code of Virginia states that the board shall have the power and duty to (i) establish the "qualifications of applicants for licensure, provided that all qualifications shall be necessary to ensure competence and integrity;" (ii) examine the "qualifications of each applicant for licensure, including the preparation, administration and grading of examinations;" (iii) promulgate regulations "in accordance with the Administrative Process Act ... necessary to assure continued competency, ... and to effectively administer the regulatory system;" and (iv) levy and collect fees for licensure that are "sufficient to cover all expenses for the administration and operation of the Board."

Purpose: On July 26, 2005, the Board of Accountancy unanimously approved to take over the administration of the computer-based CPA examination, or (CBT), from the current vendor, CPA Examination Services Inc. (CPAES), to more efficiently and effectively administer the CBT for its Virginia candidates and to provide direct savings to Virginia candidates.

Currently, Virginia exam candidates pay an examination administration fee of \$160 to CPAES for their initial exam application (this fee will be decreased to \$120 under this proposal), and they pay an examination administration fee ranging from \$60 to \$105 to CPAES to retake the CBT (this fee will be repealed entirely under this proposal). In the first

year of the CBT (April 2004 to April 2005), CPAES collected a total of \$591,210 from Virginia exam candidates. This included fees from initial examination candidates (which totaled \$256,770) and from reexamination candidates (which totaled \$334,440).

With this proposal, the board will decrease the examination administration fee charged to initial exam candidates from \$160 to \$120 and repeal entirely the examination administration fee charged to reexam candidates. So, using the same figures from the first year of the CBT, the total real savings passed directly to Virginia exam candidates under the board's proposal would have been \$362,970 over the same period.

Substance: The changes to 18 VAC 5-21-20 (i) amend the "Initial CPA exam application fee" to "Examination administration fee" and the fee itself from \$25 to \$120 (this proposal decreases the examination administration fee from \$160 to \$120), (ii) clarify that the examination administration fee will be assessed only for Virginia candidates initially applying to the CBT and not for retaking the CBT, and (iii) provide that board contract for examination administration services in the future, such contracts "shall not include a fee for those services that exceeds \$200."

Issues: The primary advantage to the public is to decrease the cost of the examination administration fee for those Virginia candidates taking the CBT. The primary advantages to the board is that it will be able to more effectively and efficiently administer the CBT, applicants for a CPA license in Virginia will be able to take the CBT, and the board will have sufficient funds to cover its operating expenses.

There are no disadvantages to the public or the Commonwealth.

Rationale for Using Fast-Track Process: The Board of Accountancy is promulgating this regulation using the fast-track process to decrease the examination administration fee charged to Virginia candidates who take the CBT for the first time from \$160 to \$120 and to repeal entirely the fee charged to Virginia candidates who retake the CBT. By taking over the administration of the CBT from its current vendor, CPA Examination Services Inc. (CPAES), the board will more efficiently and effectively administer the CBT for its candidates; the net effect is to provide direct savings to Virginia candidates.

By using the figures supplied by CPAES from the first year of the CBT (April 2004 to April 2005), the board's proposal, by decreasing the examination administration fee charged to initial exam candidates from \$160 to \$120 and repealing entirely the fee charged to reexam candidates, the total real savings passed directly to Virginia exam candidates would have been \$362,970 over the same period.

Department of Planning and Budget's Economic Impact Analysis:

Summary of the proposed regulation. The Board of Accountancy (board) proposes to amend its regulations in light of the fact that the board, rather than a vendor, will be verifying candidate qualifications before they are allowed to take the computer-based CPA examination (CBT). The board proposes to decrease costs for candidates by charging a \$120 administrative fee when candidates first take a CBT. Candidates will pay no administrative fee when retaking a CBT.

Result of analysis. The benefits likely exceed the costs for this proposed regulatory change.

Estimated economic impact. Current regulation requires candidates for a Certified Public Accountant (CPA) exam to pay an administrative fee to a company contracted by the board to check candidate credentials and ensure that only individuals who have completed all prerequisites are approved to take an exam. CPA Examination Services Inc. (CPAES) currently holds this contract. CPAES charges candidates \$160 to check their credentials the first time they take an exam and between \$60 and \$105 for any exam retakes. Since less than 20% of candidates pass the CPA exam the first time they take it, more than 80% have had to pay the administrative costs associated with retaking exams. The board reports that, between April 2004 and April 2005, CPAES received \$256,770 from initial candidates for the CBT and \$334,440 from candidates seeking to retake the CBT.

The board proposes to change regulatory fees so that the board can take on the responsibility of checking candidate credentials. The board proposes to replace its initial examination application fee of \$25 with an examination administration fee of \$120 for first time CBT candidates. First time candidates for examination will pay \$65 less once the proposed regulation is promulgated.

The board also proposes to completely eliminate the administrative fees for credential checking that CPAES currently charges candidates seeking to retake the CBT. These candidates have already been deemed qualified to take the CBT so rechecking their credentials is unnecessary and will be eliminated. Although they will still be subject to other testing costs, this regulatory change will save candidates between \$60 and \$105 each time they retake the CBT.

Assuming other factors hold constant, the proposed regulation will reduce examination costs for Virginia's CBT candidates by more than \$360,000 annually. CBT candidates will undoubtedly benefit from this regulatory change. To the extent that this change encourages candidates to persevere through the process of becoming CPAs, the general public may also benefit from having a larger pool of CPA services at their disposal.

Businesses and entities affected. The proposed regulation will affect all individuals seeking to take the CBT in the Commonwealth. The board reports that approximately 3,000 candidates take this exam annually.

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

Projected impact on employment. The cost savings that will accrue for candidates because of the proposed regulation may encourage some candidates to take, or retake, the CBT where before they would have chosen not to. This may increase the total pool of CPAs doing business in the Commonwealth. This effect is likely to be small, however, given that the amount saved on administrative fees is small when compared to the total costs associated with becoming a CPA.

Effects on the use and value of private property. This regulation is unlikely to have any effect on the use or value of private property in the Commonwealth.

Small businesses: costs and other effects. The proposed regulation lowers costs for the regulated community.

Small businesses: alternative method that minimizes adverse impact. The proposed regulation lowers costs for the regulated community.

Legal mandate. 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. Further, if the proposed regulation has an adverse effect on small businesses, § 2.2-4007 H requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The Board of Accountancy (board) is in agreement with the economic impact analysis (EIA) prepared by the Department of Planning and Budget (DPB).

Virginia exam candidates currently pay an examination administration fee of \$160 to the CPA Examination Services Inc. (CPAES) for their initial exam application (this fee will be decreased to \$120 under the board's proposal), and the candidates pay an examination administration fee ranging from \$60 to \$105 to CPAES to retake the computer-based CPA examination, or "CBT" (the retake fees will be repealed entirely under the board's proposal). The work by the board staff occurs during the initial application phase when

Fast-Track Regulations

examination eligibility is determined. There is little staff work involved for candidates to sign up to retake one or more parts.

In the first year of the CBT (April 2004 to April 2005), CPAES collected a total of \$591,210 from Virginia exam candidates. This included fees from initial examination candidates (which totaled \$256,770) and from reexamination candidates (which totaled \$334,440).

With this proposal, the board will decrease the examination administration fee charged to initial exam candidates from \$160 to \$120 and repeal entirely the examination administration fee charged to reexam candidates. So, using the same figures from the first year of the CBT, the total real savings passed directly to Virginia exam candidates under the board's proposal would have been \$362,970 over the same period.

Summary:

The amendments (i) decrease the administration fee charged to Virginia candidates who take the computer-based CPA examination (CBT) for the first time from \$160 to \$120, (ii) repeal the fee charged to Virginia candidates who retake the CBT, and (iii) limit the examination administration fee to not exceed \$200 if the board contracts for these services.

EDITOR'S NOTE: Final amendments to 18 VAC 5-21-20 scheduled to become effective on August 9, 2006, are published in the Final Regulations Section of this issue of the Virginia Register and fast-track amendments are published below. Instead of gearing the fast-track amendments to the currently effective language, the fast-track amendments shown below are geared to the section as it will become effective in August.

18 VAC 5-21-20. Fees.

A. All fees are nonrefundable and the date of receipt by the board or its agent is the date that will be used to determine whether it is on time.

B. The following fees shall apply:

Initial CPA exam application Examination administration fee	\$25 \$120
Original CPA certificate application	\$24
CPA certificate by endorsement application	\$24
Registration certificate application	\$24
CPA certificate renewal	\$24
Registration certificate renewal	\$24
CPA certificate late renewal	\$25
Registration certificate late renewal	\$25
CPA certificate reinstatement	\$250
Registration certificate reinstatement	\$250
Noninteractive processing fee	\$5

If the renewal fee is not received by the board within 30 days after the expiration date printed on the CPA certificate or the registration certificate, the regulant shall pay the renewal and the late renewal fees. Regulants applying for reinstatement shall pay all unpaid renewal fees in addition to the late renewal and the reinstatement fees.

C. The late filing fee for CPA certificate holders who fail to complete or report their CPE as required by this chapter shall be:

1. If received by the board up to four months late, \$25.
2. If received by the board more than four months late but not more than six months late, \$50.
3. If received by the board more than six months late, \$75.

D. The fee for a replacement wall certificate shall be \$25.

E. A fee of \$25 will be charged in addition to the fees established in this section for submitting a check to the board which is dishonored by the institution upon which it is drawn.

F. A noninteractive processing fee will be assessed when the online payment option is not chosen by the applicant or regulant.

G. The fee for the ~~CPA exam~~ examination provided for in 18 VAC 5-21-30 C shall consist of the ~~CPA exam contract charges incurred by the board plus the initial CPA exam application administration fee~~ that will be assessed at the time of initial application for the ~~CPA exam~~ examination, but not for reexamination. ~~CPA exam service contracts shall be established through competitive negotiation in compliance with The board may contract for examination administration services under the provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq. of the Code of Virginia). The CPA exam fee, and that contract shall not exceed \$1,000 include a fee for those services that exceeds \$200.~~

VA.R. Doc. No. R06-271; Filed June 19, 2006, 2:55 p.m.

TITLE 22. SOCIAL SERVICES

STATE BOARD OF SOCIAL SERVICES

Title of Regulation: **22 VAC 40-330. Collection of Overpayments in the Refugee Other Assistance Program (repealing 22 VAC 40-330-10 through 22 VAC 40-330-30).**

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

Public Hearing Date: N/A -- Public comments may be submitted until September 8, 2006.

(See Calendar of Events section for additional information)

Effective Date: September 23, 2006.

Agency Contact: Penelope Boyd, Policy Coordinator, Virginia Refugee Resettlement Program, 7 North Eighth Street, Richmond, VA 23219-3301, telephone (804) 726-7933, FAX (804) 726-7127, or e-mail penny.boyd@dss.virginia.gov.

Basis: The Virginia Refugee Resettlement Program operates under (i) federal law created by § 414 of the 1980 Immigration and Naturalization Act and subsequent amendments; (ii) rules established by 45 CFR Part 400; and (iii) a federally-approved Refugee Resettlement State Plan. There are no state laws specifically governing the Virginia Refugee Resettlement

Program. The Governor designated the Virginia Department of Social Services to administer the Virginia Refugee Resettlement Program. The State Board of Social Services is authorized to promulgate this regulation under § 63.2-217 of the Code of Virginia.

Purpose: The action repeals 22 VAC 40-330. The regulation applies to a program that no longer exists.

Rationale for Using Fast Track Process: The action repeals a regulation pertaining to a program that no longer exists. It is anticipated that there will be no objection or controversy related to repealing the regulation; therefore, promulgation through the fast-track rulemaking process is appropriate.

Substance: The regulation is being repealed.

Issues: Repealing the regulation has no disadvantages to the public, agency or Commonwealth.

Department of Planning and Budget's Economic Impact Analysis.

Summary of the Proposed Regulation. The Board of Social Services proposes to repeal the regulation governing the collection of overpayments in the Refugee Other Assistance Program (22 VAC 40-330). The Refugee Other Assistance Program is obsolete terminology that was used by Virginia Department of Social Services (VDSS) for Refugee Cash and Medical Assistance programs. Currently the collection of overpayments from participants in the Refugee Cash and Medical Assistance programs is regulated by the Temporary Assistance for Needy Families (TANF) regulation (22 VAC 40-295).²

Results of Analysis. There are no costs or benefits related to the proposed action.

Estimated Economic Impact. As part of the Refugee Resettlement Program, the Refugee Cash and Medical Assistance Programs have been funded by the federal government since 1981. For reporting purposes, the terminology "Refugee Other Assistance Program" has been used by VDSS for these services. The state regulation dealing with the collection of overpayments in the Refugee Other Assistance program (22 VAC 40-330) was a subpart of the Aid to Families with Dependent Children (AFDC) regulation.

The passage of the Personal Responsibility and Work Opportunities Reconciliation Act in 1996 moved the AFDC federal match program to a TANF block grant program. This had an indirect effect on federal reporting requirements for Refugee Cash Assistance because federal rules require states to allocate costs, both direct and indirect, appropriately between the Refugee Resettlement Program and other programs that it administers. As a consequence, VDSS eliminated the single Refugee Other Assistance Program designation in 1999, and created the two separate designations for Refugee Cash Assistance Program (RCA) and Refugee Medical Assistance Program (RMA).

Rules governing AFDC have been consolidated into one TANF regulation (22 VAC 40-295), which covers the rules for

the collection of overpayments in the Refugee Cash and Medical Assistance Programs.³ However, 22 VAC 40-330 was amended and remains as the regulation governing the collection of overpayments in the Refugee Other Assistance Program. According to VDSS, the collection of overpayments for the Refugee Cash and Medical Assistance programs has been regulated by the TANF regulation. Therefore, VDSS proposes to repeal the obsolete regulations on the collection of overpayments in the Refugee Other Assistance Program (22 VAC 40-330). This proposed change is not expected to have any economic impact.

Businesses and Entities Affected. The proposed regulatory change will not affect any businesses or entities, since currently the collection of overpayments for the Refugee Cash and Medical Assistance programs is regulated by the TANF regulation.

Localities Particularly Affected. The proposed regulation is not expected to uniquely affect any particular localities.

Projected Impact on Employment. The proposed regulation is not expected to have any impact on employment in Virginia.

Effects on the Use and Value of Private Property. The proposed regulation is not expected to have any impact on the use and value of private property in Virginia.

The proposed regulatory change is not expected to have any impact on small businesses.

Small Businesses: Alternative Method that Minimizes Adverse Impact

The proposed regulatory change is not expected to have any impact on the small businesses.

Legal Mandate. The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 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. Further, if the proposed regulation has adverse effect on small businesses, Section 2.2-4007 H requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.

² The collection of overpayments in the Refugee Cash and Medical Assistance Programs is stated in 22 VAC 40-295-120.

³ Ibid.

Fast-Track Regulations

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

Summary:

This regulation is being repealed because it applies to a program that no longer exists under federal law. The Refugee Other Assistance Program was withdrawn from federal regulations in 1996.

The state regulation dealing with collection of overpayments made to refugees was a subpart of an AFDC (Aid to Families with Dependent Children) regulation. In 2004, AFDC regulations for the collection of overpayments were made part of a comprehensive Temporary Assistance for Needy Families regulation (22 VAC 40-295). All that remained of the original AFDC regulations was 22 VAC 40-330.

VA.R. Doc. No. R06-249; Filed June 16, 2006, 8:29 a.m.

Title of Regulation: **22 VAC 40-340. Protective Payments in the Refugee Other Assistance Program (repealing 22 VAC 40-340-10 and 22 VAC 40-340-20.)**

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

Public Hearing Date: N/A -- Public comments may be submitted until September 8, 2006.

(See Calendar of Events section for additional information)

Effective Date: September 23, 2006.

Agency Contact: Penelope Boyd, Policy Coordinator, Virginia Refugee Resettlement Program, 7 North Eighth Street, Richmond, VA 23219-3301, telephone (804) 726-7933, FAX (804) 726-7127, or e-mail penny.boyd@dss.virginia.gov.

Basis: The Virginia Refugee Resettlement Program operates under (i) federal law created by Section 414 of the 1980 Immigration and Naturalization Act and subsequent amendments; (ii) rules established by the Code of Federal Regulations, Part 400; and (iii) a federally approved Refugee Resettlement State Plan. There are no state laws specifically governing the Virginia Refugee Resettlement Program. The Governor designated the Virginia Department of Social Services to administer the Virginia Refugee Resettlement Program. The State Board of Social Services is authorized to promulgate this regulation under § 63.2-217 of the Code of Virginia.

Purpose: The action repeals 22 VAC 40-340. The regulation applies to a program that no longer exists.

Substance: The regulation is being repealed.

Issues: Repealing the regulation has no disadvantages to the public, agency or Commonwealth.

Rationale for Using Fast-Track Process: The action repeals a regulation pertaining to a program that no longer exists. It is anticipated that there will be no objection or controversy

related to repealing the regulation; therefore, promulgation through the fast-track rulemaking process is appropriate.

Department of Planning and Budget's Economic Impact Analysis:

Summary of the proposed regulation. The Board of Social Services proposes to repeal the regulation governing the Protective Payments in the Refugee Other Assistance Program (22 VAC 40-340). The Refugee Other Assistance Program is an obsolete terminology that was used by Virginia Department of Social Services (VDSS) for Refugee Cash and Medical Assistance Programs. Currently the protective payments in the Refugee Cash and Medical Assistance Programs are regulated by the Temporary Assistance for Needy Families (TANF) regulation (22 VAC 40-295).¹

Results of analysis. There are no costs or benefits related to the proposed action.

Estimated economic impact. As part of the Refugee Resettlement Program, the Refugee Cash and Medical Assistance Programs have been funded by the federal government since 1981. For reporting purposes, the terminology "Refugee Other Assistance Program" has been used by VDSS for these services. The state regulation dealing with protective payments of the Refugee Other Assistance Program (22 VAC 40-340) was a sub-part of the Aid to Families with Dependent Children (AFDC) regulation.

The passage of the Personal Responsibility and Work Opportunities Reconciliation Act in 1996 moved the AFDC federal match program to a TANF block grant program. This had an indirect effect on federal reporting requirements for Refugee Cash Assistance because federal rules require states to allocate costs, both direct and indirect, appropriately between the Refugee Resettlement Program and other programs which it administers. As a consequence, VDSS eliminated the single Refugee Other Assistance Program designation in 1999, and created the two separate designations for Refugee Cash Assistance Program (RCA) and Refugee Medical Assistance Program (RMA).

Rules governing AFDC have been consolidated into one TANF regulation (22 VAC 40-295), which covers the rules for the protective payments in the Refugee Cash and Medical Assistance Programs.² However, 22 VAC 40-340 was amended and remains as the regulation governing the protective payments in the Refugee Other Assistance Program. According to VDSS, the protective payments for the Refugee Cash and Medical Assistance programs have been regulated by the TANF regulation. Therefore, VDSS proposes to repeal the obsolete regulations on the protective payments in the Refugee Other Assistance Program (22 VAC 40-330). This proposed change is not expected to have any economic impact.

Businesses and entities affected. The proposed regulatory change will not affect any businesses or entities, since currently the protective payments for the Refugee Cash and

¹ The protective payments in the Refugee Cash and Medical Assistance Programs are stated in 22 VAC 40-295-130.

² Ibid.

Medical Assistance Programs is regulated by the TANF regulation.

Localities particularly affected. The proposed regulation is not expected to uniquely affect any particular localities.

Projected impact on employment. The proposed regulation is not expected to have any impact on employment in Virginia.

Effects on the use and value of private property. The proposed regulation is not expected to have any impact on the use and value of private property in Virginia.

Small businesses: costs and other effects. The proposed regulatory change is not expected to have any impact on small businesses.

Small businesses: alternative method that minimizes adverse impact. The proposed regulatory change is not expected to have any impact on the small businesses.

Legal Mandate. 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. Further, if the proposed regulation has an adverse effect on small businesses, § 2.2-4007 H requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.

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

Summary:

This action repeals 22 VAC 40-340, Protective Payments in the Refugee Other Assistance Program. The regulation applies to a program that no longer exists under federal law. The Refugee Other Assistance Program was withdrawn from federal regulations in 1996.

The state regulation dealing with refugee protective payments made to refugees was a sub-part of an AFDC (Aid to Families with Dependent Children) regulation. In 2004, AFDC regulations for protective payments were made part of a comprehensive Temporary Assistance for Needy

Families regulation (22 VAC 40-295). All that remained of the original AFDC regulations was 22 VAC 40-340. This program was eliminated; therefore, 22 VAC 40-340 is no longer needed.

VA.R. Doc. No. R06-248; Filed June 16, 2006, 8:28 a.m.

FORMS

TITLE 14. INSURANCE

STATE CORPORATION COMMISSION

Bureau of Insurance

EDITOR'S NOTICE: The following forms have been filed by the State Corporation Commission. The revisions to the forms are necessary due to the passage of Chapter 577 of the 2006 Acts of Assembly. The revisions amend Code of Virginia citations and references and add provisions requiring notification to the Bureau of Insurance regarding (i) certain investments and (ii) declaration or payment of dividends or other distributions. The revised forms are not being published in full; however, the name of each form is listed below. The forms are available for public inspection at the State Corporation Commission, 1300 East Main Street, Richmond, Virginia 23219, or the Office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia. Copies of the forms may be obtained from Raquel Pino-Moreno, Principal Insurance Analyst, Bureau of Insurance, State Corporation Commission, 1300 East Main Street, Richmond, Virginia 23219, P.O. Box 1157, Richmond, Virginia 23218, telephone (804) 371-9499, FAX (804) 371-9511 or e-mail raquel.pino-moreno@scc.virginia.gov.

Title of Regulation: 14 VAC 5-260. Rules Governing Insurance Holding Companies.

FORMS

Form A, Instructions for Application for Approval of Acquisition of Control or Merger with a Domestic Insurer Pursuant to § 38.2-1323 of the Code of Virginia (rev. ~~2/03~~ 7/06).

Form B, Instructions for Insurance Holding Company System Annual Registration Statement Pursuant to § 38.2-1329 of the Code of Virginia (rev. ~~2/03~~ 7/06).

Form C, Instructions for Summary of Registration Statement Pursuant to § 38.2-1329 of the Code of Virginia (rev. ~~2/03~~ 7/06).

