



# Virginia Register of Regulations

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# THE VIRGINIA REGISTER INFORMATION PAGE

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**THE VIRGINIA REGISTER OF REGULATIONS** is an official state publication issued every other week throughout the year. Indexes are published quarterly, and are cumulative for the year. The *Virginia Register* has several functions. The new and amended sections of regulations, both as proposed and as finally adopted, are required by law to be published in the *Virginia Register*. In addition, the *Virginia Register* is a source of other information about state government, including petitions for rulemaking, emergency regulations, executive orders issued by the Governor, the Virginia Tax Bulletin issued periodically by the Department of Taxation, and notices of public hearings and open meetings of state agencies.

## **ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS**

An agency wishing to adopt, amend, or repeal regulations must first publish in the *Virginia Register* a notice of intended regulatory action; a basis, purpose, substance and issues statement; an economic impact analysis prepared by the Department of Planning and Budget; the agency's response to the economic impact analysis; a summary; a notice giving the public an opportunity to comment on the proposal; and the text of the proposed regulation.

Following publication of the proposal in the *Virginia Register*, the promulgating agency receives public comments for a minimum of 60 days. The Governor reviews the proposed regulation to determine if it is necessary to protect the public health, safety and welfare, and if it is clearly written and easily understandable. If the Governor chooses to comment on the proposed regulation, his comments must be transmitted to the agency and the Registrar no later than 15 days following the completion of the 60-day public comment period. The Governor's comments, if any, will be published in the *Virginia Register*. Not less than 15 days following the completion of the 60-day public comment period, the agency may adopt the proposed regulation.

The Joint Commission of Administrative Rules (JCAR) or the appropriate standing committee of each house of the General Assembly may meet during the promulgation or final adoption process and file an objection with the Registrar and the promulgating agency. The objection will be published in the *Virginia Register*. Within 21 days after receipt by the agency of a legislative objection, the agency shall file a response with the Registrar, the objecting legislative body, and the Governor.

When final action is taken, the agency again publishes the text of the regulation as adopted, highlighting all changes made to the proposed regulation and explaining any substantial changes made since publication of the proposal. A 30-day final adoption period begins upon final publication in the *Virginia Register*.

The Governor may review the final regulation during this time and, if he objects, forward his objection to the Registrar and the agency. In addition to or in lieu of filing a formal objection, the Governor may suspend the effective date of a portion or all of a regulation until the end of the next regular General Assembly session by issuing a directive signed by a majority of the members of the appropriate legislative body and the Governor. The Governor's objection or suspension of the regulation, or both, will be published in the *Virginia Register*. If the Governor finds that changes made to the proposed regulation have substantial impact, he may require the agency to provide an additional 30-day public comment period on the changes. Notice of the additional public comment period required by the Governor will be published in the *Virginia Register*.

The agency shall suspend the regulatory process for 30 days when it receives requests from 25 or more individuals to solicit additional public comment, unless the agency determines that the changes have minor or inconsequential impact.

A regulation becomes effective at the conclusion of the 30-day final adoption period, or at any other later date specified by the promulgating agency, unless (i) a legislative objection has been filed, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the 21-day objection period; (ii) the Governor exercises his authority to require the agency to

provide for additional public comment, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the period for which the Governor has provided for additional public comment; (iii) the Governor and the General Assembly exercise their authority to suspend the effective date of a regulation until the end of the next regular legislative session; or (iv) the agency suspends the regulatory process, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the 30-day public comment period and no earlier than 15 days from publication of the readopted action.

Proposed regulatory action may be withdrawn by the promulgating agency at any time before the regulation becomes final.

## **FAST-TRACK RULEMAKING PROCESS**

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.

## **EMERGENCY REGULATIONS**

If an agency demonstrates that (i) there is an immediate threat to the public's health or safety; or (ii) Virginia statutory law, the appropriation act, federal law, or federal regulation requires a regulation to take effect no later than (a) 280 days from the enactment in the case of Virginia or federal law or the appropriation act, or (b) 280 days from the effective date of a federal regulation, it then requests the Governor's approval to adopt an emergency regulation. The emergency regulation becomes operative upon its adoption and filing with the Registrar of Regulations, unless a later date is specified. Emergency regulations are limited to addressing specifically defined situations and may not exceed 12 months in duration. Emergency regulations are published as soon as possible in the *Register*.