Form D, Instructions for Prior Notice and Application for Approval of Certain Transactions Pursuant to § 38.2-1331 of the Code of Virginia (rev. ~~2/03~~ 7/06).

Form E, Instructions for an Acquisition Statement Reporting Competitive Impact Data Pursuant to § 38.2-1323 of the Code of Virginia (rev. ~~2/03~~ 7/06).

Form F, Instructions for Notice of Dividends and Distributions to Shareholders Pursuant to §§ 38.2-1329 E and 38.2-1330 C of the Code of Virginia (rev. ~~2/03~~ 7/06).

GENERAL NOTICES/ERRATA

DEPARTMENT OF ENVIRONMENTAL QUALITY

Restore Water Quality in the James River and Tributaries in Cumberland, Fluvanna, Goochland, Louisa, and Powhatan Counties, Virginia

Announcement of an effort to restore water quality in the James River and tributaries in Cumberland, Fluvanna, Goochland, Louisa, and Powhatan Counties, Virginia.

Public meeting: Goochland County Administration Building, 1800 Sandy Hook Road, Board Meeting Room 250, Goochland, Virginia, on July 19, 2006, from 7 p.m. to 9 p.m. In case of inclement weather, check the DEQ website for a rescheduled date. A Technical Advisory Meeting will be held on July 19, 2006, in the Board Conference Room from 2 p.m. until 4 p.m.

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.

Meeting description: First technical advisory committee and public meetings on a study to restore water quality.

Description of study: Virginia agencies are working to identify sources of the bacterial contamination in the waters of the James River and its tributaries in the following jurisdictions:

Stream	County/City	Length (mi.)	Impairment
Byrd Creek	Fluvanna, Goochland, Louisa	25.97	Bacteria
Little Byrd Creek	Fluvanna, Goochland	1.5	Bacteria
Big & Little Lickinghole Creeks	Goochland	29.54	Bacteria
Fine Creek	Powhatan	10.34	Bacteria
Beaverdam Creek	Goochland, Louisa	8.73	Bacteria
James River	Fluvanna, Cumberland, Goochland, Powhatan	22.87	Bacteria
James River	Goochland, Powhatan	3.64	Bacteria

These streams are impaired for failure to meet the Primary Contact (Recreational) designated use because of bacterial standard violations.

The study reports the sources of bacterial contamination 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. To restore water quality, bacterial 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, July 19, 2006, to August 18, 2006. DEQ also accepts written and oral comments at the public meeting announced in this notice.

Contact for additional information: Chris French, TMDL Coordinator, Department of Environmental Quality, Piedmont Regional Office, 4949A Cox Road, Glen Allen, VA 23060, telephone (804) 527-5124, FAX (804) 527-5106, or e-mail rcfrench@deq.virginia.gov.

Restore Water Quality in the James River and Tributaries in the City of Hopewell, Chesterfield, Charles City, and Prince George Counties, Virginia

Announcement of an effort to restore water quality in the James River and tributaries in the City of Hopewell, Chesterfield, Charles City, and Prince George Counties, Virginia.

Public meeting: Hopewell Municipal Building, 300 North Main Street, City Council Chambers, Hopewell, Virginia, on July 26, 2006, from 7 p.m. to 9 p.m. In case of inclement weather, check the DEQ website for a rescheduled date. A Technical Advisory Meeting will be held on July 26, 2006, in the Hopewell City Council Chambers from 2 p.m. until 4 p.m.

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.

Meeting description: First technical advisory committee and public meetings on a study to restore water quality.

Description of study: Virginia agencies are working to identify sources of the bacterial contamination in the waters of the James River and its tributaries in the following jurisdictions:

Stream	County/City	Length (mi.)	Impairment
James River	Charles City, Chesterfield, Prince George, City of Hopewell	5.31 Sq. Miles	Bacteria
Bailey Bay, tidal Bailey Creek, tidal Cattail Creek	City of Hopewell	0.29 Sq. Miles	Bacteria
Bailey Creek	City of Hopewell, Prince George	6.54	Bacteria
Powell Creek	Prince George	6.92	Bacteria

General Notices/Errata

These streams are impaired for failure to meet the Primary Contact (Recreational) designated use because of bacterial standard violations. The study reports the sources of bacterial contamination 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. To restore water quality, bacterial 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, July 26, 2006, to August 25, 2006. DEQ also accepts written and oral comments at the public meeting announced in this notice.

Contact for additional information: Chris French, TMDL Coordinator, Department of Environmental Quality, Piedmont Regional Office, 4949A Cox Road, Glen Allen, VA 23060, telephone (804) 527-5124, FAX (804)-527-5106, or e-mail rcfrench@deq.virginia.gov.

Restore Water Quality in the James River and Tributaries in Richmond City, Chesterfield, Henrico, and Powhatan Counties, Virginia

Announcement of an effort to restore water quality in the James River and tributaries in Richmond City, Chesterfield, Henrico, and Powhatan Counties, Virginia.

Public meeting: A Technical Advisory Meeting (TAC) will be held on July 25, 2006, at the Department of Environmental Quality, 629 E. Main Street, Richmond, Virginia, from 1:30 p.m. until 3:30 p.m. A separate public meeting will be held within two weeks of the TAC meeting. This will be announced in a future notice.

Purpose of notice: The 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.

Meeting description: First technical advisory committee and public meetings on a study to restore water quality.

Description of study: Virginia agencies are working to identify sources of the bacterial contamination in the waters of the James River and its tributaries in the following jurisdictions:

James River	Richmond City, Henrico, Chesterfield	10.06	Bacteria
James River	Richmond City	6.34	Bacteria
Gillies Creek	Richmond City, Henrico	5.79	Bacteria
Almond Creek	Henrico	2.26	Bacteria
Goode Creek	Richmond City	1.23	Bacteria
Falling Creek	Chesterfield	3.81	Bacteria
No Name Creek	Chesterfield	1.83	Bacteria
James River	Chesterfield, Henrico, Richmond City	10.84 Sq. Miles	Bacteria

These streams are impaired for failure to meet the Primary Contact (Recreational) designated use because of bacterial standard violations.

The study reports the sources of bacterial contamination 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. To restore water quality, bacterial 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.

Contact for additional information: Chris French, TMDL Coordinator, Department of Environmental Quality, Piedmont Regional Office, 4949A Cox Road, Glen Allen, VA 23060, telephone (804) 527-5124, FAX (804)-527-5106, or e-mail rcfrench@deq.virginia.gov.

Restore Water Quality in Upham Brook and Tributaries in Henrico County, Virginia

Announcement of an effort to restore water quality in Upham Brook and its tributaries in Henrico County, Virginia.

Public meeting: Department of Environmental Quality, Piedmont Regional Office, 4949A Cox Road, Glen Allen, Virginia, on July 18, 2006, from 7 p.m. to 9 p.m. In case of inclement weather, check the DEQ website for a rescheduled date. A Technical Advisory Meeting will be held on July 18, 2006, at the DEQ Piedmont Regional Office in Glen Allen from 2 p.m. until 4 p.m.

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.

Meeting description: First technical advisory committee and public meetings on a study to restore water quality.

Description of study: Virginia agencies are working to identify sources of the bacterial contamination in the waters of Upham

<u>Stream</u>	<u>County/City</u>	<u>Length (mi.)</u>	<u>Impairment</u>
Bernards Creek	Chesterfield, Powhatan	6.97	Bacteria
Powwhite Creek	Chesterfield, Richmond City	8.12	Bacteria
Reedy Creek	Richmond City	3.68	Bacteria

Brook and its tributaries in Henrico County. These streams are impaired for failure to meet the Primary Contact (Recreational) designated use because of bacterial standard violations.

The study reports the sources of bacterial contamination 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. To restore water quality, bacterial 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, July 18, 2006, to August 17, 2006. DEQ also accepts written and oral comments at the public meeting announced in this notice.

Contact for additional information: Chris French, TMDL Coordinator, Department of Environmental Quality, Piedmont Regional Office, 4949A Cox Road, Glen Allen, VA 23060, telephone (804) 527-5124, FAX (804)-527-5106, or e-mail rcfrench@deq.virginia.gov.

Water Quality Assessment Integrated Report

The Virginia Department of Environmental Quality (DEQ) will release the Draft 2006 Water Quality Assessment Integrated Report (Integrated Report) on July 10, 2006, for public comment.

The Integrated Report combines both the 305(b) Water Quality Assessment and the 303(d) Report on Impaired Waters. Both are required by the federal Clean Water Act and the Virginia Water Quality Monitoring Information and Restoration Act. The report will be available for download on the DEQ website at <http://www.deq.virginia.gov/wqa/> throughout the public comment period, which ends on Friday, August 11, 2006, at 5 p.m. A limited number of hard copies of the report will be printed.

The final report and maps will be available later this year after review and approval by the United States Environmental Protection Agency. A CD with a copy of the final report and associated maps can be pre-ordered at no charge via the website above. Anyone who received the report on CD in 2004 will automatically receive a 2006 CD. Hard copies of the final maps will also be available in a book this autumn for a fee. They can be pre-ordered by printing the order form on the DEQ website, filling it out and mailing it to DEQ at the address indicated on the form with a check payable to "Treasurer of Virginia." Please memo the check with "2006 IR maps."

Seven public information meetings are scheduled regarding the draft Integrated Report. They will be held on:

- July 12, 1 p.m. – 2:30 p.m. – DEQ Valley Regional Office, 4411 Early Road in Harrisonburg. For directions please contact James Shiflet, (540) 574-7828, jashiflet@deq.virginia.gov.
- July 12, 1 p.m. – 2:30 p.m. – DEQ West Central Regional Office, 3019 Peters Creek Road in Roanoke. For directions please contact Mike McLeod, (540) 562-6721, dmmcleod@deq.virginia.gov.
- July 12, 1:30 p.m. – 3 p.m. – DEQ Tidewater Regional Office, 5636 Southern Boulevard in Virginia Beach. For directions, please contact Steve Cioccia, (757) 518-2159, sacioccia@deq.virginia.gov.
- July 13, 10:30 a.m. – Noon – DEQ South Central Regional Office, 7705 Timberlake Road in Lynchburg. For directions, please contact Amanda Gray, (434) 582-6227, abgray@deq.virginia.gov.
- July 17, 1:30 p.m. – 3 p.m. – DEQ Piedmont Regional Office, 4949-A Cox Road in Glen Allen. For directions, please contact Jennifer Palmore, (804) 527-5058, jvpalmore@deq.virginia.gov.
- July 18, 2 p.m. – 3:30 p.m. – DEQ South West Regional Office, 355 Deadmore Street in Abingdon. For directions please contact Allen Newman, (276) 676-4804, ajnewman@deq.virginia.gov.
- July 19, 10:30 a.m. – Noon – DEQ Northern Va. Regional Office, 13901 Crown Court in Woodbridge. For directions please contact Robert Swanson, (703) 583-3803, rpswanson@deq.virginia.gov.

Written comments on the draft Integrated Report can be sent to Darryl M. Glover, Department of Environmental Quality, Water Quality Monitoring and Assessment Manager, via e-mail attachment to dmglover@deq.virginia.gov, or (US) mail to P.O. Box 10009, Richmond, VA 23240. Please include your name, (US mail) address, telephone number, and e-mail address.

Water Quality Improvement Study for James River Watershed in Lynchburg

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 James River watershed in Lynchburg Virginia.

Public comment period: July 17, 2006, to August 23, 2006.

Public meeting: The Sydnor Performance Hall located in Centennial Hall, Lynchburg College, Lynchburg, Virginia, on July 17, 2006, from 6:30 to 8:30 p.m.

Meeting description: This is the first public meeting on a study to restore water quality in various streams within the James River watershed.

Description of study: Virginia agencies are working to identify sources of bacteria contamination in stream segments from the James River watershed in Central Virginia. This contamination exceeds water quality standards, which

General Notices/Errata

prohibits swimming. The contamination impairs or decreases the quality of the water.

The following is a list of the "impaired" waters, the length of the impaired segment, their location, and the reason for the impairment:

James River (18.43 miles), Amherst County, Lynchburg City, fecal coliform bacteria; Blackwater Creek (10.24 miles), Lynchburg City, fecal coliform bacteria; Ivy Creek (5.37 miles), Lynchburg City, fecal coliform bacteria; Fishing Creek (5.45 miles), Lynchburg City, fecal coliform bacteria; Judith Creek (10.55 miles) Bedford County, Lynchburg City, fecal coliform bacteria; Tomahawk Creek (5.9 miles), Bedford County, Campbell County, Lynchburg City, fecal coliform bacteria; Burton Creek (3.47 miles), Campbell County, Lynchburg City, 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 to 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. Fact sheets are available on the impaired waters from the contacts below or on the DEQ website at www.deq.virginia.gov.

Contact for additional information: You may contact either Kelly Wills, Department of Environmental Quality, 7705 Timberlake Road, Lynchburg, VA 24502, telephone (434) 582-6242, FAX (434) 582-5125, or e-mail kjwills@deq.virginia.gov or Kelly Hitchcock, Virginia's Region 2000-Local Government Council, 915 Main Street, Suite 202, Lynchburg, VA 24504, telephone (434) 845-3491, FAX (434) 845-3491, or e-mail khitchcock@region2000.org.

DEPARTMENT OF SOCIAL SERVICES

Periodic Review of Regulations

Pursuant to Executive Order Number 21 (2002), the Department of Social Services is currently reviewing the below listed regulations to determine if they should be terminated, amended, or retained in current form. The review will be guided by the principles listed in Executive Order Number 21 (2002) and in the department's Plan for Review of Existing Agency Regulations.

The department seeks public comment regarding the regulations' interference in private enterprise and life, essential need of the regulations, less burdensome and intrusive alternatives to the regulations, specific and measurable goals that the regulations are intended to achieve, and whether the regulations are clearly written and easily understandable.

The regulations are:

22 VAC 40-700, Child Protective Services Central Registry Information

22 VAC 40-720, Child Protective Services Release of Information to Family Advocacy Representatives of the Untied States Armed Forces

22 VAC 40-730, Investigation of Child Abuse and Neglect in Out of Family Complaints

Contact: Nan McKenney, CPS Policy Supervisor, Department of Social Services, Division of Family Services, telephone (804) 726-7569, FAX (804) 726-7895. Written comments may be submitted until July 31, 2006, in care of the above listed contact at 7 North Eighth Street, Richmond, VA 23219, or by facsimile to the above-listed number.

STATE CORPORATION COMMISSION

Bureau of Insurance

June 9, 2006

Administrative Letter 2006-10

To: All Insurers and Other Interested Parties

Re: Legislation Enacted by the 2006 Virginia General Assembly

We have attached for your reference summaries of certain statutes enacted or amended and reenacted during the 2006 Session of the Virginia General Assembly. The effective date of these statutes is July 1, 2006, except as otherwise indicated in this letter. Each organization to which this letter is being sent should review the summaries carefully and see that notice of these laws is directed to the proper persons, including appointed representatives, to ensure that appropriate action is taken to effect compliance with these new legal requirements. Copies of individual bills may be obtained at <http://legis.state.va.us/>. You may enter the bill number (not the chapter number) on the Virginia General Assembly Home Page, and you will be linked to the Legislative Information System. You may also link from the Legislative Information System to any existing section of the Code of Virginia. All statutory references made in the letter are to Title 38.2 (Insurance) of the Code of Virginia unless otherwise noted.

Please note that this document is a summary of legislation. It is neither a legal review and interpretation nor a full description of the legislative amendments affecting insurance-related laws during the 2006 Session. Each organization is responsible for legal review of the statutes pertinent to its operations.

/s/ Alfred W. Gross
Commissioner of Insurance

CONTINUING EDUCATION FOR AGENTS BILL

Chapter 589 (House Bill 261 Hargrove)

This bill amends §§ 38.2-1868.1 relating to insurance agents' compliance with continuing education (CE) requirements.

Agents whose licenses have terminated may avoid a ninety-day waiting period by paying a processing fee and an administrative penalty of \$1000, and by successful completion of the required examination. Previously, the administrative penalty was \$1000 per license type.

LIFE AND HEALTH BILLS

Chapter 209 (House Bill 1429 Purkey)

This bill amends § 38.2-3115 to exempt credit life insurance payable in whole or in part to a creditor that is an affiliate of the insurer and that does not charge interest after the insured's death from paying interest on the policy proceeds.

Chapter 398 (House Bill 323 Morgan)

Effective January 1, 2007

This bill amends § 38.2-3407.10 to add a new subsection P that provides that an insurance carrier which rents or leases its provider panel to unaffiliated carriers must make a list of the unaffiliated carriers available to its providers upon request. If the list is available in electronic format, it must be updated monthly. The provider must also be given the means to request and receive a printed copy of the list.

Chapter 410 (House Bill 573 Nixon)

This bill amends § 38.2-1800 to increase the maximum amount of coverage that a "limited burial insurance authority" can sell, solicit or negotiate from \$7,500 to \$10,000 for burial association group life insurance certificates. The bill applies to burial society members under Chapter 40 (Burial Societies) and for agents who represent burial associations (see § 38.2-3318.1).

Chapter 427 (House Bill 761 Hamilton)

This bill adds Article 5 to Chapter 35 (Accident and Sickness Insurance) to allow small employers to create a cooperative for the purpose of offering or providing health care services, and amends §§ 38.2-4214, 38.2-4319 and 38.2-4509 to make these small employer health insurance pooling provisions applicable to health services plans, health maintenance organizations (HMOs), dental and optometric plans. Section 38.2-3552 provides that any person can organize and maintain a cooperative for the purpose of offering, providing or facilitating the provision of health care services for its members. Members must be small employers (an employer with, on average, 2 to 50 eligible employees). A cooperative must be treated as a single entity for negotiation of terms, including premiums, for coverage. At the option of the cooperative, it can be either (i) deemed a policyholder for its members or (ii) deemed a sponsoring entity for the acquisition of separate group policies. A cooperative that is deemed the policyholder must obtain authorization to act for its members that is acceptable to the issuer. The authorization must be included in the agreement; must identify specific representatives of the cooperative who can enter into insurance contracts; and must specify the extent and limits of authority. If the cooperative has elected to be deemed the policyholder and has furnished authorization to the issuer, the issuer must consider the cooperative the policyholder in all respects permissible under state or federal laws and regulations. If the cooperative has elected to be a sponsoring

entity, the issuer must issue a separate policy to each member of the cooperative. Each policy must conform to the benefit and premium specifications and other terms agreed to by the issuer and cooperative. An issuer providing policies to a cooperative must make the policies available to all eligible employees of its employer-members and their eligible dependents, regardless of any health status-related factor relating to individuals eligible for coverage through a member. An employee can reject the coverage in writing. The premiums for the policy or policies can be paid from funds from the cooperative, its members or both; or funds from the covered persons or both the covered persons, members, or the cooperatives. Section 38.2-3555 provides that the Commission can promulgate rules and regulations necessary to implement the bill pursuant to § 38.2-223.

Chapter 448 (House Bill 1044 Kilgore)

This bill amends §§ 38.2-4307.1 to provide that an HMO with a capital and surplus of at least \$4.5 million is not required to file a statement of covered and uncovered expenses. Sections 38.2-4300 and 38.2-5800 are amended so that subscriber identification cards are no longer considered evidences of coverage.

Chapter 599 (House Bill 786 Landes) and Chapter 570 (Senate Bill 287 Blevins)

This bill amends §§ 58.1-322 and 58.1-339.11 in Title 58.1 (Taxation). The bill adds a credit for long-term care (LTC) insurance premiums paid by an insured for a policy entered into on or after January 1, 2006. The tax credit is equal to 15% of the amount paid by the individual during the tax year for LTC premiums for coverage for himself not to exceed over the life of any policy 15% of the amount of premium for the first 12 months of coverage. If the credit exceeds the individual's income tax liability for the tax year, the excess amount can be carried over for credit against the income taxes of the individual for the next five years or until the credit is used, whichever comes first.

Chapter 638 (House Bill 443 Shuler)

This bill amends § 38.2-602 to add "licensed professional counselors" and "licensed marriage and family therapist" to the list of providers included in the definition of "medical professional" in Chapter 6 (Insurance Information and Privacy Protection). Section 38.2-3412.1 is revised to add the word "licensed" before "marriage and family therapist" in the list of providers in the definition of treatment for mental health and substance abuse services coverage.

Chapter 866 (House Bill 1041 Kilgore)

This bill revises §§ 38.2-1318, 38.2-4306, 38.2-4319, 38.2-5803 and 38.2-5804 to remove HMO contracts that provide coverage to Medicaid enrollees under plans administered by the Department of Medical Assistance Services (DMAS) from certain aspects of the regulatory oversight of the Bureau of Insurance with regard to evidences of coverage, schedules of charges for enrollee coverage for health care services, written complaint systems, and certain disclosure and representation requirements. The bill does not limit the Commission's ability to consult with DMAS before taking action on any person providing Medicaid benefits.

General Notices/Errata

PROPERTY AND CASUALTY BILLS

Chapter 279 (House Bill 1275 Janis)

This bill amends § 38.2-209 by clarifying that this provision does not apply to surety bonds. This provision pertains to the ability of an insured individual to recover the costs and reasonable attorney fees awarded by a court in a civil case in which the insured has sued his insurer to determine what coverage exists, or the extent to which the insurer is liable for compensating a covered loss. Fidelity bonds are not affected by this legislation.

Chapter 554 (House Bill 1001 Rust)

This bill amends § 38.2-231 to limit the circumstances pursuant to which insurers are required to provide notice of reduction in coverage or increase in premiums. Subsection C clarifies that the notice which commercial liability and commercial automobile insurers must provide when there has been a premium increase greater than 25% only has to be given when the increase is initiated by the insurer (and not the insured). Subsection C also clarifies that the notice may either advise the named insured of the specific reason for the increase (and the amount of the increase) or advise the named insured that this information may be obtained from the agent or the insurer. A definition has been added to subsection M which defines an "insurer-initiated increase in premium" as other than one resulting from (i) changes in coverage requested by the insured; (ii) changes in policy limits requested by the insured; (iii) changes in the insured's operation or location that result in a change in the classification of the risk; or (iv) changes in rating exposures such as increases in payroll, receipts, square footage, number of automobiles insured, or number of employees. Subsection E is amended to add certain situations where a notice of an increase in premium does not have to be provided such as when a renewal policy or renewal offer has been sent not less than 45 days prior to the policy's effective date (or 90 days in the case of a medical malpractice policy), when the policy is issued to certain large commercial risks, or when the policy is retrospectively rated. Subsection D makes it clear that if the insurer does not provide the notice as required in subsection C, and the insured does not accept the new policy, coverage that extends beyond the policy's expiration date must be provided under the old rates but using the latest exposures, coverages, and limits.

Chapter 580 (Senate Bill 610 Newman)

This bill reenacts the third enactment of Chapter 822 (SB 601) of the 2004 Acts of Assembly by delaying until July 1, 2008 (rather than July 1, 2006) the provisions that would establish a state-operated risk management plan which would allow certain qualifying physicians and sole community hospitals to purchase insurance from a risk management plan to be administered by the Department of Treasury. A fourth reenactment clause has been added which states that the provisions of the act shall not become effective unless an appropriation of funds for the period of July 1, 2008 through June 30, 2010 passes during the 2008 General Assembly.

Chapter 889 (Senate Bill 90 Watkins) and Chapter 851 (House Bill 816 May)

The bill amends § 38.2-2212 to prohibit insurers from non-renewing a private passenger motor vehicle insurance policy solely because the owner refuses to provide access to recorded data from a recording device as defined in § 46.2-1088.6. The bill also adds § 38.2-2213.1 to prohibit insurers and agents from reducing coverage, increasing the insured's premium, applying a surcharge, refusing to apply a discount, placing in a less favorable tier, or refusing to place in the company's best tier or most favorably priced company solely because the owner refuses to allow the insurer access to recorded data from a recording device as defined in § 46.2-1088.6. The bill allows insurers to charge an actuarially sound rate in accordance with § 38.2-1904. The bill also states that for purposes of investigating an accident or a claim, consent of the motor vehicle owner or the owner's agent or legal representative shall not be requested or obtained until after the event giving rise to the claim has occurred and shall not be made a condition of the defense, payment or settlement of a claim.

Home Protection Bill

Chapter 634 (House Bill 383 Suit)

This bill creates a new Article 2 in Chapter 26 that allows home service contracts to be issued by licensed home service contract providers. A home service contract is a contract to perform or indemnify for the repair, replacement, or maintenance of the components, parts, appliances, or systems of a residential dwelling. Unlike home protection insurance contracts, which are regulated under Article 1, home service contracts do not provide coverage for major structural defects and are not considered insurance. Home service contract providers must fully insure their obligations, maintain a funded reserve account or maintain a specified minimum net worth as a condition to obtaining a license.

Financial Regulation Bills

Chapter 320 (Senate Bill 474 Colgan)

The bill amends § 38.2-1315.1 to replace the term "summary of opinion or issues" with the term "actuarial opinion summary."

Chapter 329 (Senate Bill 586 Miller, Y.)

The bill amends § 38.2-1022 to delete the requirement that bylaw amendments must be filed with the Commission when a licensed insurer transfers its state of domicile to another state.

Chapter 577 (Senate Bill 546 Stosch)

This bill amends §§ 38.2-1329, 38.2-1330 and adds a new § 38.2-1330.1. Section 38.2-1329 now requires insurers registered under the Holding Company Act to report to the Commission all dividends and other distributions to shareholders within five (formerly two) business days following their declaration and at least 30 days prior to payment. Section 38.2-1330 adds consideration of the quality of the insurer's earnings and the extent to which the reported earnings of the insurer include extraordinary items as factors in determining whether an insurer's surplus is reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs in connection with transactions with affiliates. Section 38.2-1330.1 has been added to prohibit

domestic insurers from declaring or paying dividends or other distributions from a source other than earned surplus without the Commission's prior written approval. In addition, domestic insurers may not pay an extraordinary dividend or other distribution to its shareholders until the earlier of thirty days after the Commission has received written notice of the declaration thereof and has not disapproved such payment or the Commission's approval of such payment.

Chapter 762 (Senate Bill 593 Watkins)

The bill amends §§ 38.2-1356 and 38.2-1363 to authorize the Commission to place on probations, suspend, revoke or refuse to issue or renew the license of a managing general agent or reinsurance intermediary that has its certificate of authority or other evidence of registration with the Clerk of the Commission terminated, canceled or revoked.

* * * * *

AT RICHMOND, JUNE 13, 2006

COMMONWEALTH OF VIRGINIA

At the relation of the

STATE CORPORATION COMMISSION

CASE NO. INS-2006-00013

Ex Parte: In the matter of adoption of adjusted prima facie rates for credit life and credit accident and sickness insurance pursuant to §§ 38.2-3725, 38.2-3726, 38.2-3727 and 38.2-3730 of the Code of Virginia

ORDER TO TAKE NOTICE

Pursuant to § 38.2-3730 B of the Code of Virginia, the Commission is required to conduct a hearing for the purpose of receiving comments from interested parties with respect to proposed adjusted prima facie rates for credit life insurance and credit accident and sickness insurance to be effective for the triennium commencing January 1, 2007.

The adjusted prima facie rates have been calculated and proposed on behalf of and by the Bureau of Insurance in accordance with the provisions of Chapter 37.1 of Title 38.2 of the Code of Virginia (§§ 38.2-3717 et seq.), and are attached hereto.

THEREFORE, IT IS ORDERED THAT:

(1) The adjusted prima facie rates that have been calculated and proposed on behalf of and by the Bureau of Insurance in accordance with the provisions of Chapter 37.1 of Title 38.2 of the Code of Virginia (§§ 38.2-3717 et seq.), are attached hereto and made a part hereof.

(2) Pursuant to § 38.2-3730 Bof the Code of Virginia, the Commission shall conduct a hearing on July 20, 2006, at 10:00 a.m., in its courtroom, Tyler Building, 2nd Floor, 1300 East Main Street, Richmond, Virginia 23219, for the purpose of receiving comments from interested persons with respect to proposed adjusted prima facie rates for credit life insurance and credit accident and sickness insurance to be effective for the triennium commencing January 1, 2007.

(3) On or before June 23, 2006, the Bureau of Insurance shall prefile any written reports or other data in support of the proposed adjusted prima facie rates, with the Clerk of the Commission, and shall refer to Case No. INS-2006-00013.

(4) All interested persons who desire to file written comments in support of or in opposition to the proposed adjusted prima facie rates shall file such comments on or before July 12, 2006, in writing with the Clerk of the Commission, Document Control Center, P.O. Box 2118, Richmond, Virginia 23218, and shall refer to Case No. INS 2006 00013.

(5) Any interested persons desiring to appear before the Commission to present comments in the form of oral testimony shall file a notice of appearance, along with a summary of such testimony on or before July 12, 2006, in writing with the Clerk of the Commission, Document Control Center, P.O. Box 2118, Richmond, Virginia 23218, and shall refer to Case No. INS-2006-00013.

(6) AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to Jacqueline K. Cunningham, Deputy Commissioner, Bureau of Insurance, State Corporation Commission who shall cause a copy hereof to be sent to every insurance company licensed by the Bureau of Insurance to transact the business of credit life and credit accident and sickness insurance in the Commonwealth of Virginia and to all other interested persons and who shall file in the record of this proceeding an affidavit evidencing notice compliance with this Order.

(7) On or before June 16, 2006, the Commission's Division of Information Resources shall make available this Order and the attached adjusted rates on the Commission's website, <http://www.scc.virginia.gov/caseinfo.htm>.

ATTACHMENT

Case No. INS-2006-00013

PROPOSED ADJUSTED PRIMA FACIE CREDIT LIFE AND CREDIT ACCIDENT AND SICKNESS INSURANCE RATES TO BE EFFECTIVE JANUARY 1, 2007 THROUGH DECEMBER 31, 2009

2007 – 2009 TRIENNIAL CREDIT LIFE INSURANCE RATES

\$0.5530 per month per \$1,000.00 of outstanding insured indebtedness if premiums are payable on a monthly outstanding balance basis.

\$0.3530 per \$100.00 of initial indebtedness repayable in twelve equal monthly installments.

General Notices/Errata

**2007 - 2009 Prima Facie Credit Accident and Sickness Rates
Single Premium Rates per \$100 of Initial Insured Indebtedness
Repayable in Equal Monthly Installments**

<i>Benefit Period (Months)</i>	<u>7 Day Coverages</u>		<u>14 Day Coverages</u>		<u>30 Day Coverages</u>	
	<u>Retroactive</u>	<u>Non-Retroactive</u>	<u>Retroactive</u>	<u>Non-Retroactive</u>	<u>Retroactive</u>	<u>Non-Retroactive</u>
1	1.42	1.08	1.33	0.82	1.00	0.45
2	1.71	1.38	1.56	1.06	1.14	0.59
3	1.92	1.59	1.73	1.23	1.25	0.70
4	2.07	1.73	1.86	1.38	1.34	0.80
5	2.18	1.86	1.97	1.49	1.41	0.87
6	2.30	1.97	2.06	1.59	1.47	0.94
7	2.36	2.04	2.13	1.65	1.53	1.00
8	2.43	2.12	2.19	1.72	1.58	1.03
9	2.50	2.17	2.25	1.77	1.60	1.09
10	2.54	2.23	2.30	1.83	1.64	1.14
11	2.59	2.28	2.35	1.88	1.68	1.17
12	2.62	2.32	2.38	1.92	1.71	1.20
13	2.67	2.35	2.42	1.96	1.74	1.23
14	2.70	2.40	2.46	1.99	1.77	1.26
15	2.73	2.43	2.50	2.03	1.79	1.29
16	2.78	2.48	2.53	2.07	1.83	1.33
17	2.81	2.52	2.56	2.11	1.85	1.35
18	2.86	2.55	2.62	2.15	1.89	1.38
19	2.90	2.60	2.64	2.18	1.92	1.41
20	2.93	2.63	2.68	2.23	1.94	1.44
21	2.98	2.68	2.71	2.26	1.97	1.47
22	3.01	2.71	2.74	2.30	2.01	1.50
23	3.06	2.73	2.79	2.34	2.03	1.53
24	3.10	2.80	2.82	2.37	2.06	1.56
25	3.11	2.81	2.85	2.41	2.08	1.58
26	3.13	2.84	2.88	2.43	2.10	1.60
27	3.18	2.88	2.91	2.46	2.12	1.61
28	3.20	2.90	2.92	2.49	2.14	1.64
29	3.22	2.92	2.94	2.52	2.16	1.65
30	3.26	2.94	2.98	2.54	2.17	1.68

**2007 - 2009 Prima Facie Credit Accident and Sickness Rates
Single Premium Rates per \$100 of Initial Insured Indebtedness
Repayable in Equal Monthly Installments**

<i>Benefit Period (Months)</i>	<i>7 Day Coverages</i>		<i>14 Day Coverages</i>		<i>30 Day Coverages</i>	
	<u>Retroactive</u>	<u>Non-Retroactive</u>	<u>Retroactive</u>	<u>Non-Retroactive</u>	<u>Retroactive</u>	<u>Non-Retroactive</u>
31	3.28	2.99	3.01	2.55	2.21	1.71
32	3.30	3.01	3.03	2.60	2.23	1.72
33	3.32	3.03	3.06	2.62	2.24	1.74
34	3.36	3.07	3.08	2.64	2.27	1.77
35	3.39	3.09	3.10	2.68	2.30	1.78
36	3.41	3.11	3.12	2.69	2.31	1.80
37	3.44	3.13	3.16	2.71	2.32	1.83
38	3.46	3.16	3.18	2.73	2.35	1.84
39	3.48	3.19	3.20	2.74	2.35	1.86
40	3.50	3.21	3.22	2.78	2.37	1.88
41	3.51	3.23	3.24	2.81	2.40	1.91
42	3.53	3.25	3.27	2.82	2.42	1.92
43	3.57	3.27	3.29	2.85	2.43	1.93
44	3.59	3.29	3.30	2.87	2.45	1.96
45	3.61	3.31	3.32	2.89	2.47	1.97
46	3.63	3.33	3.35	2.91	2.49	1.98
47	3.66	3.36	3.37	2.93	2.50	2.02
48	3.66	3.39	3.40	2.94	2.52	2.03
49	3.69	3.41	3.41	2.98	2.53	2.04
50	3.70	3.42	3.43	3.00	2.54	2.06
51	3.71	3.44	3.45	3.01	2.55	2.08
52	3.74	3.46	3.46	3.03	2.57	2.10
53	3.76	3.48	3.48	3.06	2.60	2.11
54	3.78	3.50	3.50	3.07	2.62	2.12
55	3.80	3.51	3.51	3.09	2.62	2.14
56	3.81	3.53	3.52	3.10	2.64	2.16
57	3.84	3.56	3.56	3.12	2.66	2.16
58	3.85	3.58	3.58	3.14	2.68	2.18
59	3.86	3.60	3.59	3.17	2.68	2.21
60	3.89	3.61	3.61	3.19	2.70	2.22

General Notices/Errata

2007 - 2009 Prima Facie Credit Accident and Sickness Rates Single Premium Rates per \$100 of Initial Insured Indebtedness Repayable in Equal Monthly Installments

Benefit Period (Months)	7 Day Coverages		14 Day Coverages		30 Day Coverages	
	Retroactive	Non-Retroactive	Retroactive	Non-Retroactive	Retroactive	Non-Retroactive
61	3.89	3.63	3.63	3.21	2.71	2.23
62	3.92	3.66	3.65	3.22	2.72	2.25
63	3.94	3.66	3.66	3.24	2.73	2.27
64	3.96	3.68	3.67	3.26	2.74	2.29
65	3.98	3.70	3.69	3.27	2.77	2.30
66	3.99	3.71	3.70	3.29	2.78	2.31
67	4.00	3.72	3.71	3.30	2.80	2.32
68	4.02	3.75	3.74	3.32	2.81	2.34
69	4.04	3.77	3.75	3.33	2.82	2.35
70	4.05	3.78	3.78	3.36	2.83	2.36
71	4.07	3.80	3.79	3.38	2.85	2.38
72	4.09	3.81	3.80	3.40	2.87	2.40
73	4.09	3.83	3.82	3.41	2.88	2.42
74	4.12	3.84	3.83	3.43	2.89	2.42
75	4.13	3.85	3.84	3.45	2.91	2.44
76	4.15	3.87	3.85	3.46	2.91	2.45
77	4.17	3.89	3.87	3.47	2.92	2.47
78	4.18	3.89	3.89	3.48	2.93	2.49
79	4.20	3.92	3.89	3.50	2.94	2.49
80	4.21	3.94	3.92	3.51	2.97	2.51
81	4.23	3.96	3.94	3.52	2.99	2.52
82	4.23	3.98	3.96	3.55	3.00	2.54
83	4.25	3.99	3.98	3.57	3.01	2.54
84	4.27	4.00	3.98	3.59	3.02	2.55
85	4.28	4.02	4.00	3.60	3.03	2.57
86	4.29	4.04	4.01	3.61	3.05	2.59
87	4.31	4.04	4.03	3.63	3.06	2.61
88	4.33	4.05	4.04	3.65	3.07	2.62
89	4.34	4.07	4.04	3.66	3.08	2.62
90	4.36	4.09	4.06	3.66	3.10	2.64

2007 - 2009 Prima Facie Credit Accident and Sickness Rates
 Single Premium Rates per \$100 of Initial Insured Indebtedness
 Repayable in Equal Monthly Installments

Benefit Period (Months)	7 Day Coverages		14 Day Coverages		30 Day Coverages	
	Retroactive	Non-Retroactive	Retroactive	Non-Retroactive	Retroactive	Non-Retroactive
91	4.37	4.09	4.08	3.68	3.10	2.65
92	4.39	4.10	4.09	3.70	3.11	2.67
93	4.40	4.13	4.09	3.71	3.12	2.68
94	4.41	4.15	4.12	3.72	3.13	2.68
95	4.42	4.17	4.14	3.74	3.14	2.70
96	4.43	4.18	4.15	3.75	3.17	2.71
97	4.44	4.19	4.17	3.77	3.18	2.72
98	4.46	4.20	4.18	3.78	3.19	2.72
99	4.47	4.22	4.19	3.80	3.20	2.73
100	4.50	4.23	4.20	3.80	3.21	2.74
101	4.50	4.23	4.21	3.82	3.22	2.77
102	4.51	4.25	4.23	3.84	3.23	2.78
103	4.53	4.27	4.23	3.84	3.24	2.80
104	4.55	4.28	4.24	3.85	3.26	2.81
105	4.56	4.29	4.26	3.87	3.27	2.81
106	4.57	4.31	4.28	3.89	3.28	2.82
107	4.58	4.32	4.29	3.89	3.29	2.84
108	4.60	4.34	4.29	3.90	3.30	2.85
109	4.60	4.36	4.31	3.93	3.30	2.86
110	4.61	4.37	4.33	3.94	3.31	2.88
111	4.62	4.38	4.34	3.96	3.32	2.88
112	4.63	4.39	4.36	3.97	3.33	2.90
113	4.65	4.40	4.37	3.98	3.35	2.91
114	4.66	4.41	4.38	3.99	3.36	2.91
115	4.69	4.42	4.39	4.00	3.38	2.92
116	4.70	4.42	4.40	4.02	3.39	2.93
117	4.70	4.44	4.41	4.03	3.40	2.94
118	4.71	4.46	4.42	4.04	3.41	2.95
119	4.73	4.47	4.42	4.04	3.41	2.97
120	4.74	4.50	4.44	4.06	3.42	2.99

General Notices/Errata

STATE LOTTERY DEPARTMENT

Director's Orders

The following Director's Orders of the State Lottery Department were filed with the Virginia Registrar of Regulations on June 16, 2006. The orders may be viewed at the State Lottery Department, 900 E. Main Street, Richmond, Virginia, or at the office of the Registrar of Regulations, 910 Capitol Street, 2nd Floor, Richmond, Virginia.

Final Rules for Game Operation:

Director's Order Number Thirty-Five (06)

Virginia's Instant Game Lottery 739; "Safari Riches" (effective 6/12/06)

Director's Order Number Thirty-Six (06)

Virginia's Instant Game Lottery 740; "Fuelin' Around" (effective 6/12/06)

STATE WATER CONTROL BOARD

Proposed Consent Special Order - Mr. Yazan Ahmad

Purpose of notice: To seek public comment on a proposed consent order from the Department of Environmental Quality for a former underground storage tank facility in Richmond, Virginia.

Public comment period: July 24, 2006, to August 23, 2006.

Consent order description: The State Water Control Board proposes to issue a consent order to Mr. Yazan Ahmad, to address alleged violations of UST regulations. The location of the property where the violations occurred is at the North Avenue Food Market & Deli, 2301 North Avenue, Richmond, Virginia. The consent order settles the failure to complete corrective action activities, the submittal of the additional information and includes the payment of a civil charge.

How to comment: DEQ accepts comments from the public by e-mail, fax or postal mail. All comments must include the name, address and telephone number of the person commenting and be received by DEQ within the comment period. The public may review the proposed consent order at the DEQ office named below or on the DEQ website at www.deq.virginia.gov.

Contact for public comments, document requests and additional information: Cynthia Akers, Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, VA 23060, telephone (804) 527-5079, FAX (804) 527-5106, or e-mail ecakers@deq.virginia.gov.

Amendment of Water Quality Management Planning Regulation

Notice of action: The State Water Control Board is considering the amendment of the regulation on water quality management planning in accordance with the Public Participation Procedures for Water Quality Management Planning. A regulation is a general rule governing people's rights or conduct that is upheld by a state agency.

Purpose of notice: The board is seeking comments through the Department of Environmental Quality on the proposed amendment. The purpose of the amendment to the state's Water Quality Management Planning Regulation (9 VAC 25-720) is to adopt four total maximum daily load (TMDL) waste load allocations.

Public comment period: July 11, 2006, to August 10, 2006.

Description of proposed action: DEQ staff will propose amendments of the state's Water Quality Management Planning regulation for the following river basins: Potomac-Shenandoah River Basin (9 VAC 25-720-50 A), Roanoke River Basin (9 VAC 25-720-80 A), Tennessee-Big Sandy River Basin (9 VAC 25-720-90 A), and the Chowan River-Dismal Swamp River Basin (9 VAC 25-720-100 A). Statutory authority for promulgating these amendments can be found in § 62.1-44.15(10) of the Code of Virginia.

Staff intends to recommend (i) that the board approve four TMDL reports as the plans for the pollutant reductions necessary for attainment of water quality goals in the impaired segments, (ii) that the board authorize inclusion of the TMDL reports in the appropriate Water Quality Management Plan, and (iii) that the board adopt the four TMDL waste load allocations as part of the state's Water Quality Management Planning Regulation in accordance with § 2.2-4006 A 4 c and § 2.2-4006 B of the Code of Virginia.

The four TMDL reports were developed in accordance with federal regulations (40 CFR 130.7) and are exempt from the provisions of Article 2 of the Virginia Administrative Process Act. The reports were subject to 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 TMDLs presented under this public notice. The approved reports can be found at <http://www.deq.virginia.gov/tmdl>.

Affected Waterbodies and Localities:

In the Potomac - Shenandoah River Basin (9 VAC 25-720-50 A):

"Mill Creek Sediment TMDL for a Benthic Impairment, Shenandoah County, Virginia" - Mill Creek benthic TMDL, located in Shenandoah County, proposes sediment reductions for portions of the watershed and provides a total sediment wasteload allocation of 0.9 tons/year.

In the Roanoke River Basin (9 VAC 25-720-80 A):

"Benthic TMDL Development for the Roanoke River, Virginia" - Roanoke River benthic TMDL, located in Roanoke, Montgomery, Floyd, and Botetourt Counties, as well as the Cities of Roanoke and Salem, proposes sediment reductions for portions of the watershed and provides a total sediment wasteload allocation of 5,189 tons/year.

In the Tennessee - Big Sandy River Basin (9 VAC 25-720-90 A):

"General Standard (Benthic) Total Maximum Daily Load Development for Stock Creek" - Stock Creek benthic TMDL,

located in Scott County, proposes sediment reductions for portions of the watershed and provides a total sediment wasteload allocation of 0 tons/year.