During the time the emergency status is in effect, the agency may proceed with the adoption of permanent regulations through the usual procedures. To begin promulgating the replacement regulation, the agency must (i) file the Notice of Intended Regulatory Action with the Registrar within 60 days of the effective date of the emergency regulation and (ii) file the proposed regulation with the Registrar within 180 days of the effective date of the emergency regulation. If the agency chooses not to adopt the regulations, the emergency status ends when the prescribed time limit expires.

## **STATEMENT**

The foregoing constitutes a generalized statement of the procedures to be followed. For specific statutory language, it is suggested that Article 2 (§ 2.2-4006 et seq.) of Chapter 40 of Title 2.2 of the Code of Virginia be examined carefully.

## **CITATION TO THE VIRGINIA REGISTER**

The *Virginia Register* is cited by volume, issue, page number, and date. **23:7 VA.R. 1023-1140 December 11, 2006**, refers to Volume 23, Issue 7, pages 1023 through 1140 of the *Virginia Register* issued on December 11, 2006.

*The Virginia Register of Regulations* is published pursuant to Article 6 (§ 2.2-4031 et seq.) of Chapter 40 of Title 2.2 of the Code of Virginia.

Members of the Virginia Code Commission: **R. Steven Landes**, Chairman; **John S. Edwards**, Vice Chairman; **Ryan T. McDougle**; **Robert Hurt**; **Robert L. Calhoun**; **Frank S. Ferguson**; **E.M. Miller, Jr.**; **Thomas M. Moncure, Jr.**; **James F. Almand**; **S. Bernard Goodwyn**.

Staff of the Virginia Register: **Jane D. Chaffin**, Registrar of Regulations; **June T. Chandler**, Assistant Registrar.

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# PUBLICATION SCHEDULE AND DEADLINES

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This schedule is available on the *Register's* Internet home page (<http://register.state.va.us>).

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## October 2007 through September 2008

<u>Volume: Issue</u>	<u>Material Submitted By Noon*</u>	<u>Will Be Published On</u>
24:4	October 10, 2007	October 29, 2007
24:5	October 24, 2007	November 12, 2007
24:6	November 7, 2007	November 26, 2007
24:7	November 20, 2007 ( <b>Tuesday</b> )	December 10, 2007
<b>INDEX 1 Volume 24</b>		<b>January 2008</b>
24:8	December 5, 2007	December 24, 2008
24:9	December 18, 2007 ( <b>Tuesday</b> )	January 7, 2008
24:10	January 2, 2008	January 21, 2008
24:11	January 16, 2008	February 4, 2008
24:12	January 30, 2008	February 18, 2008
24:13	February 13, 2008	March 3, 2008
24:14	February 27, 2008	March 17, 2008
<b>INDEX 2 Volume 24</b>		<b>April 2008</b>
24:15	March 12, 2008	March 31, 2008
24:16	March 26, 2008	April 14, 2008
24:17	April 9, 2008	April 28, 2008
24:18	April 23, 2008	May 12, 2008
24:19	May 7, 2008	May 26, 2008
24:20	May 21, 2008	June 9, 2008
<b>INDEX 3 Volume 24</b>		<b>July 2008</b>
24:21	June 4, 2008	June 23, 2008
24:22	June 18, 2008	July 7, 2008
24:23	July 2, 2008	July 21, 2008
24:24	July 16, 2008	August 4, 2008
24:25	July 30, 2008	August 18, 2008
24:26	August 13, 2008	September 1, 2008

\*Filing deadlines are Wednesdays unless otherwise specified.

# 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 2007 VAC Supplement includes final regulations published through *Virginia Register* Volume 23, Issue 9, dated January 8, 2007). Emergency regulations, if any, are listed, followed by the designation "emer," and errata pertaining to final regulations are listed. Proposed regulations are not listed here. The table lists the sections in numerical order and shows action taken, the volume, issue and page number where the section appeared, and the effective date of the section.