In the Chowan River – Dismal Swamp River Basin (9 VAC 25-720-100 A):

"Total Maximum Daily Load Development for Spring Branch" - Spring Branch benthic TMDL, located in Sussex County and the Town of Waverly, proposes total phosphorus reductions for portions of the watershed, including the Spring Branch Sewage Treatment Plant operated by the Sussex County Service Authority, and provides a total phosphorus wasteload allocation of 145.82 kg/year.

How to comment: The DEQ 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 be received by DEQ by 5 p.m. on the last day of the comment period.

How a decision is made: After comments have been considered, the board will make the final decision. Citizens that submit statements during the comment period may address the board members during the board meeting at which a final decision is made on the proposal.

To review documents: The TMDL reports and the proposed regulatory amendments are available on the DEQ website at <http://www.deq.virginia.gov/tmdl/> and by contacting the DEQ representative named below. The electronic copies are in PDF format and may be read online or downloaded.

Contact for public comments, document requests and additional information: Jutta Schneider, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23219, telephone (804) 698-4099, FAX (804) 698-4116, or e-mail jschneider@deq.virginia.gov.

Approval of Water Quality Management Planning Actions

Notice of action: The State Water Control Board is considering the approval of two Total Maximum Daily Load (TMDL) reports and four TMDL implementation plans (TMDL IPs) and granting authorization to include the TMDL reports and implementation plans in the appropriate Water Quality Management Plans.

Purpose of notice: The board is seeking comment on the proposed approvals and authorizations. The purpose of these actions is to approve six water quality management planning documents (two TMDL reports and four TMDL IPs) as Virginia's plans for the pollutant reductions and management actions 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.

Public comment period: July 11, 2006, to August 10, 2006.

Description of proposed action: 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 were developed in accordance with federal regulations (40 CFR 130.7) and are exempt from the provisions of Article 2 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.

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 were 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 that (i) the DEQ Director approve the TMDL reports and TMDL IPs listed below as Virginia's plans for the pollutant reductions and management actions necessary for attainment of water quality goals in the impaired segments, and (ii) that the DEQ Director authorize inclusion of the TMDL reports and TMDL IPs in the appropriate Water Quality Management Plans. No regulatory amendments are required for these TMDLs and their associated waste load allocations.

Affected Waterbodies and Localities:

In the Potomac-Shenandoah River Basin:

"Bacteria Total Maximum Daily Load Development for Beaver Creek"

1. Beaver Creek bacteria TMDL, located in Rockingham County, proposes bacteria reductions for portions of the watershed

"Bacteria Total Maximum Daily Load Development for North River"

2. North River bacteria TMDL, located in Augusta and Rockingham Counties, proposes bacteria reductions for portions of the watershed

General Notices/Errata

"Water Quality Implementation Plan for Blacks Run and Cooks Creek (Fecal Coliform and Aquatic Life TMDLs)"

3. Cooks Creek bacteria, sediment and phosphorus TMDL implementation plan, Rockingham County and the City of Harrisonburg, proposes management actions to achieve water quality goals

4. Blacks Run bacteria and sediment TMDL implementation plan, Rockingham County and the City of Harrisonburg, proposes management actions to achieve water quality goals

In the Roanoke River Basin:

"Water Quality Implementation Plan for Lower Blackwater River, Maggodee Creek and Gills Creek (Fecal Coliform TMDLs)"

5. Lower Blackwater River bacteria TMDL implementation plan, Franklin County, proposes management actions to achieve water quality goals

6. Maggodee Creek bacteria TMDL implementation plan, Franklin County, proposes management actions to achieve water quality goals

7. Gills Creek bacteria TMDL implementation plan, Franklin County, proposes management actions to achieve water quality goals

"Upper Stroubles Creek Watershed TMDL Implementation Plan, Montgomery County, Virginia"

8. Stroubles Creek sediment TMDL implementation plan, Montgomery County and the City of Blacksburg, proposes management actions to achieve water quality goals

In the Rappahannock River Basin:

"Thumb Run, Carter Run, Great Run, and Deep Run Bacteria Total Maximum Daily Load Implementation Plan"

9. Thumb Run bacteria TMDL implementation plan, Fauquier and Stafford Counties, proposes management actions to achieve water quality goals

10. Carter Run bacteria TMDL implementation plan, Fauquier and Stafford Counties, proposes management actions to achieve water quality goals

11. Great Run bacteria TMDL implementation plan, Fauquier and Stafford Counties, proposes management actions to achieve water quality goals

12. Deep Run bacteria TMDL implementation plan, Fauquier and Stafford Counties, proposes management actions to achieve water quality goals

How to comment: The DEQ 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 be received by DEQ by 5 p.m. on the last day of the comment period.

How a decision is made: After comments have been considered, the board will make the final decision. Citizens that submit statements during the comment period may

address the board members during the board meeting at which a final decision is made on the proposal.

To review documents: The TMDL reports and TMDL implementation plans are available on the DEQ website at <http://www.deq.virginia.gov/tmdl/> and by contacting the DEQ representative named below. The electronic copies are in PDF format and may be read online or downloaded.

Contact for public comments, document requests and additional information: Jutta Schneider, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23219, telephone (804) 698-4099, FAX (804) 698-4116, or e-mail jschneider@deq.virginia.gov.

Proposed Consent Special Order - Brabham Petroleum Co.

Purpose of notice: To seek public comment on a proposed consent order from the Department of Environmental Quality for a facility in Ironto, Virginia.

Public comment period: July 10, 2006, through August 8, 2006.

Consent order description: The State Water Control Board proposes to issue a consent order to Brabham Petroleum Co. to address alleged violations of Virginia's regulations. The location of the facility where the alleged violation occurred is at the Stop In Food Store #144 (formerly the Ironto Lancer Truck Stop) at exit 128 of I-81. The consent order describes a settlement to resolve unpermitted discharges that caused alteration of the quality of state waters and the requirement for the installation of a contaminated storm water collection and treatment system.

How to comment: DEQ accepts comments from the public by e-mail, fax or postal mail. All comments must include the name, address and telephone number of the person commenting and be received by DEQ within the comment period. The public may review the proposed consent order at the DEQ office named below or on the DEQ website at www.deq.virginia.gov.

Contact for public comments, document requests and additional information: Steven Wright, Department of Environmental Quality, West Central Regional Office, 3019 Peters Creek Road, Roanoke, VA 24019, telephone (540) 562-6790, FAX 540-562-6725, or e-mail sbwright@deq.virginia.gov.

Proposed Consent Special Order - King George County Service Authority

Purpose of notice: To seek public comment on a proposed consent order from the Department of Environmental Quality for facilities in King George County, Virginia.

Public Comment period: July 10, 2006, to August 9, 2006.

Description of consent order:

1. The State Water Control Board proposes to issue a consent order to the King George County Service Authority (KGCSA) to address alleged violations at the Dahlgren Wastewater Treatment Plant (WWTP) governed by permit

number VA0026514. The location of the facility where the alleged violation occurred is 16383 Dahlgren Road, Dahlgren, Virginia. The consent order describes a settlement to resolve exceedences to Total Kjeldahl Nitrogen (TKN), chronic toxicity to Pimephales Promelas, and phosphorous limits.

2. The State Water Control Board proposes to issue a consent order to KGCSA to address alleged violations at the Oakland Park WWTP governed by permit number VA0086789. The location of the facility where the alleged violation occurred is 1015 French Court, King George, VA 22485. The consent order describes a settlement to resolve exceedences to TKN, Total Suspended Solids (TSS), and daily flow limits, failure to meet an administrative deadline, incomplete Discharge Monitoring Report, and incorrect sampling procedure.

3. The State Water Control Board proposes to issue a consent order to KGCSA to address alleged violations at the Purkins Corner WWTP governed by permit number VA0070106. The location of the facility where the alleged violation occurred is 11224 Henry Griffin Road, King George, VA 22485. The consent order describes a settlement to resolve exceedences to TKN, phosphorous, and TSS limits, failure to report a selenium limit, and failure to meet an administrative deadline.

How to comment: DEQ accepts comments from the public by e-mail, fax, or postal mail. All comments must include the name, address, and telephone number of the person commenting and be received by DEQ within the comment period. The public may review the proposed consent order at the DEQ office named below or on the DEQ website at www.deq.virginia.gov.

Contact for public comments, document requests and additional information: Jennifer Sheedy, Department of Environmental Quality, Northern Virginia Regional Office, 13901 Crown Court, Woodbridge, VA 22193, telephone (703) 583-3938, FAX (703) 583-3841, or e-mail jsheedy@deq.virginia.gov.

Proposed Consent Special Order - North Oaks, LLC

Citizens may comment on a proposed consent order for a facility in Salem, Virginia.

Public comment period: July 10, 2006, to August 9, 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.

Project description: The State Water Control Board proposes to issue a consent order to North Oaks, LLC, to address violations of the Virginia regulations. The location of the facility where the violation occurred is the North Oaks Subdivision on Red Lane Extension in Salem. The consent order describes a settlement to resolve wetland and stream

filling without a permit. It requires payment of a civil charge and mitigation of impacts caused by the filling.

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 West Central 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: Robert Steele, Department of Environmental Quality, West Central Regional Office, 3019 Peters Creek Road, Roanoke, VA 24019, telephone (540) 562-6777, FAX (540) 562-6725, or e-mail rpsteele@deq.virginia.gov.

Proposed Consent Special Order - Old Church Enterprises, Inc.

Purpose of notice: To seek public comment on a proposed consent order from the Department of Environmental Quality for underground storage tank (UST) compliance at West Store in Mechanicsville, Virginia.

Public comment period: July 24, 2006, to August 23, 2006.

Consent order description: The State Water Control Board proposes to issue a consent order to Old Church Enterprises, Inc., to address alleged violations of the UST regulations. The location of the property where the violation occurred is at West Store, 4225 Mechanicsville Turnpike, Mechanicsville, Virginia. The consent order describes a settlement to bring the facility into compliance with UST regulations and includes the payment of a civil charge.

How to comment: DEQ accepts comments from the public by e-mail, fax or postal mail. All comments must include the name, address and telephone number of the person commenting and be received by DEQ within the comment period. The public may review the proposed consent order at the DEQ office named below or on the DEQ website at www.deq.virginia.gov.

Contact for public comments, document requests and additional information: Cynthia Akers, Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, VA 23060, telephone (804) 527-5079, FAX (804) 527-5106, or e-mail ecakers@deq.virginia.gov.

Proposed Consent Special Order - Skyline Swannanoa, Inc.

Purpose of notice: To invite citizens to comment on a proposed consent order for a facility in Augusta County, Virginia.

Public comment period: July 10, 2006, to August 10, 2006.

General Notices/Errata

Consent order description: The State Water Control Board proposes to issue a consent order to Skyline Swannanoa, Inc. to address alleged violations of VPDES Permit VA0028037. The location where the alleged violations occurred is in Augusta County, Virginia. The consent order describes a settlement to resolve these violations.

How to comment: DEQ accepts comments from the public by e-mail, fax or postal mail. All comments must include the name, address and telephone number of the person commenting and be received by DEQ within the comment period. The public may review the proposed consent order at the DEQ office named below or on the DEQ website at www.deq.virginia.gov.

Contact for public comments, document requests and additional information: Michael Faulkner, Department of Environmental Quality, Valley Regional Office, Post Office Box 3000, Harrisonburg, VA 22801-9519, telephone (540) 574-7901, FAX (540) 574-7884, or e-mail mfaulkner@deq.virginia.gov.

Proposed Consent Special Order - Smiley's Fuel City

Purpose of notice: To invite citizens to comment on a proposed consent order for a facility in Rockbridge County, Virginia.

Public comment period: July 10, 2006, to August 10, 2006.

Consent order description: The State Water Control Board proposes to issue a consent order to Smiley's Fuel City to address alleged violations of VPDES Permit VA0058734. The location where the alleged violations occurred is in Rockbridge County, Virginia. The consent order describes a settlement to resolve these violations.

How to comment: DEQ accepts comments from the public by e-mail, fax or postal mail. All comments must include the name, address and telephone number of the person commenting and be received by DEQ within the comment period. The public may review the proposed consent order at the DEQ office named below or on the DEQ website at www.deq.virginia.gov.

Contact for public comments, document requests and additional information: Michael Faulkner, Department of Environmental Quality, Valley Regional Office, Post Office Box 3000, Harrisonburg, VA 22801-9519, telephone (540) 574-7901, FAX (540) 574-7884, or e-mail mfaulkner@deq.virginia.gov.

VIRGINIA CODE COMMISSION

Notice to State Agencies

Mailing Address: Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219, FAX (804) 692-0625.

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

All agencies are required to use the appropriate forms when furnishing material for publication in the Virginia Register of Regulations. The forms may be obtained from: Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591.

Internet: Forms and other Virginia Register resources may be printed or downloaded from the Virginia Register web page: <http://register.state.va.us>.

FORMS:

NOTICE of INTENDED REGULATORY ACTION-RR01
NOTICE of COMMENT PERIOD-RR02
PROPOSED (Transmittal Sheet)-RR03
FINAL (Transmittal Sheet)-RR04
EMERGENCY (Transmittal Sheet)-RR05
NOTICE of MEETING-RR06
AGENCY RESPONSE TO LEGISLATIVE OBJECTIONS-RR08
RESPONSE TO PETITION FOR RULEMAKING-RR13
FAST-TRACK RULEMAKING ACTION-RR14

CALENDAR OF EVENTS

Symbol Key

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

♿ Location accessible to persons with disabilities

☎ Teletype (TTY)/Voice Designation

NOTICE

Only those meetings which are filed with the Registrar of Regulations by the filing deadline noted at the beginning of this publication are listed. Since some meetings are called on short notice, please be aware that this listing of meetings may be incomplete. Also, all meetings are subject to cancellation and the *Virginia Register* deadline may preclude a notice of such cancellation. If you are unable to find a meeting notice for an organization in which you are interested, please check the Commonwealth Calendar at www.vipnet.org or contact the organization directly.

For additional information on open meetings and public hearings held by the standing committees of the legislature during the interim, please call Legislative Information at (804) 698-1500 or Senate Information and Constituent Services at (804) 698-7410 or (804) 698-7419/TTY☎, or visit the General Assembly web site's Legislative Information System (<http://leg1.state.va.us/lis.htm>) and select "Meetings."

VIRGINIA CODE COMMISSION

EXECUTIVE

BOARD OF ACCOUNTANCY

† July 10, 2006 - 9 a.m. -- Open Meeting

† July 21, 2006 - 1 p.m. -- Open Meeting

Department of Professional and Occupational Regulation,
3600 West Broad Street, Suite 378, Richmond, Virginia.♿

A meeting to review and obtain case information at an informal fact-finding conference.

Contact: Jeanne Grant, Agency Enforcement Manager, Board of Accountancy, 3600 W. Broad St., Suite 378, Richmond, VA 23230-4923, telephone (804) 367-0725, FAX (804) 367-2174, (804) 367-9753/TTY ☎, e-mail jean.grant@boa.virginia.gov.

† August 2, 2006 - 10 a.m. -- Open Meeting

Department of Professional and Occupational Regulation,
3600 West Broad Street, Room 4 West, 4th Floor, Richmond, Virginia.♿ (Interpreter for the deaf provided upon request)

A meeting to discuss general business matters and conduct regulatory review. A public comment period will be held at the beginning of the meeting. All meetings are subject to change. Any person desiring to attend the meeting and requiring special accommodations or interpreter services should contact the board at least 10 days before the meeting so suitable arrangements can be made. The board fully complies with the Americans with Disabilities Act.

Contact: Mark D'Amato, Agency Regulatory Coordinator, Board of Accountancy, 3600 W. Broad St., Suite 378, Richmond, VA 23230-4923, telephone (804) 367-0502, FAX (804) 367-2174, (804) 367-9753/TTY ☎, e-mail mark.damato@boa.virginia.gov.

† September 8, 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 Accountancy intends to amend regulations entitled **18 VAC 5-21, Board of Accountancy Regulations**. The purpose of the proposed action is to decrease the administration fee charged to Virginia candidates who take the computer-based CPA examination, or "CBT," for the first time from \$160 to \$120, and to repeal entirely the fee charged to Virginia candidates who retake the CBT. The net effect of this is to provide direct savings to Virginia candidates.

Statutory Authority: §§ 54.1-4402 and 54.1-4403 of the Code of Virginia.

Contact: Nancy Taylor Feldman, Executive Director, Board of Accountancy, 3600 W. Broad St., Suite 378, Richmond, VA 23230, telephone (804) 367-8505, FAX (804) 367-2174 or e-mail boa@boa.virginia.gov.

DEPARTMENT FOR THE AGING

July 12, 2006 - 1 p.m. -- Public Hearing

Department for the Aging, 1610 Forest Avenue, Suite 100, Richmond, Virginia.♿ (Interpreter for the deaf provided upon request)

A public hearing regarding the "Virginia State Plan for Aging Services" October 1, 2003, through September 30, 2007, Section VIII, Financial Plan – Amending the Title III Intrastate Funding Formula. Copies are available on the Virginia Department for the Aging website at www.vda.virginia.gov or by request.

Contact: Tim M. Catherman, Department for the Aging, 1610 Forest Ave., Suite 100, Richmond, VA 23229, telephone (804) 662-9309, FAX (804) 662-9354, toll-free (800) 552-3402, (800) 552-3402/TTY ☎, e-mail tim.catherman@vda.virginia.gov.

Calendar of Events

BOARD OF AGRICULTURE AND CONSUMER SERVICES

† **August 24, 2006 - 2 p.m.** -- Open Meeting
Holiday Inn of Harrisonburg, 1400 East Market Street,
Harrisonburg, Virginia. 📍

A meeting to discuss issues related to Virginia agriculture and consumer services. The board's summer meeting will be a two-day event, August 24 (board meeting) and August 25 (board tour). 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 Roy Seward at least five days before the meeting date so that suitable arrangements can be made for any appropriate accommodation.

Contact: Roy E. Seward, Board Secretary, Department of Agriculture and Consumer Services, Oliver Hill Bldg., 102 Governor St., 2nd Floor, Richmond, VA 23219, telephone (804) 786-3538, FAX (804) 371-2945, e-mail roy.seward@vdacs.virginia.gov.

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† **August 29, 2006 - 9 a.m.** -- Public Hearing
Department of Agriculture and Consumer Services, 102 Governor Street, Room 220, Board Room, Richmond, Virginia.

September 11, 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 Agriculture and Consumer Services intends to repeal regulations entitled **2 VAC 5-580, Rules and Regulations Pertaining to the Sanitary and Operating Requirements in Retail Food Stores**, and adopt regulations entitled **2 VAC 5-585, Retail Food Establishment Regulations**. The purpose of the proposed action is to adopt the Retail Food Establishment Regulations that by law will replace the existing Rules and Regulations Pertaining to Sanitary and Operating Requirements in Retail Food Stores upon the effective date of the new regulations.

Statutory Authority: § 3.1-398 of the Code of Virginia.

Contact: Richard D. Saunders, Program Manager, Office of Dairy and Foods, Department of Agriculture and Consumer Services, 102 Governor St., Suite 349, Richmond, VA 23219, telephone (804) 786-8899, FAX (804) 371-7792 or e-mail doug.saunders@vdacs.virginia.gov.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Virginia Cotton Board

† **August 3, 2006 - 9:30 a.m.** -- Open Meeting
Tidewater Agriculture Research and Extension Center, 6321 Holland Road, Suffolk, Virginia. 📍

The board will begin their meeting with a tour and briefing of the cotton test plots funded by the Virginia Cotton Board. Following the tour, the board will vote on the per bale assessment rate, review the financial reports, and discuss any other business to be brought before the board. 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 Gail Moody Milteer at least five days before the meeting date so that suitable arrangements can be made.

Contact: Gail Moody Milteer, Program Director, Department of Agriculture and Consumer Services, 1100 Armory Dr., Suite 120, Franklin, VA 23851, telephone (757) 569-1100, FAX (757) 562-6104.

Virginia Horse Industry Board

† **September 22, 2006 - 10 a.m.** -- Open Meeting
Department of Forestry, 900 Natural Resources Drive, 2nd Floor Meeting Room, Charlottesville, Virginia. 📍

A meeting to (i) review the financial status of the board with regard to the fiscal year that just closed, (ii) discuss marketing projects for the new fiscal year, and (iii) hear from several guest speakers. 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, Oliver Hill Bldg., 102 Governor St., Room 318, 3rd Floor, Richmond, VA 23219, telephone (804) 786-5842, FAX (804) 371-7786, e-mail andrea.heid@vdacs.virginia.gov.

Virginia Peanut Board


July 18, 2006 - 10:30 a.m. -- Open Meeting
Tidewater Agriculture Research and Extension Center, 6321 Holland Road, Suffolk, Virginia. 📍

A meeting to (i) hear and approve the minutes of the last meeting held on March 21, 2006; (ii) review the board's financial statement; and (iii) receive information on the board's program area accomplishments and expenses. 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 Thomas R. Cotton,

Jr., at least five days before the meeting date so that suitable arrangements can be made.

Contact: Thomas R. (Dell) Cotton, Jr., Program Director, Department of Agriculture and Consumer Services, 1001 Campbell Ave., P.O. Box 59, Franklin, VA 23851-0059, telephone (757) 562-4103, FAX (757) 562-0744.


Virginia Pork Industry Board

† **July 28, 2006 - 3 p.m.** -- Open Meeting
Operations Tower at Norfolk International Terminal, 7737 Hampton Boulevard, Norfolk, Virginia. 

A meeting to (i) review and approve the minutes of the last meeting; (ii) review the board's financial statement; (iii) elect Pork Industry Board delegates and elect new officers; (iv) approve projects; and (v) formulate the annual budget. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodation in order to participate at the meeting should contact John H. Parker at least five days before the meeting date so that suitable arrangements can be made.

Contact: John H. Parker, Executive Director, Virginia Pork Industry Board, 102 Governor St., 3rd Floor, Room 316, Richmond, VA 23219, telephone (804) 786-7092, FAX (804) 371-7786, e-mail john.parker@vdacs.virginia.gov.


Virginia Small Grains Board

July 19, 2006 - 8 a.m. -- Open Meeting
Doubletree Hotel Richmond Airport, 5501 Eubank Road, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A meeting to (i) review FY 2005-06 project reports and receive and approve the 2006-07 project proposals, (ii) hear and approve minutes from the last board meeting and a current financial statement, and (iii) take action on any other new business that comes before the group. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodation in order to participate at the meeting should contact Philip T. Hickman at least five days before the meeting date so that suitable arrangements can be made.