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
<b>Title 1. Administration</b>			
1 VAC 55-30-10 through 1 VAC 55-30-90	Added	23:26 VA.R. 4413-4416	10/3/07
<b>Title 2. Agriculture</b>			
2 VAC 5-110 (Forms)	Amended	23:26 VA.R. 4452	--
2 VAC 5-195 (Form)	Added	23:15 VA.R. 2512	--
2 VAC 5-330-30	Amended	23:20 VA.R. 3122	7/12/07
2 VAC 5-490-10 through 2 VAC 5-490-90	Amended	23:20 VA.R. 3123-3155	5/23/07
2 VAC 5-490-15	Added	23:20 VA.R. 3130	5/23/07
2 VAC 5-490-25	Added	23:20 VA.R. 3131	5/23/07
2 VAC 5-490-31 through 2 VAC 5-490-39.6	Added	23:20 VA.R. 3132-3140	5/23/07
2 VAC 5-490-73	Added	23:20 VA.R. 3154	5/23/07
2 VAC 5-490-75	Added	23:20 VA.R. 3155	5/23/07
2 VAC 5-490-103	Added	23:20 VA.R. 3155	5/23/07
2 VAC 5-490-105	Added	23:20 VA.R. 3156	5/23/07
2 VAC 5-490-110	Amended	23:20 VA.R. 3156	5/23/07
2 VAC 5-490-120	Amended	23:20 VA.R. 3157	5/23/07
2 VAC 5-490-130	Repealed	23:20 VA.R. 3157	5/23/07
2 VAC 5-490-131 through 2 VAC 5-490-138	Added	23:20 VA.R. 3157-3162	5/23/07
2 VAC 5-490-140	Amended	23:20 VA.R. 3162	5/23/07
2 VAC 5-580-10 through 2 VAC 5-580-310	Repealed	24:2 VA.R. 72	10/16/07
2 VAC 5-585-10 through 2 VAC 5-585-4070	Added	24:2 VA.R. 72-133	10/16/07
2 VAC 5-620-10 through 2 VAC 5-620-100	Added	23:19 VA.R. 2981-2985	7/1/07
<b>Title 3. Alcoholic Beverages</b>			
3 VAC 5-10-40	Amended	23:13 VA.R. 2117	5/19/07
3 VAC 5-10-50	Amended	23:13 VA.R. 2117	5/19/07
3 VAC 5-10-60	Amended	23:13 VA.R. 2117	5/19/07
3 VAC 5-10-130	Amended	23:13 VA.R. 2117	5/19/07
3 VAC 5-10-150	Amended	23:13 VA.R. 2117	5/19/07
3 VAC 5-10-230	Amended	23:13 VA.R. 2118	5/19/07
3 VAC 5-10-360	Amended	23:13 VA.R. 2118	5/19/07
3 VAC 5-10-400	Amended	23:13 VA.R. 2118	5/19/07
3 VAC 5-10-480	Amended	23:13 VA.R. 2129	5/19/07
3 VAC 5-40-20	Amended	23:13 VA.R. 2133	5/19/07
3 VAC 5-40-50	Amended	23:13 VA.R. 2134	5/19/07
3 VAC 5-50-40	Amended	23:25 VA.R. 4107	*
3 VAC 5-50-50	Amended	23:25 VA.R. 4108	*
3 VAC 5-50-80	Amended	23:25 VA.R. 4108	*
3 VAC 5-50-100	Amended	23:25 VA.R. 4108	*