Contact: Philip T. Hickman, Program Director, Department of Agriculture and Consumer Services, 102 Governor St., 3rd Floor, Room 316, Richmond, VA 23219, telephone (804) 371-6157, FAX (804) 371-7786, e-mail phil.hickman@vdacs.virginia.gov.

STATE AIR POLLUTION CONTROL BOARD

July 19, 2006 - 6 p.m. -- Public Hearing
Department of Environmental Quality, Tidewater Regional Office, 5636 Southern Boulevard, Virginia Beach, Virginia. 


A public hearing on a proposed revision to the Commonwealth of Virginia State Implementation Plan. The

proposed revision consists of: 1. An ozone air quality maintenance plan to reduce and maintain volatile organic compound (VOC) and nitrogen oxide (NO_x) emissions in the Hampton Roads Eight-hour Ozone Nonattainment Area (Counties of Gloucester, Isle of Wight, James City, and York; Cities of Chesapeake, Hampton, Newport News, Poquoson, Portsmouth, Norfolk, Suffolk, Virginia Beach and Williamsburg) through the year 2018 such that they do not exceed the 2005 attainment year level. The purpose of the maintenance plan is to ensure that emissions of VOC and NO_x remain at or below levels that will enable the area to continue to meet the national air quality standard for ozone.

2. The mobile emissions budgets established by the plan for the year 2005 and beyond. The purpose of the mobile source budgets is to provide for projected growth in mobile emissions beyond 2005 for transportation conformity purposes.

3. The base year 2002 air pollutant emissions inventory that serves as the basis for all planning activities related to the eight-hour ozone standard for the Hampton Roads area. The maintenance plan will be submitted as an SIP revision in conjunction with a request to the U.S. Environmental Protection Agency to redesignate the area from nonattainment to attainment. DEQ is also taking comments on the redesignation request, but that document will not be submitted as part of the SIP revision.

Contact: Doris A. McLeod, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4197, FAX (804) 698-4510, e-mail damcleod@deq.virginia.gov.

† **August 1, 2006 - 7 p.m.** -- Public Hearing
Nottoway County Community Center, 3951 Military Road, Pickett Park, Blackstone, Virginia. 

A public hearing to receive comments on a permit application from ArborTech Forest Products, Inc to modify their dimensional lumber manufacturing plant. The proposed amendment to the permit would allow the two wood-fired boilers to burn additional fuel. The proposed facility is classified as major source of air pollution. The maximum annual emissions of air pollutants from the facility under the proposed permit are expected to be: 109.12 tons/yr of particulate matter (PM, PM-10), 55.18 tons/yr of NO_x, 125.71 tons/yr of CO, 156.19 tons/yr of VOCs, and 4.53 tons/yr of SO₂. The applicant proposes to burn 61,022 tons/yr of wood residue excluding bark or any wood that contains chemical treatments or has affixed thereto paint and/or finishing materials or paper or plastic laminates for fuel. The applicant will use multicyclones to control particulate matter emissions from the two wood-fired boilers. No add-on controls will be used for the control of oxides of nitrogen (NO_x) from the wood-fired boilers. The estimated effect on air quality near the facility from the proposed project is no exceedance of current Ambient Air Quality Standards. The DEQ is requesting concurrent processing of the draft and proposed Title V permit reviews and significant permit amendment. The public comment period began June 22, 2006, and ends on August 16, 2006.

Calendar of Events

Contact: Dave Skelly, Department of Environmental Quality, 7705 Timberlake Rd., Lynchburg, VA 24502, telephone (434) 582-6235, FAX (434) 582-5125, e-mail djskelly@deq.virginia.gov.

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† **August 24, 2006 - 10 a.m.** -- Public Hearing
Department of Environmental Quality, 629 East Main Street,
1st Floor Conference Room, Richmond, Virginia.


September 8, 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 5-140, Regulation for Emissions Trading (Rev. E05)**. The purpose of the proposed action is to establish requirements to reduce SO₂ and NO_x emissions in order to eliminate their significant contribution to nonattainment or interference with maintenance of the national ambient air quality standards in downwind states and to protect Virginia's air quality and its natural resources.


Statutory Authority: §§ 10.1-1308 and 10.1-1322.3 of the Code of Virginia.

Contact: Mary E. Major, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4423, FAX (804) 698-4510 or e-mail memajor@deq.virginia.gov.


ALCOHOLIC BEVERAGE CONTROL BOARD

July 10, 2006 - 9 a.m. -- Open Meeting
July 17, 2006 - 9 a.m. -- Open Meeting
August 7, 2006 - 9 a.m. -- Open Meeting
August 21, 2006 - 9 a.m. -- Open Meeting
September 5, 2006 - 9 a.m. -- Open Meeting
September 18, 2006 - 9 a.m. -- Open Meeting
† **October 2, 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.

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

July 26, 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 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.

August 2, 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 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.

August 3, 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 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.


August 9, 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 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.


August 10, 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 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.

September 7, 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 interpretive services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: 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.


ART AND ARCHITECTURAL REVIEW BOARD**August 4, 2006 - 10 a.m. -- Open Meeting****September 1, 2006 - 10 a.m. -- Open Meeting****† October 6, 2006 - 10 a.m. -- Open Meeting**

Science Museum of Virginia, 2500 West Broad Street, Forum Room, Richmond, Virginia.  (Interpreter for the deaf provided upon request)


A monthly meeting to review projects submitted by state agencies. Art and Architectural Review Board submittal forms and submittal instructions can be downloaded by visiting the DGS Forms Center at www.dgs.virginia.gov. Request form #DGS-30-905 or submittal instructions #DGS-30-906. The deadline for submitting project datasheets and other required information is two weeks prior to the meeting date.

Contact: Richard L. Ford, AIA, Chairman, Art and Architectural Review Board, 101 Shockoe Slip, 3rd Floor, Richmond, VA 23219, telephone (804) 648-5040, FAX (804) 225-0359, (804) 786-6152/TTY , or e-mail rford@comarchs.com.


VIRGINIA BOARD FOR ASBESTOS, LEAD, AND HOME INSPECTORS**August 16, 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. A portion of the board's business may be discussed in closed session. Public comment will be heard at the beginning of the meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: David Dick, Executive Director, Virginia Board for Asbestos, Lead, and Home Inspectors, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8507, FAX (804) 367-2475, (804) 367-9753/TTY , e-mail alhi@dpor.virginia.gov.

AUCTIONEERS BOARD**† October 5, 2006 - 10 a.m. -- Open Meeting**

Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia. 

A meeting to conduct board business. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Calendar of Events

Contact: Marian H. Brooks, Regulatory Board Administrator, Department of Professional and Occupational Regulation, 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

August 7, 2006 - 9 a.m. -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Richmond, Virginia. ♿

A general business meeting to include 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. 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 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

July 11, 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 the 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) 371-3157, toll-free (800) 622-2155, (804) 371-3140/TTY ☎, e-mail kathy.proffitt@dbvi.virginia.gov.

BOARD FOR BRANCH PILOTS

July 27, 2006 - 8:30 a.m. -- Open Meeting

Virginia Port Authority, 600 World Trade Center, Norfolk, Virginia. ♿

A meeting of the Examination Administrators 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 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.

July 28, 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. 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 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.

CHARITABLE GAMING BOARD

September 12, 2006 - 10 a.m. -- Open Meeting

Science Museum of Virginia, 2500 West Broad Street, Richmond, Virginia. ♿

A regular board meeting.

Contact: Clyde E. Cristman, Director, Department of Charitable Gaming, James Monroe Bldg., 101 N. 14th St., 17th Floor, Richmond, VA 23219, telephone (804) 786-1681, FAX (804) 786-1079, e-mail clyde.cristman@dcg.virginia.gov.

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

August 15, 2006 - 10 a.m. -- Open Meeting

James Monroe Building, 101 North 14th Street, 17th Floor Conference Room, Richmond, Virginia.

A regular meeting of the Northern Area Review Committee to review local programs.

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

August 15, 2006 - 2 p.m. -- Open Meeting

James Monroe Building, 101 North 14th Street, 17th Floor Conference Room, Richmond, Virginia.

A regular meeting of the Southern Area Review Committee to review local programs.

Contact: David C. Dowling, Policy, Planning, and Budget Director, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone

(804) 786-2291, FAX (804) 786-6141, e-mail david.dowling@dcr.virginia.gov.


NOTE: CHANGE IN MEETING DATE

† **September 26, 2006 - 10 a.m.** -- Open Meeting
Location to be announced.

A regular meeting to review local programs.

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


STATE CHILD FATALITY REVIEW TEAM

July 11, 2006 - 10 a.m. -- Open Meeting
September 12, 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.

COMPENSATION BOARD

July 26, 2006 - 11 a.m. -- Open Meeting
† **August 16, 2006 - 11 a.m.** -- Open Meeting
102 Governor Street, Lower Level, Room LL22, Richmond, Virginia. 

A monthly board meeting.

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.

DEPARTMENT OF CONSERVATION AND RECREATION

† **July 11, 2006 - 9 a.m.** -- Open Meeting
† **July 25, 2006 - 9 a.m.** -- Open Meeting
The Science Museum of Virginia, 2500 West Broad Street, Richmond, Virginia.

A meeting of the Technical Advisory Committee to assist the department in considering revisions to the Virginia Soil and Water Conservation Board's Virginia Stormwater Management Program (VSMP) Permit Regulations.

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

† **July 13, 2006 - 9 a.m.** -- Open Meeting
† **July 27, 2006 - 9 a.m.** -- Open Meeting
Location to be determined.

A meeting of the Technical Advisory Committee to assist the department in considering revisions to the Virginia Soil and Water Conservation Board's Impounding Structure (dam safety) Regulations.

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

July 13, 2006 - Noon -- Open Meeting
August 10, 2006 - Noon -- Open Meeting
September 14, 2006 - Noon -- Open Meeting
Richmond City Hall, 900 East Broad Street, 5th Floor, Planning Commission Conference Room, Richmond, Virginia.

A regular meeting of the Falls of the James Scenic River Advisory Committee to discuss river issues.

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

† **July 26, 2006 - 10 a.m.** -- Open Meeting
Chippokes Mansion, Chippokes Plantation State Park (695), Chippokes Park Road, Board Room, Surry, Virginia.

A regular business meeting of the Chippokes Plantation Farm Foundation Board of Trustees.

Contact: Katherine R. Wright, Executive Director, Department of Conservation and Recreation, 101 N. 14th St., 11th Floor, Richmond, VA 23219, telephone (804) 786-7950, FAX (804) 371-8500, e-mail katherine.wright@dcr.virginia.gov.

† **August 9, 2006 - 10 a.m.** -- Open Meeting
Location to be announced.

A regular business meeting of the Virginia Land Conservation Foundation Board of Trustees for discussion of new grant round.

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

Virginia Soil and Water Conservation Board


July 20, 2006 - 9:30 a.m. -- Open Meeting
Natural Resources Conservation Service, 1606 Santa Rosa Road, Richmond, Virginia.
September 21, 2006 - 9:30 a.m. -- Open Meeting
Location to be announced.

A regular board meeting.


Calendar of Events


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

BOARD FOR CONTRACTORS


† **July 11, 2006 - 9 a.m.** -- Open Meeting
July 20, 2006 - 9 a.m. -- Open Meeting
September 15, 2006 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia. 

An informal fact-finding conference.


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.

July 25, 2006 - 9 a.m. -- Open Meeting
August 22, 2006 - 9 a.m. -- Open Meeting
September 26, 2006 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia. 


A regular meeting to address policy and procedural issues and review and render decisions on matured complaints against licensees. The meeting is open to the public; however, a portion of the board's business may be conducted in closed session. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the department at least 10 days prior to this meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Eric L. Olson, Executive Director, Board for Contractors, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2785, FAX (804) 367-2474, (804) 367-9753/TTY , e-mail contractors@dpor.virginia.gov.


NOTE: CHANGE IN MEETING TIME

August 22, 2006 - 1 p.m. -- Open Meeting
Department of Professional and Occupational Regulations,
3600 West Broad Street, Conference Room 4 West,
Richmond, Virginia. 

A quarterly meeting of the Board for Contractors Committee to follow the regular board meeting.


Contact: Kevin Hoeft, Regulatory Boards Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2785, FAX (804) 367-2474, (804) 367-9753/TTY , e-mail contractors@dpor.virginia.gov.

BOARD OF CORRECTIONS

July 18, 2006 - 10 a.m. -- Open Meeting
September 19, 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.

July 18, 2006 - 1 p.m. -- Open Meeting
September 19, 2006 - 1 p.m. -- Open Meeting
Department of Corrections, 6900 Atmore Drive, 3rd Floor,
Board Room, 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.

July 19, 2006 - 9:30 a.m. -- Open Meeting
September 20, 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.

July 19, 2006 - 10 a.m. -- Open Meeting
September 20, 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 presentation to and 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.

† **September 8, 2006** - Public comments may be submitted until 5 p.m. on this date.


Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Corrections intends to amend regulations entitled **6 VAC 15-20, Regulations Governing Certification and Inspection**. The purpose of the proposed action is to amend existing certification and inspection standards to update definitions and terminology;

redirect authority to set and adjust audit schedules, determine compliance decisions and grant extension; standardize submission of variance requests for local and state correctional facilities; and reduce the time limit for a completed audit to be forwarded to the board.

Statutory Authority: § 53.1-5 of the Code of Virginia.

Contact: Donna Lawrence, Manager, Compliance and Accreditation Unit, Department of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3499, FAX (804) 674-3587 or e-mail donna.lawrence@vadoc.virginia.gov.

DEPARTMENT OF CRIMINAL JUSTICE SERVICES


† **September 13, 2006 - 1 p.m.** -- Public Hearing
General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia. 

September 11, 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 Criminal Justice Services intends to amend regulations entitled **6 VAC 20-30. Rules Relating to Compulsory In-Service Training Standards for Law-Enforcement Officers, Jailors or Custodial Officers, Courtroom Security Officers, Process Service Officers and Officers of the Department of Corrections, Division of Institutional Services.** The purpose of the proposed action is to amend the rules, last updated in 1992, to make the standards more compatible with the most efficient way to conduct training. The purpose of the changes is to facilitate training while maintaining the quality of training. The goal is to make training and reporting requirements easier for certified academies to accomplish.

Statutory Authority: § 9.1-102 of the Code of Virginia.

Contact: John Byrd, Assistant Section Chief, Department of Criminal Justice Services, 202 N. 9th St., Richmond, VA 23219, telephone (804) 786-6375, FAX (804) 786-0410 or e-mail john.byrd@dcjs.virginia.gov.

† **September 13, 2006 - 1 p.m.** -- Public Hearing
General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia. 

September 11, 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 Criminal Justice Services intends to amend regulations entitled **6 VAC 20-50. Rules Relating to Compulsory Minimum Training Standards Jailors or Custodial Officers, Courthouse and Courtroom Security Officers and Process Service Officers.** The purpose of the proposed action is to amend the regulations to ensure that training and certification of jailors, courtroom and courthouse security officers and process service officers is based on timely data provided by the 2001-2002 job task analysis.

Statutory Authority: § 9.1-102 of the Code of Virginia.

Contact: Judith Kirkendall, Job Task Analysis Administrator, Department of Criminal Justice Services, 202 North 9th Street, Richmond, VA 23219, telephone (804) 786-8003, FAX (804) 786-0410, or e-mail judith.kirkendall@dcjs.virginia.gov.

BOARD OF DENTISTRY

July 21, 2006 - 9 a.m. -- Open Meeting


August 18, 2006 - 9 a.m. -- Open Meeting

September 8, 2006 - 9 a.m. -- Open Meeting

† **September 29, 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.

July 21, 2006 - 8:30 a.m. -- Public Hearing

Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. 


Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Dentistry intends to amend regulations entitled **18 VAC 60-20, Regulations Governing the Practice of Dentistry and Dental Hygiene.** The purpose of the proposed action is to increase certain fees for applicants and licensees.

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


Public comments may be submitted until August 25, 2006, to Sandra K. Reen, Executive Director, Board of Dentistry, 6603 West Broad Street, Richmond, VA 23230-1712.

Contact: Elaine J. Yeatts, Regulatory Coordinator, Department of Health Professions, 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9918, FAX (804) 662-9914 or e-mail elaine.yeatts@dhp.virginia.gov.


September 14, 2006 - 9 a.m. -- Open Meeting

Roanoke Hotel and Convention Center, Roanoke, Virginia. 

Formal hearings. There will not be a public comment period.

Contact: Cheri Emma-Leigh, Operations Manager, Board of Dentistry, 6603 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 662-9906, FAX (804) 662-7246, (804) 662-7197/TTY , e-mail cheri.emma-leigh@dhp.virginia.gov.

September 15, 2006 - 9 a.m. -- Open Meeting

Roanoke Hotel and Convention Center, Roanoke, Virginia. 

A meeting to discuss board business. There will be a 15-minute public comment period at the beginning of the meeting.

Calendar of Events

Contact: Sandra Reen, Executive Director, Board of Dentistry, 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

NOTE: CHANGE IN MEETING TIME

July 20, 2006 - 9:30 a.m. -- Open Meeting

August 17, 2006 - 11 a.m. -- Open Meeting

September 21, 2006 - 11 a.m. -- Open Meeting

Department of General Services, 202 North Ninth Street, Room 412, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A monthly meeting to review requests submitted by localities to use the design build or construction management type contracts. Contact the Division of Engineering and Buildings to confirm this meeting. Board rules and regulations can be obtained on-line at www.dgs.virginia.gov under DGS Forms, Form #DGS-30-904.

Contact: Rhonda M. Bishton, Administrative Assistant, Division of Engineering and Buildings, Department of General Services, 202 N. Ninth St., 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

July 26, 2006 - 9 a.m. -- Open Meeting

† **September 27, 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.

August 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 Board of Education intends to amend regulations entitled **8 VAC 20-520, Regulations**

Governing Reduction of State Aid When Length of School Term Below 180 School Days. The 2004 Virginia General Assembly passed three bills that amended § 22.1-98 of the Code of Virginia and made the changes effective from passage of the bills. The bills were HB 1256 (Van Landingham), SB 452 (Whipple), and HB 575 (Hamilton). HB 1256 and SB 452 clarify the schedule of makeup days and circumstances in which approval may be granted so that state basic aid funding will not be reduced because of school closings due to severe weather conditions or other emergency situations. HB 575 permits the Board of Education to waive the requirement that school divisions compensate for school closings resulting from a declared state of emergency. HB 575 and SB 452 have emergency enactment clauses and are effective upon passage. HB 1256 and SB 452 require the Board of Education to promulgate regulations to implement the provisions to be effective within 280 days of enactment. Therefore, the amendments are required by changes to the Code of Virginia.

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

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.

† **September 27, 2006 - 11 a.m.** -- Public Hearing

James Monroe Building, 101 North 14th Street, 22nd Floor, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

September 11, 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 adopt regulations entitled **8 VAC 20-700, Regulations for Conducting Division-Level Academic Reviews**. The purpose of the proposed action is to require division-level academic review in school divisions where findings of school-level academic reviews show that the failure of the schools to reach full accreditation is related to the local school board's failure to meet its responsibilities under the Standards of Quality. The Board of Education promulgated emergency regulations as a result of this requirement that expired February 15, 2006. The proposed regulations, which will replace the emergency regulations, do not deviate substantially from the provisions of the emergency regulations.

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

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

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† **September 27, 2006 - 11 a.m.** -- Public Hearing
James Monroe Building, 101 North 14th Street, 22nd Floor, Richmond, Virginia. (Interpreter for the deaf provided upon request)

September 11, 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 adopt regulations entitled **8 VAC 20-710, Regulations Governing the Process for Submitting Proposals to Consolidate School Divisions**. The purpose of the proposed action is to comply with an amendment to § 22.1-25 of the Code of Virginia by the 2004 General Assembly. The amendment directs the Board of Education to promulgate regulations providing for a process by which school divisions may submit proposals for consolidation. Section 22.1-25 of the Code of Virginia stipulates the information and data to be submitted by school divisions in their proposals for consolidation, the criteria that must be considered by the Board of Education in reviewing the proposals and a process for public participation in the process. The proposed regulations also include a section detailing the statutory authority, a definitions section, and additional administration and consolidation process requirements.

Statutory Authority: § 22.1-25 of the Code of Virginia.

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

† **July 12, 2006 - 1 p.m.** -- Open Meeting
Department of Environmental Quality, Valley Regional Office, 4411 Early Road, Harrisonburg, Virginia.

† **July 12, 2006 - 1 p.m.** -- Open Meeting
Department of Environmental Quality, West Central Regional Office, 3019 Peters Creek Road, Roanoke, Virginia.

† **July 12, 2006 - 1:30 p.m.** -- Open Meeting
Department of Environmental Quality, Tidewater Regional Office, 5636 Southern Boulevard, Virginia Beach, Virginia.

† **July 13, 2006 - 10:30 a.m.** -- Open Meeting
Department of Environmental Quality, South Central Regional Office, 7705 Timberlake Road, Lynchburg, Virginia.

† **July 17, 2006 - 1:30 p.m.** -- Open Meeting
Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia.

† **July 18, 2006 - 2 p.m.** -- Open Meeting
Department of Environmental Quality, Southwest Regional Office, 355 Deadmore Street, Abingdon, Virginia.

† **July 19, 2006 - 10:30 a.m.** -- Open Meeting
Department of Environmental Quality, Northern Regional Office, 13901 Crown Court, Woodbridge, Virginia.

Public information meetings and public comment opportunities on the Draft 2006 Water Quality Assessment Integrated Report (Report). The report combines both the 305(b) Water Quality Assessment and the 303(d) Report on Impaired Waters. Both are required by the federal Clean Water Act and the Virginia Water Quality Monitoring Information and Restoration Act. The report will be available for download on our website at <http://www.deq.virginia.gov/wqa/> throughout the public comment period, which ends on Friday, August 11, 2006, at 5 p.m. The public notice appears in the Virginia Register of Regulations on July 10, 2006. For directions to the Harrisonburg meeting contact James Shiflet (540) 574-7828, e-mail jashiflet@deq.virginia.gov; for the Roanoke meeting please contact Mike McLeod (540) 562-6721, e-mail mcleod@deq.virginia.gov; for the Virginia Beach meeting contact Steve Cioccia (757) 518-2159, e-mail sacioccia@deq.virginia.gov; for the Lynchburg meeting contact Amanda Gray (434) 482-6227, e-mail abgray@deq.virginia.gov; for the Glen Allen meeting contact Jennifer Palmore (804) 527-5058, e-mail jvpalmore@deq.virginia.gov; for the Abingdon meeting contact Allen Newman (276) 676-4804, e-mail ajnewman@deq.virginia.gov; and for the Woodbridge meeting contact Robert Swanson (703) 583-3803, e-mail rpswanson@deq.virginia.gov.

Contact: Darryl M. Glover, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4321, FAX (804) 698-4116, e-mail dmglover@deq.virginia.gov.

† **July 17, 2006 - 6:30 a.m.** -- Open Meeting
Lynchburg College, The Sydnor Performance Hall, Centennial Hall, Lynchburg, Virginia.

The first public meeting on the development of a TMDL to restore water quality in various streams within the James River watershed in Amherst, Bedford, and Campbell counties and the City of Lynchburg. The public notice appears in the Virginia Register of Regulations on July 10, 2006. The public comment period begins on July 17, 2006, and ends on August 23, 2006.

Contact: Kelly Wills, Department of Environmental Quality, 7705 Timberlake Rd., Lynchburg, VA 24502, telephone (434) 582-6242, FAX (434) 582-5125, e-mail kjwills@deq.virginia.gov.

July 17, 2006 - 7 p.m. -- Open Meeting
Charles Yancey Municipal Building, 503 West Main Street, Waynesboro, Virginia.


The first public meeting on the development of a TMDL for mercury in the South River in Augusta and Rockingham Counties. The public comment period begins on July 17, 2006, and ends on August 17, 2006. The public notice appears in the Virginia Register of Regulations on June 26, 2006.

Calendar of Events

Contact: Robert Brent, Department of Environmental Quality, P.O. Box 3000, Richmond, VA 22801, telephone (540) 574-7848, FAX (540) 574-7878, e-mail rbrent@deq.virginia.gov.

July 18, 2006 - 9 a.m. -- Open Meeting

† **September 19, 2006 - 9 a.m.** -- Open Meeting


Department of Environmental Quality, 629 East Main Street, Richmond, Virginia. 

A regular meeting of the Ground Water Protection Steering Committee.

Contact: Mary Ann Massie, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4042, e-mail mamassie@deq.virginia.gov.


BOARD OF FUNERAL DIRECTORS AND EMBALMERS

July 18, 2006 - 9 a.m. -- Public Hearing

Department of Health Professions, 6603 West Broad Street, 5th Floor, Board Room 1, Richmond, Virginia. 


Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Funeral Directors and Embalmers intends to amend regulations entitled **18 VAC 65-20, Regulations of the Board of Funeral Directors and Embalmers**. The purpose of the proposed action is to increase certain fees for applicants and licensees.

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

Public comments may be submitted until August 25, 2006, to Elizabeth Young, Executive Director, Board of Funeral Directors and Embalmers, 6603 West Broad Street, 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.

Contact: Elaine J. Yeatts, Regulatory Coordinator, Department of Health Professions, 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9918, FAX (804) 662-9914 or e-mail elaine.yeatts@dhp.virginia.gov.


July 18, 2006 - 9 a.m. -- Public Hearing

Department of Health Professions, 6603 West Broad Street, 5th Floor, Board Room 1, Richmond, Virginia. 

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Funeral Directors and Embalmers intends to amend regulations entitled **18 VAC 65-40, Resident Trainee Program for Funeral Service**. The purpose of the proposed action is to provide greater flexibility and accountability in requirements for resident trainee program.


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

Public comments may be submitted until August 25, 2006, to Elizabeth Young, Executive Director, Board of Funeral Directors and Embalmers, 6603 West Broad Street, 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.

Contact: Elaine J. Yeatts, Regulatory Coordinator, Department of Health Professions, 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9918, FAX (804) 662-9914 or e-mail elaine.yeatts@dhp.virginia.gov.

† **July 19, 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 Task Force on Cremation to discuss amendments to the cremation laws and regulations.

Contact: Elizabeth Young, Executive Director, Board of Funeral Directors and Embalmers, 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.

DEPARTMENT OF GAME AND INLAND FISHERIES


July 18, 2006 - 2:30 p.m. -- Open Meeting

Department of Game and Inland Fisheries, 4016 West Broad Street, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A meeting of the Education, Planning and Outreach Committee to continue work developing a board member orientation program and the committee's charter.

Contact: Belle Harding, Executive Secretary, Department of Game and Inland Fisheries, 4016 W. Broad St., Richmond VA 23230, telephone (804) 367-9231, e-mail belle.harding@dgif.virginia.gov.

July 18, 2006 - 5:30 p.m. -- Open Meeting


Department of Game and Inland Fisheries, 4016 West Broad Street, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A meeting of the Finance, Audit and Compliance Committee to continue review of the department's financial records and reporting format.

Contact: Belle Harding, Executive Secretary, Department of Game and Inland Fisheries, 4016 W. Broad St., Richmond VA 23230, telephone (804) 367-9231, e-mail belle.harding@dgif.virginia.gov.

BOARD FOR GEOLOGY

July 19, 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 conducted in closed session. Public comment will be heard at the beginning of the meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the department at least 10 days prior to this meeting so that

suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: 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.

GOVERNOR'S EMS ADVISORY BOARD

August 3, 2006 - 3 p.m. -- Open Meeting
The Place at Innsbrook, Glen Allen, Virginia. ♿

A meeting of the Regulation and Policy Committee to discuss and review the proposed draft regulation packet for the November EMS Advisory Board meeting.

Contact: Michael D. Berg, Manager, Regulation and Compliance, Department of Health, 109 Governor St., Suite 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.

GOVERNOR'S ADVISORY BOARD ON CHILD ABUSE AND NEGLECT

† **August 4, 2006 - 10 a.m.** -- Open Meeting
Richmond Police Training Academy, 1202 West Graham Road, Richmond, Virginia. ♿

A quarterly meeting to address issues pertaining to the prevention and treatment of child abuse and neglect.

Contact: Rita L. Katzman, CPS Program Manager, Department of Social Services, 7 N. 8th St., Richmond, VA 23219, telephone (804) 726-7554, FAX (804) 726-7895, e-mail rita.katzman@dss.virginia.gov.

DEPARTMENT OF HEALTH

† **July 13, 2006 - 9 a.m.** -- Open Meeting
† **August 11, 2006 - 9 a.m.** -- Open Meeting
† **September 9, 2006 - 9 a.m.** -- Open Meeting
† **September 14, 2006 - 9 a.m.** -- Open Meeting
109 Governor Street, 5th Floor Conference Room, Richmond, Virginia. Will also be scheduled in remote locations via video conference.

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: Dwayne Roadcap, Program Manager, Department of Health, 109 Governor St., Richmond, VA 23219, telephone (804) 864-7462, FAX (804) 864-7476, e-mail dwayne.roadcap@vdh.virginia.gov.

July 14, 2006 - 9:30 a.m. -- Open Meeting
Virginia Farm Bureau, 12580 West Creek Parkway, Richmond, Virginia. ♿

A meeting of the Biosolids Use Regulation Advisory Committee to discuss draft language to amend the Biosolids

Use Regulations to provide for permit fees and to hear subcommittee report on access.

Contact: Cal Sawyer, Director, Wastewater Engineering, Department of Health, 109 Governor St., 5th Floor, Richmond, VA 23219, telephone (804) 864-7463, FAX (804) 864-7475, e-mail cal.sawyer@vdh.virginia.gov.

August 11, 2006 - 10 a.m. -- Open Meeting
September 22, 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 Regulations Advisory Committee to make recommendations to the commissioner regarding sewage handling and disposal policies, procedures and programs of the department.

Contact: Donald Alexander, Division Director, DOSWS, Department of Health, 109 Governor St., 5th Floor, Richmond, VA 23219, telephone (804) 864-7452, FAX (804) 864-7476, e-mail donald.alexander@vdh.virginia.gov.

September 8, 2006 - 10 a.m. -- Open Meeting
Children's Hospital, 2924 Brook Road, Richmond, Virginia. ♿

A meeting of the Virginia Early Hearing Detection and Intervention Program Advisory Committee to assist the Department of Health in the implementation of the Virginia Early Hearing Detection and Intervention Program. The advisory committee meets four times a year.

Contact: Pat T. Dewey, Program Manager, Department of Health, 109 Governor St., 8th Floor, Richmond, VA 23219, telephone (804) 864-7713, FAX (804) 864-7721, toll-free (866) 493-1090, e-mail pat.dewey@vdh.virginia.gov.

† **September 27, 2006 - 1:30 p.m.** -- Open Meeting
Madison Building, 109 Governor Street, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A meeting of the Newborn Screen Regulations Advisory Group to allow and invite public participation in the development of proposed regulations.

Contact: Nancy Ford, Pediatric Screening and Genetic Services, Department of Health, 109 Governor St., Richmond, VA 23219, telephone (804) 864-7691, FAX (804) 864-7721, e-mail nancy.ford@vdh.virginia.gov.

† **October 3, 2006 - 10 a.m.** -- Open Meeting
Division of Consolidated Laboratory Services, 600 North 5th Street, Training Room T-23, Richmond, Virginia. ♿

A meeting of the Genetics Advisory Committee to advise the Department of Health on coordinating access to clinical genetics services across the Commonwealth and assuring the provision of genetic awareness and quality services and education for consumers and providers taking into consideration issues of confidentiality, privacy and consent.

Contact: Nancy Ford, Director, Pediatric Screening and Genetic Services, Department of Health, 109 Governor St., Richmond, VA 23219, telephone (804) 864-7691, e-mail nancy.ford@vdh.virginia.gov.

Calendar of Events


Radiation Advisory Board

July 10, 2006 - 10 a.m. -- Open Meeting
State Emergency Operations Center, 7700 Midlothian Turnpike, Richmond, Virginia.

The annual meeting to discuss radiological issues that may affect the Commonwealth and to receive a briefing from the Department of Health staff regarding the Nuclear Regulatory Commission's agreement state program and other radiological activities. The advisory board will also tour the new state emergency operations center.

Contact: Les Foldesi, Director, Division of Radiological Health, Department of Health, James Madison Bldg., 109 Governor St., Room 732, Richmond, VA 23219, telephone (804) 864-8151, FAX (804) 864-8155, toll-free (800) 468-0138, e-mail les.foldesi@vdh.virginia.gov.


Sewage Handling and Disposal Appeal Review Board

August 9, 2006 - 10 a.m. -- Open meeting
General Assembly Building, 9th and Broad Streets, Senate Room B, Richmond, Virginia. 


A meeting to hear the appeals of health department denials of septic tank permits.

Contact: Susan C. Sherertz, Secretary to the Board, Department of Health, 109 Governor St., Richmond, VA, telephone (804) 864-7464, FAX (804) 864-7475, e-mail susan.sherertz@vdh.virginia.gov.


BOARD OF HEALTH PROFESSIONS

† **July 18, 2006 - 2 p.m.** -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Room 4, Richmond, Virginia. 

A meeting of the Education Committee to discuss the Fall Issues Forum, general board member training and educational materials. 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, Richmond, VA 23230-1712, telephone (804) 662-7691, FAX (804) 662-7098, (804) 662-7197/TTY , e-mail elizabeth.carter@dhp.virginia.gov.

BOARD FOR HEARING AID SPECIALISTS

July 12, 2006 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Richmond, Virginia. 

A regular meeting. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. Public comment will be heard at the beginning of the meeting. Person desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the department at least 10 days prior to the meeting so that

suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: William H. Ferguson, II, Executive Director, Board for 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

July 10, 2006 - 3 p.m. -- Open Meeting
Southern Virginia Higher Education Center, South Boston, Virginia.

An informal meeting. No actions will be taken. The council may have a short meeting after dinner.

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.


July 11, 2006 - 11 a.m. -- Open Meeting
Southern Virginia Higher Education Center, South Boston, Virginia.

Committee meetings begin at 8:30 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.

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

State Building Code Technical Review Board

† **July 21, 2006 - 10 a.m.** -- Open Meeting
Department of Housing and Community Development, 501 North 2nd Street, Richmond, Virginia.  (Interpreter for the deaf provided upon request)


A meeting to hear appeals under the state's building and fire regulations and make recommendations to the Board of Housing and Community Development for future changes to the regulations.

Contact: Vernon Hodge, Secretary, State Building Code Technical Review Board, 501 N. 2nd St., Richmond, VA 23219-1321, telephone (804) 371-7150.

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

† **August 1, 2006 - 11 a.m.** -- Open Meeting
Virginia Housing Development Authority, 601 South Belvidere Street, Richmond, Virginia. 

The annual meeting of the Board of Commissioners to (i) elect a chairman and vice chairman; (ii) review and, if appropriate, approve the minutes from the prior meeting; (iii) consider for approval and ratification mortgage loan commitments under its various programs; (iv) review the authority's operations for the prior months; and (v) consider such other matters and take such other actions as the board may deem appropriate. Various committees of the Board of Commissioners, including the Programs Committee, the Audit Committee, the 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. The annual meeting of the shareholders and Board of Directors of Housing for Virginia, Inc., a corporation wholly owned by the authority, will be held following the meeting of the authority's Board of Commissioners.

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 

VIRGINIA COUNCIL ON HUMAN RESOURCES


July 20, 2006 - 9:30 a.m. -- Open Meeting
September 21, 2006 - 9:30 a.m. -- Open Meeting
James Monroe Building, 101 North 14th Street, PDS 4, Richmond, Virginia.

A quarterly meeting.

Contact: Charles Reed, Associate Director, Department of Human Resource Management, James Monroe Bldg., 101 N. 14th St., 13th Floor, Richmond, VA 23219, telephone (804) 786-3124, FAX (804) 371-2505, e-mail charles.reed@dhrm.virginia.gov.

VIRGINIA INFORMATION TECHNOLOGIES AGENCY

Information Technology Investment Board


July 19, 2006 - 3:30 p.m. -- Open Meeting
VITA Operations Center, 110 South 7th Street, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

Meetings of the following committees:

9 a.m. - Finance and Audit - 3rd Floor
11 a.m. - IT Infrastructure - Auditorium
1:30 p.m. - Executive Evaluation and Governance - 3rd Floor

3:30 p.m. - Commonwealth IT Solutions - Auditorium


Contact: Marcella Williamson, ITIB Executive Director, Virginia Information Technologies Agency, 110 S. 7th St., 3rd Floor, Richmond, VA 23219, telephone (804) 371-5988, e-mail marcella.williamson@vita.virginia.gov.

July 20, 2006 - 9 a.m. -- Open Meeting
VITA Operations Center, 110 South 7th Street, Auditorium, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A full board meeting.

Contact: Marcella Williamson, ITIB Executive Director, Virginia Information Technologies Agency, 110 S. 7th St., 3rd Floor, Richmond, VA 23219, telephone (804) 371-5988, e-mail marcella.williamson@vita.virginia.gov.


Wireless E-911 Services Board

July 12, 2006 - 10 a.m. -- Open Meeting
September 13, 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.


INNOVATIVE TECHNOLOGY AUTHORITY

July 26, 2006 - 1 p.m. -- Open Meeting
Center for Innovative Technology, 2214 Rock Hill Road, 7th Floor, Fairfax Room, Herndon, Virginia. 

A meeting to elect officers.

Contact: Sharon Kozar, Executive Assistant, Innovative Technology Authority, 2214 Rock Hill Rd., Herndon, VA 20170, telephone (703) 689-3000, e-mail skozar@cit.org.

JAMESTOWN-YORKTOWN FOUNDATION

July 12, 2006 - Noon -- Open Meeting
September 6, 2006 - 2 p.m. -- Open Meeting
Richmond, Virginia. (call for specific location)  (Interpreter for the deaf provided upon request)

A regular meeting of the Executive Committee of the Jamestown 2007 Steering Committee.

Contact: Judith Leonard, Administrative Office Manager, Jamestown-Yorktown Foundation, 410 West Francis Street, Williamsburg, VA 23185, telephone (757) 253-4253, FAX (757) 253-4950, e-mail judith.leonard@jyf.virginia.gov.

Calendar of Events

STATE BOARD OF JUVENILE JUSTICE


September 13, 2006 - 9 a.m. -- Open Meeting
Virginia Wilderness Institute, Grundy, Virginia.

Meeting details will be provided closer to the meeting date.

Contact: Regulatory Coordinator, Department of Juvenile Justice, 700 Centre, 700 E. Franklin St., 4th Floor, Richmond, VA 23219, telephone (804) 371-0743, FAX (804) 371-0773.

DEPARTMENT OF LABOR AND INDUSTRY


Virginia Apprenticeship Council

September 21, 2006 - 10 a.m. -- Open Meeting
Confederate Hills Recreation Building, 302 Lee Avenue, Highland Springs, Virginia. 


A regular business meeting.

Contact: Beverley Donati, Program Director, Department of Labor and Industry, Powers-Taylor Bldg., 13 S. 13th St., Richmond, VA 23219, telephone (804) 786-2382, FAX (804) 786-8418, (804) 786-2376/TTY , e-mail bgd@doli.state.va.us.

LIBRARY BOARD

† September 18, 2006 - 10:30 a.m. -- Open Meeting
The Library of Virginia, 800 East Broad Street, Richmond, Virginia. 


A meeting to discuss matters pertaining to the Library of Virginia and the Library Board.

Contact: Jean H. Taylor, Executive Secretary Senior, The Library of Virginia, 800 E. Broad St., Richmond, VA 23219-8000, telephone (804) 692-3525, FAX (804) 692-3594, (804) 692-3976/TTY , e-mail jtaylor@lva.lib.va.us.

COMMISSION ON LOCAL GOVERNMENT


July 10, 2006 - 10 a.m. -- Public Hearing
The Jackson Center, 501 North 2nd Street, First Floor Board Room, Richmond, Virginia. 

A public hearing to receive comment on the Governor's program by which executive branch agencies assess the impact on local governments of the mandates they administer. A copy of the current program is available at <http://www.dhcd.virginia.gov/CD/CLG/PDFs/em1-98.pdf> or by calling the contact below.


Contact: Ted McCormack, Associate Director, Commission on Local Government, 501 N. 2nd St., Richmond, VA 23219, telephone (804) 786-6508, FAX (804) 371-7090, (804) 371-7089/TTY , e-mail ted.mccormack@dhcd.virginia.gov.

July 10, 2006 - 11 a.m. -- Open Meeting
The Jackson Center, 501 North Second Street, First Floor Board Room, Richmond, Virginia. 


A regular meeting to consider matters as may be presented.

Contact: Ted McCormack, Associate Director, Commission on Local Government, 501 N. 2nd St., Richmond, VA 23219, telephone (804) 786-6508, FAX (804) 371-7090, (804) 371-089/TTY , e-mail ted.mccormack@dhcd.virginia.gov.


BOARD OF LONG-TERM CARE ADMINISTRATORS

July 11, 2006 - 9:30 a.m. -- Open Meeting
† October 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 at 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

July 27, 2006 - 1 p.m. -- Open Meeting
Kingsmill, 1010 Kingsmill Road, Williamsburg, Virginia. 


A regular meeting to carry out duties under the Manufactured Housing Licensing and Transaction Recovery Fund Regulations.

Contact: Curtis Mclver, State Building Code Administrator, Virginia Manufactured Housing Board, The Jackson Center, 501 N. 2nd St., Richmond, VA 23219-1321, telephone (804) 371-7161, FAX (804) 371-7092, (804) 371-7089/TTY , e-mail curtis.mciver@dhcd.virginia.gov.


MARINE RESOURCES COMMISSION

July 25, 2006 - 9:30 a.m. -- Open Meeting
August 22, 2006 - 9:30 a.m. -- Open Meeting
September 26, 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 Ave., 3rd Floor, Newport News, VA 23607, telephone (757) 247-2215, FAX (757) 247-8101, toll-free (800) 541-4646, (757) 247-2292/TTY , e-mail jane.mccroskey@mrc.virginia.gov.

BOARD OF MEDICAL ASSISTANCE SERVICES

September 12, 2006 - 10 a.m. -- Open Meeting
Department of Medical Assistance Services, 600 East Broad Street, 13th Floor Conference Room, Richmond, Virginia. 

A quarterly meeting.

Contact: Nancy Malczewski, Board Liaison, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300,

Richmond, VA 23219, telephone (804) 786-8096, FAX (804) 371-4981, (800) 343-0634/TTY ☎, e-mail nancy.malczewski@dmas.virginia.gov.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

July 28, 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 amend regulations entitled **12 VAC 30-141, Family Access to Medical Insurance Security**. The purpose of the proposed action is to provide FAMIS medical coverage for a larger class of pregnant women.

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

Contact: Linda Nablo, Maternal and Child Health Division, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 225-4212, FAX (804) 786-1680 or e-mail linda.nablo@dmas.virginia.gov.

August 16, 2006 - 1 p.m. -- Open Meeting
Department of Medical Assistance Services, 600 East Broad Street, 13th Floor, Board Room, Richmond, Virginia. ♿

A meeting of the Medicaid Transportation Advisory Committee to discuss Medicaid transportation issues with the committee and the community.

Contact: Bob Knox, Transportation Supervisor, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-8854, FAX (804) 786-6035, (800) 343-0634/TTY ☎, e-mail robert.knox@dmas.virginia.gov.

August 17, 2006 - 2 p.m. -- Open Meeting
Department of Medical Assistance Services, 600 East Broad Street, 13th Floor, Board Room, Richmond, Virginia. ♿

A meeting of the Drug Utilization Review Board to discuss Medicaid pharmacy issues related to this committee.

Contact: Rachel Cain, Pharmacist, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 225-2873, FAX (804) 786-5799, (800) 343-0634/TTY ☎, e-mail rachel.cain@dmas.virginia.gov.

BOARD OF MEDICINE

July 12, 2006 - 9 a.m. -- Open Meeting
Williamsburg Marriott, 50 Kingsmill Road, Williamsburg, Virginia. ♿

† **July 18, 2006 - 9 a.m.** -- Open Meeting
Holiday Inn Select, 2801 Plank Road, Fredericksburg, Virginia. ♿

† **July 27, 2006 - 9:15 a.m.** -- Open Meeting
Holiday Inn, 3315 Ordway Drive, Roanoke, Virginia. ♿

† **August 9, 2006 - 8:45 a.m.** -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia.