\* Objection to Fast-Track Rulemaking 24:1

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

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
3 VAC 5-50-130	Amended	23:25 VA.R. 4109	*
3 VAC 5-50-140	Amended	23:25 VA.R. 4110	*
3 VAC 5-60-20	Amended	23:13 VA.R. 2137	5/19/07
3 VAC 5-60-40	Amended	23:13 VA.R. 2138	5/19/07
3 VAC 5-60-80	Amended	23:13 VA.R. 2138	5/19/07
3 VAC 5-60-100	Added	23:13 VA.R. 2139	5/19/07
3 VAC 5-70-100	Amended	23:13 VA.R. 2142	5/19/07
3 VAC 5-70-150	Amended	23:13 VA.R. 2143	5/19/07
3 VAC 5-70-160	Amended	23:13 VA.R. 2143	5/19/07
3 VAC 5-70-230	Added	23:13 VA.R. 2143	5/19/07
<b>Title 4. Conservation and Natural Resources</b>			
4 VAC 20-70-100	Amended	23:12 VA.R. 1958	2/1/07
4 VAC 20-200-10	Amended	23:11 VA.R. 1659	2/1/07
4 VAC 20-200-20	Amended	23:11 VA.R. 1659	2/1/07
4 VAC 20-200-30	Amended	23:11 VA.R. 1659	2/1/07
4 VAC 20-200-40	Amended	23:11 VA.R. 1660	2/1/07
4 VAC 20-200-50	Amended	23:11 VA.R. 1660	2/1/07
4 VAC 20-270-30 emer	Amended	23:14 VA.R. 2276	3/1/07-3/30/07
4 VAC 20-270-30	Amended	23:17 VA.R. 2737	3/30/07
4 VAC 20-270-40 emer	Amended	23:14 VA.R. 2276	3/1/07-3/30/07
4 VAC 20-270-40	Amended	23:17 VA.R. 2737	3/30/07
4 VAC 20-300-20 emer	Amended	23:14 VA.R. 2277	3/1/07-3/30/07
4 VAC 20-300-20	Amended	23:17 VA.R. 2738	3/30/07
4 VAC 20-310-55	Added	23:15 VA.R. 2481	3/1/07
4 VAC 20-370-10 through 4 VAC 20-370-30	Amended	23:19 VA.R. 2986	5/1/07
4 VAC 20-380-50	Amended	23:21 VA.R. 3446	10/1/07
4 VAC 20-380-60	Amended	23:21 VA.R. 3447	10/1/07
4 VAC 20-430-20	Amended	23:17 VA.R. 2738	3/30/07
4 VAC 20-430-45	Added	23:17 VA.R. 2738	3/30/07
4 VAC 20-450-30	Amended	23:17 VA.R. 2739	3/30/07
4 VAC 20-490-42	Amended	23:10 VA.R. 1540	12/21/06
4 VAC 20-490-42	Amended	23:19 VA.R. 2986	5/1/07
4 VAC 20-510-10	Amended	23:12 VA.R. 1958	2/1/07
4 VAC 20-510-20	Amended	23:12 VA.R. 1958	2/1/07
4 VAC 20-510-33	Added	23:12 VA.R. 1959	2/1/07
4 VAC 20-510-35	Added	23:12 VA.R. 1959	2/1/07
4 VAC 20-510-37	Added	23:12 VA.R. 1959	2/1/07
4 VAC 20-530-10 emer	Amended	23:12 VA.R. 1959	2/1/07-3/1/07
4 VAC 20-530-20 emer	Amended	23:12 VA.R. 1959	2/1/07-3/1/07
4 VAC 20-530-31 emer	Amended	23:12 VA.R. 1960	2/1/07-3/1/07
4 VAC 20-530-31	Added	23:13 VA.R. 2144	2/1/07-3/1/07
4 VAC 20-530-31	Amended	23:15 VA.R. 2482	3/1/07
4 VAC 20-530-32 emer	Amended	23:12 VA.R. 1960	2/1/07-3/1/07
4 VAC 20-530-32	Added	23:13 VA.R. 2145	2/1/07-3/1/07
4 VAC 20-530-32	Amended	23:15 VA.R. 2482	3/1/07
4 VAC 20-610-30	Amended	23:11 VA.R. 1660	2/1/07
4 VAC 20-610-60	Amended	23:11 VA.R. 1662	2/1/07
4 VAC 20-620-50	Amended	23:15 VA.R. 2483	3/1/07
4 VAC 20-620-60	Amended	23:15 VA.R. 2483	3/1/07
4 VAC 20-620-70	Amended	23:15 VA.R. 2483	3/1/07
4 VAC 20-670-15	Added	23:17 VA.R. 2739	3/30/07

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

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
4 VAC 20-670-30	Amended	23:17 VA.R. 2739	3/30/07
4 VAC 20-720-10 emer	Amended	23:19 VA.R. 2987	5/1/07-5/30/07
4 VAC 20-720-10	Amended	23:21 VA.R. 3447	5/23/07
4 VAC 20-720-20 emer	Amended	23:19 VA.R. 2987	5/1/07-5/30/07
4 VAC 20-720-40 emer	Amended	23:10 VA.R. 1540	1/1/07-1/30/07
4 VAC 20-720-50 emer	Amended	23:10 VA.R. 1541	1/1/07-1/30/07
4 VAC 20-720-60 emer	Amended	23:19 VA.R. 2988	5/1/07-5/30/07
4 VAC 20-720-60 through 4 VAC 20-720-110	Amended	23:21 VA.R. 3447-3449	5/23/07
4 VAC 20-720-70 emer	Amended	23:19 VA.R. 2989	5/1/07-5/30/07
4 VAC 20-720-90 emer	Amended	23:19 VA.R. 2989	5/1/07-5/30/07
4 VAC 20-720-105 emer	Added	23:19 VA.R. 2989	5/1/07-5/30/07
4 VAC 20-720-105	Added	23:21 VA.R. 3449	5/23/07
4 VAC 20-720-110 emer	Amended	23:19 VA.R. 2990	5/1/07-5/30/07
4 VAC 20-752-20	Amended	23:19 VA.R. 2990	5/3/07
4 VAC 20-752-30	Amended	23:19 VA.R. 2991	5/3/07
4 VAC 20-755-10	Amended	24:2 VA.R. 133	9/1/07
4 VAC 20-755-20	Amended	24:2 VA.R. 133	9/1/07
4 VAC 20-755-30	Amended	24:2 VA.R. 136	9/1/07
4 VAC 20-890-20	Amended	23:19 VA.R. 2991	7/1/07
4 VAC 20-890-35	Amended	23:19 VA.R. 2991	7/1/07
4 VAC 20-890-40	Amended	23:19 VA.R. 2991	7/1/07
4 VAC 20-890-45	Added	23:19 VA.R. 2992	7/1/07
4 VAC 20-900-25	Amended	23:19 VA.R. 2992	7/1/07
4 VAC 20-900-35	Amended	23:19 VA.R. 2993	7/1/07
4 VAC 20-950-40 emer	Amended	23:12 VA.R. 1961	2/1/07-3/1/07
4 VAC 20-950-40	Amended	23:15 VA.R. 2484	3/1/07
4 VAC 20-950-47 emer	Amended	23:12 VA.R. 1961	2/1/07-3/1/07
4 VAC 20-950-47	Amended	23:15 VA.R. 2484	3/1/07
4 VAC 20-950-47	Amended	23:17 VA.R. 2740	3/30/07
4 VAC 20-950-48.2 emer	Amended	23:12 VA.R. 1961	2/1/07-3/1/07
4 VAC 20-950-48.2	Amended	23:15 VA.R. 2484	3/1/07
4 VAC 20-950-48	Amended	23:17 VA.R. 2740	3/30/07
4 VAC 20-1090-30	Amended	23:11 VA.R. 1663	2/1/07
4 VAC 20-1110-10 through 4 VAC 20-1110-50	Added	23:19 VA.R. 2994	5/1/07
4 VAC 20-1120-10 through 4 VAC 20-1120-50	Added	23:19 VA.R. 2994-2995	5/1/07
4 VAC 20-1120-20 emer	Amended	23:21 VA.R. 3449	5/29/07-6/28/07
4 VAC 20-1120-20	Amended	23:23 VA.R. 3871	6/28/07
4 VAC 25-20 (Forms)	Amended	23:24 VA.R. 3968	--
4 VAC 25-20-420	Amended	23:13 VA.R. 2146	4/4/07
4 VAC 25-50-10 through 4 VAC 25-50-110	Repealed	23:22 VA.R. 3696	8/8/07
4 VAC 25-130 (Forms)	Amended	23:20 VA.R. 3370-3372	--
4 VAC 25-130-700.12	Amended	23:13 VA.R. 2146	4/4/07
4 VAC 25-130-773.21	Amended	23:13 VA.R. 2147	4/4/07
4 VAC 25-130-775.11	Amended	23:13 VA.R. 2147	4/4/07
4 VAC 25-130-775.13	Amended	23:13 VA.R. 2148	4/4/07
4 VAC 25-130-777.17	Amended	23:22 VA.R. 3696	8/8/07
4 VAC 25-130-784.20	Amended	23:13 VA.R. 2148	4/4/07
4 VAC 25-130-785.25	Amended	23:16 VA.R. 2592	5/16/07
4 VAC 25-130-800.51	Amended	23:13 VA.R. 2149	4/4/07
4 VAC 25-130-816.105	Amended	23:13 VA.R. 2150	4/4/07