A special conference committee 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.

Contact: Renee S. Dixon, Discipline Case Manager, Department of Health Professions, 6603 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 662-7009, FAX (804) 662-9517, (804) 662-7197/TTY ☎, e-mail renee.dixon@dhp.virginia.gov.

August 11, 2006 - 8 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Board Room 2, Richmond, Virginia. ♿

A meeting of the Executive Committee to consider regulatory and disciplinary matters as may be presented on the agenda. Public comment on agenda items will be received at the beginning of the meeting.

Contact: William L. Harp, M.D., Executive Director, Board of Medicine, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9908, FAX (804) 662-9943, (804) 662-7197/TTY ☎, e-mail william.harp@dhp.virginia.gov.

September 22, 2006 - 8:30 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Board Room, Richmond, Virginia. ♿

A meeting of the Legislative Committee to consider regulatory matters as presented on the agenda. Public comment on agenda items will be received at the beginning of the meeting.

Contact: William L. Harp, M.D., Executive Director, Board of Medicine, 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9908, FAX (804) 662-9943, (804) 662-7197/TTY ☎, e-mail william.harp@dhp.virginia.gov.

Advisory Board on Acupuncture


† **October 4, 2006 - 9 a.m.** -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Board Room 4, Richmond, Virginia. ♿

A meeting to consider issues related to the regulations of acupuncture. Public comment on agenda items will be received at the beginning of the meeting.


Contact: William L. Harp, M.D., Executive Director, Board of Medicine, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9908, FAX (804) 662-9943, (804) 662-7197/TTY ☎, e-mail william.harp@dhp.virginia.gov.

Calendar of Events


Advisory Board on Athletic Training

† **October 5, 2006 - 9 a.m.** -- Open Meeting
Department of Health Professions, 6603 West Broad Street,
5th Floor, Board Room 4, Richmond, Virginia. 


A meeting to consider issues related to the regulations of athletic training. Public comment on agenda items will be received at the beginning of the meeting.

Contact: William L. Harp, M.D., Executive Director, Board of Medicine, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9908, FAX (804) 662-9943, (804) 662-7197/TTY , e-mail william.harp@dhp.virginia.gov.


Advisory Board on Midwifery

October 6, 2006 - 10 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street,
5th Floor, Board Room 4, Richmond, Virginia. 


A meeting to consider issues related to the regulations of midwifery. Public comment on agenda items will be received at the beginning of the meeting.

Contact: William L. Harp, M.D., Executive Director, Board of Medicine, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9908, FAX (804) 662-9943, (804) 662-7197/TTY , e-mail william.harp@dhp.virginia.gov.


Advisory Board on Occupational Therapy

† **October 3, 2006 - 10 a.m.** -- Open Meeting
Department of Health Professions, 6603 West Broad Street,
5th Floor, Board Room 4, Richmond, Virginia. 


A meeting to consider issues related to the regulations of occupational therapy. Public comment on agenda items will be received at the beginning of the meeting.

Contact: William L. Harp, M.D., Executive Director, Board of Medicine, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9908, FAX (804) 662-9943, (804) 662-7197/TTY , e-mail william.harp@dhp.virginia.gov.


Advisory Board on Physician Assistants

† **October 5, 2006 - 1 p.m.** -- Open Meeting
Department of Health Professions, 6603 West Broad Street,
5th Floor, Board Room 4, Richmond, Virginia. 


A meeting to consider issues related to the regulations of physician assistants. Public comment on agenda items will be received at the beginning of the meeting.

Contact: William L. Harp, M.D., Executive Director, Board of Medicine, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9908, FAX (804) 662-9943, (804) 662-7197/TTY , e-mail william.harp@dhp.virginia.gov.


Advisory Board on Radiologic Technology

† **October 4, 2006 - 1 p.m.** -- Open Meeting
Department of Health Professions, 6603 West Broad Street,
5th Floor, Board Room 4, Richmond, Virginia. 


A meeting to consider issues related to the regulations of radiologic technologists and radiologic technologist-limited. Public comment on agenda items will be received at the beginning of the meeting.

Contact: William L. Harp, M.D., Executive Director, Board of Medicine, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9908, FAX (804) 662-9943, (804) 662-7197/TTY , e-mail william.harp@dhp.virginia.gov.

Advisory Board on Respiratory Care


† **October 3, 2006 - 1 p.m.** -- Open Meeting
Department of Health Professions, 6603 West Broad Street,
5th Floor, Board Room 4, Richmond, Virginia. 

A meeting to consider issues related to the regulations of respiratory care. Public comment on agenda items will be received at the beginning of the meeting.

Contact: William L. Harp, M.D., Executive Director, Board of Medicine, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9908, FAX (804) 662-9943, (804) 662-7197/TTY , e-mail william.harp@dhp.virginia.gov.

DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES


Interagency Civil Admissions Advisory Council

July 13, 2006 - 1:30 p.m. -- Open Meeting
VACSB, 10128-B West Broad Street, Glen Allen, Virginia. 
(Interpreter for the deaf provided upon request)

A meeting to review recommendations and progress on recommendations from last fiscal year and to identify this year's goals and objectives.

Contact: Jane McDonald, Community Support Specialist, Office of Mental Health, Department of Mental Health, Mental Retardation and Substance Abuse Services, PO Box 1797, Richmond, VA 23218-1797, telephone (804) 371-8950, FAX (804) 786-1587, e-mail jamcconald@co.dmhmsas.virginia.gov.

Substance Abuse Services Council


† **July 13, 2006 - 10 a.m.** -- Open Meeting
Traditions Restaurant, 625 Mt. Clinton Pike, Harrisonburg,
Virginia. 

The Substance Abuse Services Council is charged with advising and making recommendations to the Governor, the General Assembly, and the board on broad policies and

goals and on the coordination of the Commonwealth's public and private efforts to control alcohol and other drug abuse. During this meeting, work will continue on developing a strategic plan for the council, as well as development of a comprehensive, interagency state plan for substance abuse services.

Contact: Julie Truitt, Substance Abuse Planning Coordinator, Office of Substance Abuse Services, Department of Mental Health, Mental Retardation and Substance Abuse Services, 1220 Bank St., Richmond, VA 23219, telephone (804) 786-0825, FAX (804) 786-4320, e-mail julie.truitt@co.dmhmrzas.virginia.gov.


STATE MILK COMMISSION

September 13, 2006 - 10:45 a.m. -- Open Meeting
Department of Forestry, 900 Natural Resources Drive, Room 2054, Charlottesville, Virginia. 

A regular meeting to consider industry issues, distributor licensing, base transfers and reports from staff. The commission offers anyone in attendance an opportunity to speak at the conclusion of the agenda. Those persons requiring special accommodations should notify Edward C. Wilson at least five working days prior to the meeting date so that suitable arrangements can be made.

Contact: Edward C. Wilson, Jr., Deputy Administrator, State Milk Commission, 102 Governor St., Room 205, Richmond, VA 23219, telephone (804) 786-2013, FAX (804) 786-3779, e-mail edward.wilson@vdacs.virginia.gov.

MOTOR VEHICLE DEALER BOARD

July 10, 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@mvdv.virginia.gov.


FOUNDATION FOR VIRGINIA'S NATURAL RESOURCES

July 11, 2006 - 9 a.m. -- Open Meeting
Department of Forestry, 900 Natural Resources Drive, Board Room, Charlottesville, Virginia.  (Interpreter for the deaf provided upon request)


A regular business meeting.


Contact: Brenda Taylor, Administrative Staff Assistant, Department of Forestry, 900 Natural Resources Dr., Suite 800, Charlottesville, VA 22903, telephone (434) 977-6555, FAX (434) 977-7749, e-mail brenda.taylor@dof.virginia.gov.

BOARD OF NURSING


July 17, 2006 - 9 a.m. -- Open Meeting
July 19, 2006 - 9 a.m. -- Open Meeting
July 20, 2006 - 9 a.m. -- Open Meeting
September 18, 2006 - 9 a.m. -- Open Meeting
September 20, 2006 - 9 a.m. -- Open Meeting
September 21, 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.

July 18, 2006 - 9 a.m. -- Open Meeting
September 19, 2006 - 9 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Board Room 2, Richmond, Virginia. 

A meeting to conduct general business including receipt of committee reports and 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.

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July 18, 2006 - 11:30 a.m. -- Public Hearing
Department of Health Professions, 6603 West Broad Street, 5th Floor, Board Room 2, Richmond, Virginia. 

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Nursing intends to adopt regulations entitled **18 VAC 90-60, Regulations Governing Registration of Medication Aides**. The purpose of the proposed action is to establish criteria for approval of training programs and for the registration of medication aides in assisted living facilities.

Calendar of Events

Statutory Authority: §§ 54.1-2400 and 54.1-3005 of the Code of Virginia.

Public comments may be submitted until August 25, 2006, to 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.

Contact: Elaine J. Yeatts, Regulatory Coordinator, Department of Health Professions, 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9918, FAX (804) 662-9914 or e-mail elaine.yeatts@dhp.virginia.gov.

JOINT BOARDS OF NURSING AND MEDICINE

August 23, 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.

BOARD FOR OPTICIANS

August 18, 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 least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: William H. Ferguson, II, Executive Director, Board for Opticians, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590, FAX (804) 367-6295, (804) 367-9753/TTY ☎, e-mail opticians@dpor.virginia.gov.

BOARD OF OPTOMETRY

July 12, 2006 - 2 p.m. -- Open Meeting
Alcoa Building, 6603 West Broad Street, 5th Floor, Room 4, Richmond, Virginia. ♿

A meeting of the Continuing Education Committee to discuss developments in the Association of Regulatory Boards of Optometry's OETracker Program. The committee will consider recommendations regarding Virginia's participation in its continuing education monitoring service.

Public comment will be received at the beginning of the meeting.

Contact: Elizabeth A. Carter, Ph.D., Executive Director, Board of Optometry, 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.

VIRGINIA OUTDOORS FOUNDATION

September 20, 2006 - 1 p.m. -- Open Meeting
September 21, 2006 - 9 a.m. -- Open Meeting
Location to be announced; Charlottesville, Virginia area.

A meeting for policy and easement consideration. Public comment will be received.

Contact: Trisha Cleary, Administrative Assistant, Department of Conservation and Recreation, 101 N. 14th St., 17th Floor, Richmond, VA 23219, telephone (804) 225-2147, FAX (804) 371-4810, e-mail tcleary@vofonline.org.

PESTICIDE CONTROL BOARD

† **July 20, 2006 - 9 a.m.** -- Open Meeting
Oliver Hill Building, 102 Governor Street, 2nd Floor, 220 Board Room, Richmond, Virginia. ♿

A meeting 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 Dr. W. Wayne Surles at least five days before the meeting date so that suitable arrangements can be made.

Contact: Dr. W. Wayne Surles, Program Manager, Department of Agriculture and Consumer Services, Oliver Hill Bldg., 102 Governor St., 1st Floor, Richmond, VA 23219, telephone (804) 371-6559, FAX (804) 786-9149, toll-free (800) 552-9963, e-mail wayne.surles@vdacs.virginia.gov.

BOARD OF PHARMACY

† **July 11, 2006 - 9 a.m.** -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Conference Room 4, Richmond, Virginia. ♿

A meeting of the Special Conference Committee to discuss disciplinary matters. Public comments will not be received.

Contact: Elizabeth Scott Russell, Executive Director, Board of Pharmacy, 6603 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 662-9911, FAX (804) 662-9313.

July 13, 2006 - 9 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Board Room 1, Richmond, Virginia. ♿

A meeting of the Ad Hoc Committee on Pedigree Regulations to continue drafting regulations to implement a pedigree system for the wholesale distribution of

prescription drugs pursuant to § 54.1-3307, as amended during the 2006 General Assembly session. Public comment will be received.

Contact: Elizabeth Scott Russell, RPh, Executive Director, Board of Pharmacy, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9911, FAX (804) 662-9313, (804) 662-7197/TTY ☎, e-mail scotti.russell@dhp.virginia.gov.

August 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 Board of Pharmacy intends to amend regulations entitled **18 VAC 110-20, Regulations Governing the Practice of Pharmacy**. The purpose of the proposed action will eliminate the requirement of an alarm system for alternative sites for delivery of dispensed prescriptions provided the prescriptions are held in a locked room or device with access limited to the practitioner or responsible party listed on an application for controlled substance registration or his designee.

Statutory Authority: Chapters 33 and 34 of Title 54.1 of the Code of Virginia.

Contact: Elizabeth Scott Russell, Executive Director, Board of Pharmacy, 6603 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 662-9911, FAX (804) 662-9313 or e-mail elizabeth.russell@dhp.virginia.gov.

† **September 27, 2006 - 9 a.m.** -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia. 📍

A meeting to consider such regulatory and disciplinary matters as may be presented on the agenda. Public comment will be received at the beginning of the meeting.

Contact: Elizabeth Scott Russell, RPh, Executive Director, Board of Pharmacy, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9911, FAX (804) 662-9313, (804) 662-7197/TTY ☎, e-mail scotti.russell@dhp.virginia.gov.

POLYGRAPH EXAMINERS ADVISORY BOARD

September 21, 2006 - 10 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, 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. Public comment will be heard at the beginning of the meeting. Person desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Kevin Hoeft, Regulatory Boards Administrator, Department of Professional and Occupational Regulation,

3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2785, FAX (804) 367-0674, (804) 367-9753/TTY ☎, e-mail kevin.hoeft@dpor.virginia.gov.

BOARD FOR PROFESSIONAL AND OCCUPATIONAL REGULATION

July 11, 2006 - 10 a.m. -- Public Hearing
City of Hampton Council Chambers, 22 Lincoln Street, 8th Floor, Hampton, Virginia. 📍

July 13, 2006 - 10 a.m. -- Public Hearing
Roanoke City Council Chambers, Noel C. Taylor Municipal Building, 215 Church Avenue, S.W., 4th Floor, Roanoke, Virginia. 📍

A public hearing to study the possible regulation of the auto body repair industry.

Contact: Mark N. Courtney, Executive Director, Board for Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-2475, e-mail mark.courtney@dpor.virginia.gov.

BOARD OF PSYCHOLOGY

July 11, 2006 - 9:30 a.m. -- Open Meeting
† **October 10, 2006 - 9:30 a.m.** -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. 📍

A meeting to include reports from standing committees and any regulatory and disciplinary matters as may be presented on the agenda. Public comment 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


† **September 28, 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, 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.

Calendar of Events


REAL ESTATE APPRAISER BOARD

August 29, 2006 - 10 a.m. -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, 4 West Conference Room,
Richmond, Virginia. 


A meeting to discuss board business.


Contact: 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.

REAL ESTATE BOARD


† **July 12, 2006 - 3 p.m.** -- Open Meeting
† **September 13, 2006 - 3 p.m.** -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, 5th Floor, Richmond, Virginia. 


A meeting of the Education Committee.

Contact: Christine Martine, Executive Director, Real Estate Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8552, FAX (804) 367-6946, (804) 367-9753/TTY , e-mail reboard@dpor.virginia.gov.


July 12, 2006 - 10 a.m. -- Open Meeting
† **July 26, 2006 - 10 a.m.** -- Open Meeting
† **August 4, 2006 - 2 p.m.** -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, 4th Floor, Room 453, Richmond,
Virginia. 


Informal fact-finding conferences.

Contact: Christine Martine, Executive Director, Real Estate Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8552, FAX (804) 367-6946, (804) 367-9753/TTY , e-mail reboard@dpor.virginia.gov.


† **July 13, 2006 - 8:30 a.m.** -- Open Meeting
† **September 14, 2006 - 8:30 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia. 

A meeting of the Fair Housing Committee.

Contact: Christine Martine, Executive Director, Real Estate Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8552, FAX (804) 367-6946, (804) 367-9753/TTY , e-mail reboard@dpor.virginia.gov.


July 13, 2006 - 9 a.m. -- Open Meeting
September 14, 2006 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, 4th Floor, Richmond, Virginia. 

A meeting to discuss board business.

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

Statewide Independent Living Council

† **July 19, 2006 - 3 p.m.** -- Open Meeting
Comfort Suites, 4051 Innslake Drive, Glen Allen, Virginia. 
(Interpreter for the deaf provided upon request)


3 p.m. - Consumer Education and Youth Committee

4 p.m. - Consumer Services Committee

5 p.m. - Operations Committee

6:30 p.m. - CAS Review Team

Contact: Lisa Grubb, Executive Director, Statewide Independent Living Council, 11655 Explorer Dr., Midlothian, VA 23114, telephone (804) 897-7228, FAX (804) 897-1080, e-mail virginiasilc@comcast.net.


† **July 20, 2006 - 8 a.m.** -- Open Meeting
Comfort Suites, 4051 Innslake Drive, Glen Allen, Virginia. 
(Interpreter for the deaf provided upon request)

8 a.m. - Executive Committee


9:30 a.m. - Council business meeting

Contact: Lisa Grubb, Executive Director, Statewide Independent Living Council, 11655 Explorer Dr., Midlothian, VA 23114, telephone (804) 897-7228, FAX (804) 897-1080, e-mail virginiasilc@comcast.net.

Statewide Rehabilitation Council

August 14, 2006 - 11:30 a.m. -- Open Meeting
Department of Rehabilitative Services, 8004 Franklin Farms Dr., Richmond, Virginia. 

A quarterly meeting. Public comment will be received at approximately 11:45 a.m.

Contact: Barbara Tyson, Staff Support, Department of Rehabilitative Services, 8004 Franklin Farms Dr., Richmond, VA 23229, telephone (804) 662-7010, FAX (804) 662-7644, toll-free (800) 552-5019, (800) 464-9950/TTY , e-mail barbara.tyson@drs.virginia.gov.

VIRGINIA RESEARCH AND TECHNOLOGY ADVISORY COMMISSION

September 19, 2006 - 1 p.m. -- Open Meeting
University of Virginia Research Park, Charlottesville, Virginia.

A quarterly meeting.

Contact: Nancy Vorona, VP Research Investment, Virginia Research and Technology Advisory Commission, 2214 Rock Hill Rd., Suite 600, Herndon, VA 20170, telephone (703) 689-3043, FAX (703) 464-1720, e-mail nvorona@cit.org.

VIRGINIA RESOURCES AUTHORITY

July 11, 2006 - 9 a.m. -- Open Meeting

† August 8, 2006 - 9 a.m. -- Open Meeting


Virginia Resources Authority, 707 East Main Street, 2nd Floor, Conference Room, Richmond, Virginia.

A meeting to conduct business of the Board of Directors. The meeting is open to the public; however, a portion of the board's business may be conducted in a closed meeting. A period for public comment will be held prior to adjournment of the meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the authority at least 10 days prior to the meeting so that suitable arrangements can be made. The authority fully complies with the Americans with Disabilities Act.

Contact: Amy Boratyn, Executive Assistant, Virginia Resources Authority, 707 E. Main St., Suite 1350, Richmond, VA, telephone (804) 644-3100, FAX (804) 644-3109, e-mail aboratyn@virginiareources.org.

VIRGINIA SMALL BUSINESS FINANCING AUTHORITY

† July 19, 2006 - 12 p.m. -- 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 general business of the board. The meeting time is subject to change depending upon the board's agenda.

Contact: Scott E. Parsons, Executive Director, Virginia Small Business Financing Authority, 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.


DEPARTMENT OF SOCIAL SERVICES

Virginia Commission for National and Community Service

July 27, 2006 - 10 a.m. -- Open Meeting

7 North Eighth Street, Richmond, Virginia. 

A regular business meeting.

Contact: Susan Patton, Executive Assistant, Department of Social Services, 7 N. 8th St., Richmond, VA 23225, telephone (804) 726-7065, FAX (804) 726-7024, toll-free (800) 552-3431, (800) 828-1120/TTY , e-mail susan.c.patton@dss.virginia.gov.

† September 8, 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 Board of Social Services

intends to repeal regulations entitled **22 VAC 40-330, Collection of Overpayments in the Refugee Other Assistance Program**. The purpose of the proposed action is to repeal the regulation as the regulation applies to a program that no longer exists under federal law.

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

Contact: Penelope Boyd, Policy Coordinator, Virginia Refugee Resettlement Program, Department of Social Services, 7 N. 8th St., Richmond, VA 23219, telephone (804) 726-7933, FAX (804) 726-7127 or e-mail penny.boyd@dss.virginia.gov.

† September 8, 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 Board of Social Services intends to repeal regulations entitled **22 VAC 40-340, Protective Payments in the Refugee Other Assistance Program**. The purpose of the proposed action is to repeal the regulation as the regulation applies to a program that no longer exists under federal law.

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


Contact: Penelope Boyd, Policy Coordinator, Virginia Refugee Resettlement Program, Department of Social Services, 7 N. 8th St., Richmond, VA 23219, telephone (804) 726-7933, FAX (804) 726-7127 or e-mail penny.boyd@dss.virginia.gov.

BOARD OF SOCIAL WORK

July 14, 2006 - 10 a.m. -- Open Meeting


Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia.

A regular business meeting.

Contact: Evelyn B. Brown, Executive Director, Board of Social Work, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9914, FAX (804) 662-7250, (804) 662-7197/TTY , e-mail evelyn.brown@dhp.virginia.gov.

BOARD FOR PROFESSIONAL SOIL SCIENTISTS AND WETLAND PROFESSIONALS

July 31, 2006 - 9 a.m. -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. 

A meeting of the Soil Scientists and Wetland Delineators Board 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 least 10 days prior to the meeting so that

Calendar of Events

suitable arrangements can be made. The department 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.

DEPARTMENT OF TAXATION

State Land Evaluation Advisory Council

August 1, 2006 - 11 a.m. -- Open Meeting

September 11, 2006 - 11 a.m. -- Open Meeting
2220 West Broad Street, Richmond, Virginia. ♿

A meeting to adopt suggested ranges of value for agricultural, horticultural, forest and open-space land use and the use-value assessment program.

Contact: H. Keith Mawyer, Property Tax Manager, Department of Taxation, 2220 W. Broad St., Richmond, VA 23220, telephone (804) 367-8020, e-mail keith.mawyer@tax.virginia.gov.

TREASURY BOARD

July 19, 2006 - 9 a.m. -- Open Meeting

August 16, 2006 - 9 a.m. -- Open Meeting

September 20, 2006 - 9 a.m. -- Open Meeting
101 North 14th Street, 3rd Floor, Richmond, Virginia. ♿

A regular meeting.

Contact: J. Braxton Powell, Treasurer, Department of the Treasury, 101 N. 14th St., 3rd Floor, Richmond, VA 23218, telephone (225) 225-2142, FAX (225) 225-3187, e-mail braxton.powell@trs.virginia.gov.

DEPARTMENT OF VETERANS SERVICES

Board of Veterans Services

July 10, 2006 - 11:30 a.m. -- Open Meeting
Virginia War Memorial, 621 South Belvidere Street, Richmond, Virginia. ♿

A regular meeting.

Contact: Rhonda Earman, Special Assistant to Commissioner, Department of Veterans Services, 900 E. Main St., Richmond, VA 23219, telephone (804) 786-0286, e-mail rhonda.earman@dvs.virginia.gov.

Veterans Services Foundation

July 26, 2006 - 11 a.m. -- Open Meeting
American Legion Department of Virginia, 1708 Commonwealth Avenue, Richmond, Virginia. ♿

A regular meeting. Public comment will be heard at the conclusion of the meeting.

Contact: Roz J. Trent, Director of Communications, Department of Veterans Services, 900 E. Main St., Richmond, VA 23219, telephone (804) 786-0220, FAX (804) 786-0302, e-mail roz.trent@dvs.virginia.gov.

VIRGINIA WASTE MANAGEMENT BOARD

July 20, 2006 - 10 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 the department in the development of amendment 6 to the solid waste management regulations.

Contact: Robert G. Wickline, Virginia Waste Management Board, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4213, e-mail rgwickline@deq.virginia.gov.

STATE WATER CONTROL BOARD

† **July 18, 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, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4182, e-mail kiwinter@deq.virginia.gov.

July 20, 2006 - 7 p.m. -- Public Hearing

James City County Government Complex, 101 Mounts Bay Road, Building F, Board Room, Williamsburg, Virginia. ♿

A public hearing to receive comments on a modification request from the City of Newport News to extend the permit expiration date of and several document submittal dates in the Virginia Water Protection Permit for the King William Reservoir. The public comment period closes on August 4, 2006. An informational session will be held before the public hearing beginning at 6 p.m.

Contact: Ellen Gilinsky, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4375, FAX (804) 698-4032, e-mail egilinsky@deq.virginia.gov.


August 3, 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 established to assist in the development of regulations concerning wastewater reclamation and reuse.

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


BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS

September 13, 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 conducted in closed session. Public comment will be heard at the beginning of the meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the department at least 10 days prior to this meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: 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.

COUNCIL ON THE STATUS OF WOMEN


† **July 10, 2006 - 10 a.m.** -- Open Meeting
United Way, Thomas Jefferson Area Office, 806 East High Street, Charlottesville, Virginia. 

A regular business meeting.

Contact: Jane Brown, Director, Office of Community Partnerships, Department of Social Services, 7 N. 8th St., Richmond, VA 23219, telephone (804) 726-7912, FAX (804) 726-7947, e-mail jane.brown@dss.virginia.gov.

INDEPENDENT


STATE LOTTERY BOARD

July 19, 2006 - 9:30 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


July 12, 2006 - 9 a.m. -- Open Meeting
Virginia Office for Protection and Advocacy, 1910 Byrd Avenue, Conference Room, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A teleconference meeting of the Priorities and Public Awareness Committee. Public comment by telephone is welcome and will be received at the beginning of the


meeting. For information on participating in this conference call or if you wish to provide public comment via telephone, you must call Lisa Shehi at 1-800-552-3962 (Voice/TTY) or e-mail lisa.shehi@vopa.virginia.gov no later than Monday, June 26, 2006. For further information, please contact Ms. Shehi. If interpreter services or other accommodations are required, please contact Ms. Shehi no later than Monday, June 26, 2006.


Contact: Lisa Shehi, Executive 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.

July 12, 2006 - 10 a.m. - CANCELED


September 13, 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 of the Disabilities Advisory Council. 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, VA 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.


July 17, 2006 - 10 a.m. -- Open Meeting
Virginia Office for Protection and Advocacy, 1910 Byrd Avenue, Conference Room, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A meeting of the Finance and Resource Development Committee. Public comment is welcome and will be received beginning at 10 a.m. on July 17, 2006. Public comment will also be accepted by telephone. If you wish to provide public comment via telephone, you must call Lisa Shehi at 1-800-552-3962 (Voice/TTY) or via e-mail at lisa.shehi@vopa.virginia.gov no later than June 30, 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 June 30, 2006.


Contact: Lisa Shehi, Executive 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.

Calendar of Events


† July 19, 2006 - Noon -- Open Meeting

Virginia Office for Protection and Advocacy, 1910 Byrd Avenue, Suite 5, Richmond, Virginia.  (Interpreter for the deaf provided upon request)


A meeting of the Board of Director for the purpose of providing an orientation to new board appointees. There will be no business conducted at this training and no public comment will be taken. For information on the meeting contact Lisa Shehi, Executive Assistant at 1-800-552-3962 (Voice/TTY) or e-mail lisa.shehi@vopa.virginia.gov. For further information including directions, please contact Ms. Shehi. If interpreter services or other accommodations are required, please contact Ms. Shehi.

Contact: Lisa Shehi, Executive 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.


July 19, 2006 - 4 p.m. -- Open Meeting

Virginia Office for Protection and Advocacy, 1910 Byrd Avenue, Conference Room, Richmond, Virginia.  (Interpreter for the deaf provided upon request)


A meeting of the Internal Policy Committee. Public comment is welcome and will be received beginning at 4 p.m. on July 19, 2006. Public comment will also be accepted by telephone. If you wish to provide public comment via telephone, you must call Lisa Shehi at 1-800-552-3962 (Voice/TTY) or via e-mail at lisa.shehi@vopa.virginia.gov no later than July 5, 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 July 5, 2006.

Contact: Lisa Shehi, Executive 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.

August 17, 2006 - 10 a.m. -- Open Meeting

Location to be determined.  (Interpreter for the deaf provided upon request)


A meeting of the Protection and Advocacy for Individuals with Mental Illness (PAIMI) Advisory Council. Public comment is welcome and will be received at the beginning of the meeting. For those needing interpreter services or other accommodations, please contact Lisa Shehi no later than August 3, 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.


Board for Protection and Advocacy

July 20, 2006 - 9 a.m. -- Open Meeting

September 26, 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 meeting of the Governing Board. Public comment is welcomed by the board and will be received beginning at 9 a.m. on July 20, 2006. Public comment will also be accepted by telephone. If you wish to provide public comment via telephone, call Lisa Shehi at 1-800-552-3962 (Voice/TTY) or e-mail lisa.shehi@vopa.virginia.gov no later than July 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 July 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) 662-7413, toll-free (800) 552-3962, (804) 225-2042/TTY , e-mail lisa.shehi@vopa.virginia.gov.

VIRGINIA RETIREMENT SYSTEM

September 12, 2006 - 9 a.m. -- Open Meeting

Virginia Retirement System, 1200 East Main Street, Richmond, Virginia. 

A regular meeting of the Optional Retirement Plan for Higher Education Committee. No public comment will be received at the meeting.

Contact: Patty Atkins-Smith, Legislative Liaison and Policy Analyst, Virginia Retirement System, 1200 E. Main St., Richmond, VA 23219, telephone (804) 344-3123, FAX (804) 786-1541, toll-free (888) 827-3847, (804) 344-3190/TTY , e-mail psmith@varetire.org.


September 13, 2006 - 1:30 p.m. -- Open Meeting

Virginia Retirement System, 1200 East Main Street, Richmond, Virginia.


Meetings of the following committees:

1:30 p.m. - Benefits and Actuarial

3 p.m. - Audit and Compliance

Contact: LaShaunda King, Executive Assistant, Virginia Retirement System, 1200 E. Main St., Richmond, VA 23219, telephone (804) 344-3124, FAX (804) 786-1541, toll-free (888) 827-3847, (804) 344-3190/TTY , e-mail lking@varetire.org.

September 14, 2006 - 9 a.m. -- Open Meeting

Virginia Retirement System, 1111 East Main Street, 3rd Floor Conference Room, Richmond, Virginia. 

A regular meeting of the Investment Advisory Committee. No public comment will be received at the meeting.

Contact: Linda Ritchey, Executive Assistant, Virginia Retirement System, 1111 E. Main St., Richmond, VA 23219, telephone (804) 697-6673, FAX (804) 786-1541, toll-free (888)

827-3847, (804) 344-3190/TTY ☎, e-mail
lritchey@varetire.org.

September 14, 2006 - 1 p.m. -- Open Meeting
Virginia Retirement System, 1111 East Main Street, 3rd Floor
Conference Room, Richmond, Virginia. ♿

A regular meeting of the Board of Trustees. No public
comment will be received at the meeting.

Contact: LaShaunda King, Executive Assistant, Virginia
Retirement System, 1200 E. Main St., Richmond, VA 23219,
telephone (804) 344-3124, FAX (804) 786-1541, toll-free (888)
827-3847, (804) 344-3190/TTY ☎, e-mail lking@varetire.org.

LEGISLATIVE

JOINT LEGISLATIVE AUDIT AND REVIEW COMMISSION

July 10, 2006 - 10 a.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, Senate
Room A, Richmond, Virginia. ♿

A meeting on the Virginia Retirement System (VRS) Semi-
Annual Investment Report; the Quadrennial Actuarial Audit
of VRS (Mercer Human Resource Consulting); and the VRS
Status Report: VRS Director and VRS CIO.

Contact: Patricia Bishop, Principal Legislative Analyst, Joint
Legislative Audit and Review Commission, General Assembly
Bldg., 910 Capitol St., Suite 1100, Richmond, VA 23219,
telephone (804) 786-1258, FAX (804) 371-0101, e-mail
tbishop@leg.state.va.us.

VIRGINIA CODE COMMISSION

July 19, 2006 - 10 a.m. -- Open Meeting
August 23, 2006 - 10 a.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, 6th Floor,
Speaker's Conference Room, Richmond, Virginia. ♿

September 20, 2006 - 10 a.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, 6th Floor,
Senate Leadership Room, Richmond, Virginia. ♿

A regularly scheduled meeting.

Contact: Jane D. Chaffin, Registrar of Regulations, 910
Capitol St., 2nd Floor, Richmond, VA 23219, telephone (804)
786-3591, FAX (804) 692-0624, e-mail
jchaffin@leg.state.va.us.

JOINT COMMISSION ON TECHNOLOGY AND SCIENCE

† **July 13, 2006 - 10 a.m.** -- Open Meeting
Patrick Henry Building, 1111 East Broad Street, House Room
2, Richmond, Virginia. ♿

A meeting of the Advisory Committee on Use of Social
Security Numbers.

Contact: Lisa Wallmeyer, Executive Director, Joint
Commission on Technology and Science, General Assembly
Building, 910 Capitol St., 2nd Floor, Richmond, VA 23219,
telephone (804) 786-3591, e-mail lwallmeyer@leg.state.va.us.

† **July 13, 2006 - 1:30 p.m.** -- Open Meeting
Patrick Henry Building, 1111 East Broad Street, House Room
2, Richmond, Virginia. ♿

A meeting the Advisory Committee on Real ID Act.

Contact: Lisa Wallmeyer, Executive Director, Joint
Commission on Technology and Science, General Assembly
Bldg., 910 Capitol St., 2nd Floor, Richmond, VA 23219,
telephone (804) 786-3591, e-mail lwallmeyer@leg.state.va.us.

† **July 26, 2006 - 10 a.m.** -- Open Meeting
General Assembly Building, 9th and Broad Streets, House
Room D, Richmond, Virginia. ♿

A meeting of the Committee on Nanotechnology
(Manufacturing and Research and Development
Subcommittees).

Contact: Patrick Cushing, Staff Attorney, Joint Commission
on Technology and Science, General Assembly Bldg., 910
Capitol St., 2nd Floor, Richmond, VA 23219, telephone (804)
786-3591, e-mail pcushing@leg.state.va.us.

† **July 27, 2006 - 10 a.m.** -- Open Meeting
General Assembly Building, 9th and Broad Streets, Senate
Leadership Conference Room, 6th Floor, Richmond,
Virginia. ♿

A meeting of the Advisory Committee on Cybercrimes.

Contact: Patrick Cushing, Staff Attorney, Joint Commission
on Technology and Science, General Assembly Bldg., 910
Capitol St., 2nd Floor, Richmond, VA 23219, telephone (804)
786-3591, e-mail pcushing@leg.state.va.us.

† **August 3, 2006 - 10 a.m.** -- Open Meeting
General Assembly Building, 9th and Broad Streets, Senate
Leadership Conference Room, 6th Floor, Richmond,
Virginia. ♿

A meeting of JCOTS Advisory Committee on Electronic
Balloting.

Contact: Lisa Wallmeyer, Executive Director, Joint
Commission on Technology and Science, General Assembly
Building, 910 Capitol St., 2nd Floor, Richmond, VA 23219,
telephone (804) 786-3591, e-mail lwallmeyer@leg.state.va.us.

CHRONOLOGICAL LIST

OPEN MEETINGS

July 10
† Accountancy, Board of
Alcoholic Beverage Control Board
Audit and Review Commission, Joint Legislative
Health, Department of
- Radiation Advisory Board
Higher Education for Virginia, State Council of
Local Government, Commission on
Motor Vehicle Dealer Board

Calendar of Events

† Status of Women, Council on the
Veterans Services, Department of
- Board of Veterans Services

July 11

Blind and Vision Impaired, Board for
Child Fatality Review Team, State
† Conservation and Recreation, Department of
† Contractors, Board for
Higher Education for Virginia, State Council of
Long-Term Care Administrators, Board of
Natural Resources, Foundation for Virginia's
† Pharmacy, Board of
Professional and Occupational Regulation, Board for
Psychology, Board of
† Resources Authority, Virginia

July 12

Aging, Department for the
† Environmental Quality, Department of
Hearing Aid Specialists, Board for
Information Technologies Agency, Virginia
- E-911 Wireless Services Board
Jamestown-Yorktown Foundation
Medicine, Board of
Optometry, Board of
Protection and Advocacy, Virginia Office for
Real Estate Board

July 13

† Conservation and Recreation, Department of
† Environmental Quality, Department of
† Health, Department of
† Mental Health, Mental Retardation and Substance Abuse
Services, Department of
† Pharmacy, Board of
Professional and Occupational Regulation, Board for
† Real Estate Board
† Technology and Science, Joint Commission on

July 14

Health, Department of
Social Work, Board of

July 17

Alcoholic Beverage Control Board
† Environmental Quality, Department of
Nursing, Board of
Protection and Advocacy, Virginia Office for

July 18

Agriculture and Consumer Services, Department of
- Virginia Peanut Board
Corrections, Board of
† Environmental Quality, Department of
Game and Inland Fisheries, Department of
† Health Professions, Board of
† Medicine, Board of
Nursing, Board of
† Water Control Board, State

July 19

Agriculture and Consumer Services, Department of
- Virginia Small Grains Board
Code Commission, Virginia
Corrections, Board of
† Environmental Quality, Department of
† Funeral Directors and Embalmers, Board of
Geology, Board for

Information Technologies Agency, Virginia
Lottery Board, State
Nursing, Board of
† Protection and Advocacy, Virginia Office for
† Rehabilitative Services, Department of
- Virginia Statewide Independent Living Council
† Small Business Financing Authority, Virginia
Treasury Board

July 20

Conservation and Recreation, Department of
- Virginia Soil and Water Conservation Board
Contractors, Board for
Design-Build/Construction Management Review Board
Human Resources, Virginia Council on
Information Technologies Agency, Virginia
Nursing, Board of
† Pesticide Control Board
Protection and Advocacy, Virginia Office for
- Board for Protection and Advocacy
† Rehabilitative Services, Department of
- Virginia Statewide Independent Living Council
Waste Management Board, Virginia

July 21

† Accountancy, Board of
Dentistry, Board of
† Housing and Community Development, Department of
- State Building Code Technical Review Board

July 25

† Conservation and Recreation, Department of
Contractors, Board for
Marine Resources Commission

July 26

Architects, Professional Engineers, Land Surveyors,
Certified Interior Designers and Landscape Architects,
Board for
Compensation Board
† Conservation and Recreation, Department of
Education, Board of
Innovative Technology Authority
† Real Estate Board
† Technology and Science, Joint Commission on
Veterans Services, Department of

July 27

Branch Pilots, Board for
† Conservation and Recreation, Department of
Manufactured Housing Board
† Medicine, Board of
Social Services, Department of
- Virginia Commission for National and Community
Service
† Technology and Science, Joint Commission on

July 28

† Agriculture and Consumer Services, Department of
- Virginia Pork Industry Board
Branch Pilots, Board for

July 31

Professional Soil Scientists and Wetland Professionals,
Board for

August 1

† Housing Development Authority, Virginia
Taxation, Department of
- State Land Evaluation Advisory Council

August 2

† Accountancy, Board of
Architects, Professional Engineers, Land Surveyors,
Certified Interior Designers and Landscape Architects,
Board for

August 3

† Agriculture and Consumer Services, Department of
- Virginia Cotton Board
Architects, Professional Engineers, Land Surveyors,
Certified Interior Designers and Landscape Architects,
Board for
Governor's EMS Advisory Board
† Technology and Science, Joint Commission on
Water Control Board, State

August 4

Art and Architectural Review Board
† Child Abuse and Neglect, Governor's Advisory Board on
† Real Estate Board

August 7

Alcoholic Beverage Control Board
Barbers and Cosmetology, Board for

August 8

† Resources Authority, Virginia

August 9

Architects, Professional Engineers, Land Surveyors,
Certified Interior Designers and Landscape Architects,
Board for
† Conservation and Recreation, Department of
Health, Department of
- Sewage Handling and Disposal Appeal Review Board
† Medicine, Board of

August 10

Architects, Professional Engineers, Land Surveyors,
Certified Interior Designers and Landscape Architects,
Board for
Conservation and Recreation, Department of

August 11

† Health, Department of
Medicine, Board of

August 14

Rehabilitative Services, Department of

August 15

Chesapeake Bay Local Assistance Board

August 16

Asbestos, Lead, and Home Inspectors, Virginia Board for
† Compensation Board
Medical Assistance Services, Department of
Treasury Board

August 17

Design-Build/Construction Management Review Board
Medical Assistance Services, Department of
Protection and Advocacy, Virginia Office for

August 18

Dentistry, Board of
Opticians, Board for

August 21

Alcoholic Beverage Control Board

August 22

Contractors, Board for
Marine Resources Commission

August 23

Code Commission, Virginia

Nursing and Medicine, Joint Boards of

August 24

† Agriculture and Consumer Services, Board of

August 28

† Real Estate Board

August 29

Real Estate Appraiser Board

September 1

Art and Architectural Review Board

September 5

Alcoholic Beverage Control Board

September 6

Jamestown-Yorktown Foundation

September 7

Architects, Professional Engineers, Land Surveyors,
Certified Interior Designers and Landscape Architects,
Board for

September 8

Dentistry, Board of
Health, Department of

September 9

† Health, Department of

September 11

Taxation, Department of
- State Land Evaluation Advisory Council

September 12

Charitable Gaming Board
Child Fatality Review Team, State
Medical Assistance Services, Board of
Retirement System, Virginia

September 13

Information Technologies Agency, Virginia
- E911 Wireless Service Board
Juvenile Justice, State Board of
Milk Commission, State
Protection and Advocacy, Virginia Office for
- Disabilities Advisory Council

† Real Estate Board

Retirement System, Virginia

Waterworks and Wastewater Works Operators, Board for

September 14

Conservation and Recreation, Department of
Dentistry, Board of
† Health, Department of
Real Estate Board
Retirement System, Virginia

September 15

Contractors, Board for
Dentistry, Board of

September 18

Alcoholic Beverage Control Board
† Library Board
Nursing, Board of

September 19

Corrections, Board of
† Environmental Quality, Department of
Nursing, Board of
Research and Technology Advisory Commission, Virginia

September 20

Code Commission, Virginia
Corrections, Board of
Nursing, Board of

Calendar of Events

Outdoors Foundation, Virginia
Treasury Board

September 21
Conservation and Recreation, Department of
- Virginia Soil and Water Board
Design-Build/Construction Management Review Board
Human Resources, Virginia Council on
Labor and Industry, Department of
- Virginia Apprenticeship Council
Nursing, Board of
Outdoors Foundation, Virginia
Polygraph Examiners Advisory Board

September 22
† Agriculture and Consumer Services, Department of
- Virginia Horse Industry Board
Health, Department of
Medicine, Board of

September 26
† Chesapeake Bay Local Assistance Board
Contractors, Board for
Marine Resources Commission
Protection and Advocacy, Virginia Office for
- Board for Protection and Advocacy

September 27
† Education, Board of
† Health, Department of
† Pharmacy, Board of

September 28
† Public Guardian and Conservator Advisory Board, Virginia

September 29
† Dentistry, Board of

October 2
† Alcoholic Beverage Control Board

October 3
† Health, Department of
† Medicine, Board of
- Advisory Board on Occupational Therapy
- Advisory Board on Respiratory Care

October 4
† Medicine, Board of
- Advisory Board on Acupuncture
- Advisory Board on Radiologic Technology

October 5
† Auctioneers Board
† Medicine, Board of
- Advisory Board on Athletic Training
- Advisory Board on Physician Assistants

October 6
† Art and Architectural Review Board
† Medicine, Board of
- Advisory Board on Midwifery

October 10
† Long-Term Care Administrators, Board of
† Psychology, Board of

PUBLIC HEARINGS

July 10
Local Government, Commission on

July 18
Funeral Directors and Embalmers, Board of
Nursing, Board of

July 19
Air Pollution Control Board, State

July 20
Water Control Board, State

July 21
Dentistry, Board of

August 1
† Air Pollution Control Board, State

August 24
† Air Pollution Control Board, State

August 29
† Agriculture and Consumer Services, Board of

September 13
† Criminal Justice Services, Department of

September 27
† Education, Board of