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

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
4 VAC 25-130-816.116	Amended	23:16 VA.R. 2592	5/16/07
4 VAC 25-130-817.11	Amended	23:13 VA.R. 2150	4/4/07
4 VAC 25-130-817.64	Amended	23:13 VA.R. 2151	4/4/07
4 VAC 25-130-817.116	Amended	23:16 VA.R. 2594	5/16/07
4 VAC 25-130-817.121	Amended	23:13 VA.R. 2151	4/4/07
4 VAC 25-130-842.15	Amended	23:13 VA.R. 2153	4/4/07
4 VAC 25-130-843.12	Amended	23:13 VA.R. 2153	4/4/07
4 VAC 25-130-843.13	Amended	23:13 VA.R. 2154	4/4/07
4 VAC 25-130-843.15	Amended	23:13 VA.R. 2155	4/4/07
4 VAC 25-130-843.16	Amended	23:13 VA.R. 2156	4/4/07
4 VAC 25-130-845.13	Amended	23:13 VA.R. 2156	4/4/07
4 VAC 25-130-845.15	Amended	23:13 VA.R. 2158	4/4/07
4 VAC 25-130-845.18	Amended	23:13 VA.R. 2158	4/4/07
4 VAC 25-130-845.19	Amended	23:13 VA.R. 2159	4/4/07
4 VAC 25-130-846.14	Amended	23:13 VA.R. 2159	4/4/07
<b>Title 5. Corporations</b>			
5 VAC 5-30-10	Amended	23:23 VA.R. 3872	7/1/07
5 VAC 5-30-20	Amended	23:23 VA.R. 3872	7/1/07
5 VAC 5-30-30	Amended	23:23 VA.R. 3873	7/1/07
5 VAC 5-30-40	Amended	23:23 VA.R. 3873	7/1/07
5 VAC 5-30-50	Amended	23:23 VA.R. 3874	7/1/07
5 VAC 5-30-60	Amended	23:23 VA.R. 3874	7/1/07
5 VAC 5-30-70	Amended	23:23 VA.R. 3875	7/1/07
<b>Title 6. Criminal Justice and Corrections</b>			
6 VAC 15-20-10 through 6 VAC 15-20-230	Amended	23:22 VA.R. 3697-3703	8/9/07
6 VAC 20-120-40	Amended	23:25 VA.R. 4177	9/19/07
6 VAC 35-20-37 emer	Amended	23:25 VA.R. 4178	8/1/07-7/31/08
6 VAC 35-190-10 through 6VAC35-190-110	Added	24:2 VA.R. 137-139	10/31/07
6 VAC 40-50-10 through 6VAC40-50-80 emer	Added	23:23 VA.R. 3876	7/1/06-12/29/07
<b>Title 8. Education</b>			
8 VAC 20-21-10 through 8 VAC 20-21-730	Repealed	23:25 VA.R. 4179	9/21/07
8 VAC 20-22-10 through 8 VAC 20-22-760	Added	23:25 VA.R. 4179-4214	9/21/07
8 VAC 20-160-10	Amended	23:23 VA.R. 3876	8/27/07
8 VAC 20-160-20	Amended	23:23 VA.R. 3878	8/27/07
8 VAC 20-160-30	Amended	23:23 VA.R. 3878	8/27/07
8 VAC 20-160-40	Amended	23:23 VA.R. 3879	8/27/07
8 VAC 20-160-50	Amended	23:23 VA.R. 3879	8/27/07
8 VAC 20-160-60	Amended	23:23 VA.R. 3879	8/27/07
8 VAC 20-350-10 through 8 VAC 20-350-660	Repealed	23:12 VA.R. 1962	5/8/07
8 VAC 20-541-10 through 8 VAC 20-541-60	Repealed	23:25 VA.R. 4214	9/21/07
8 VAC 20-542-10 through 8 VAC 20-542-600	Added	23:25 VA.R. 4214-4270	9/21/07
8 VAC 20-700-10 through 8 VAC 20-700-50	Added	23:10 VA.R. 1541-1543	2/21/07
8 VAC 20-710-10 through 8 VAC 20-710-30	Added	23:10 VA.R. 1543-1544	2/21/07
8 VAC 35-60-10	Added	24:1 VA.R. 25	8/28/07
8 VAC 35-60-20	Added	24:1 VA.R. 25	8/28/07
8 VAC 35-60-30	Added	24:1 VA.R. 25	8/28/07
8 VAC 40-140-10 through 8 VAC 40-140-90	Added	23:22 VA.R. 3704-3706	7/1/07
<b>Title 9. Environment</b>			
9 VAC 5-20-21	Amended	23:21 VA.R. 3456	8/1/07
9 VAC 5-30-15	Added	23:21 VA.R. 3454	8/1/07
9 VAC 5-30-60	Amended	23:21 VA.R. 3454	8/1/07

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
9 VAC 5-30-65	Amended	23:21 VA.R. 3454	8/1/07
9 VAC 5-30-66	Added	23:21 VA.R. 3455	8/1/07
9 VAC 5-40-7550 through 9 VAC 5-40-7710	Added	23:21 VA.R. 3460-3463	8/1/07
9 VAC 5-50-400	Amended	23:17 VA.R. 2742	6/1/07
9 VAC 5-50-410	Amended	23:17 VA.R. 2742	6/1/07
9 VAC 5-60-60	Amended	23:17 VA.R. 2747	6/1/07
9 VAC 5-60-90	Amended	23:17 VA.R. 2748	6/1/07
9 VAC 5-60-100	Amended	23:17 VA.R. 2748	6/1/07
9 VAC 5-140-1010 through 9 VAC 5-140-1060	Added	23:14 VA.R. 2279-2291	4/18/07
9 VAC 5-140-1061	Added	23:14 VA.R. 2291	*
9 VAC 5-140-1062	Added	23:14 VA.R. 2291	*
9 VAC 5-140-1070 through 9 VAC 5-140-1150	Added	23:14 VA.R. 2292-2295	4/18/07
9 VAC 5-140-1200 through 9 VAC 5-140-1240	Added	23:14 VA.R. 2295-2296	4/18/07
9 VAC 5-140-1400 through 9 VAC 5-140-1430	Added	23:14 VA.R. 2296-2302	4/18/07
9 VAC 5-140-1500 through 9 VAC 5-140-1570	Added	23:14 VA.R. 2302-2306	4/18/07
9 VAC 5-140-1600 through 9 VAC 5-140-1620	Added	23:14 VA.R. 2307	4/18/07
9 VAC 5-140-1700 through 9 VAC 5-140-1750	Added	23:14 VA.R. 2307-2312	4/18/07
9 VAC 5-140-1800 through 9 VAC 5-140-1880	Added	23:14 VA.R. 2312-2317	4/18/07
9 VAC 5-140-2060	Added	23:14 VA.R. 2329	4/18/07
9 VAC 5-140-2061	Added	23:14 VA.R. 2331	*
9 VAC 5-140-2062	Added	23:14 VA.R. 2332	*
9 VAC 5-140-2070	Added	23:14 VA.R. 2333	4/18/07
9 VAC 5-140-2080	Added	23:14 VA.R. 2333	4/18/07
9 VAC 5-140-2100 through 9 VAC 5-140-2150	Added	23:14 VA.R. 2333-2336	4/18/07
9 VAC 5-140-2200 through 9 VAC 5-140-2240	Added	23:14 VA.R. 2336-2337	4/18/07
9 VAC 5-140-2400 through 9 VAC 5-140-2430	Added	23:14 VA.R. 2337-2342	4/18/07
9 VAC 5-140-2500 through 9 VAC 5-140-2570	Added	23:14 VA.R. 2342-2347	4/18/07
9 VAC 5-140-2600 through 9 VAC 5-140-2620	Added	23:14 VA.R. 2347	4/18/07
9 VAC 5-140-2700 through 9 VAC 5-140-2750	Added	23:14 VA.R. 2347-2353	4/18/07
9 VAC 5-140-2800 through 9 VAC 5-140-2880	Added	23:14 VA.R. 2353-2359	4/18/07
9 VAC 5-140-3010 through 9 VAC 5-140-3060	Added	23:14 VA.R. 2359-2368	4/18/07
9 VAC 5-140-3061	Added	23:14 VA.R. 2370	*
9 VAC 5-140-3062	Added	23:14 VA.R. 2371	*
9 VAC 5-140-3070	Added	23:14 VA.R. 2371	4/18/07
9 VAC 5-140-3080	Added	23:14 VA.R. 2371	4/18/07
9 VAC 5-140-3100 through 9 VAC 5-140-3150	Added	23:14 VA.R. 2371-2374	4/18/07
9 VAC 5-140-3200 through 9 VAC 5-140-3240	Added	23:14 VA.R. 2374-2375	4/18/07
9 VAC 5-140-3400 through 9 VAC 5-140-3420	Added	23:14 VA.R. 2375	4/18/07
9 VAC 5-140-3500 through 9 VAC 5-140-3570	Added	23:14 VA.R. 2375-2380	4/18/07
9 VAC 5-140-3600 through 9 VAC 5-140-3620	Added	23:14 VA.R. 2380-2381	4/18/07
9 VAC 5-140-3700 through 9 VAC 5-140-3750	Added	23:14 VA.R. 2381-2386	4/18/07
9 VAC 5-140-3800 through 9 VAC 5-140-3880	Added	23:14 VA.R. 2386-2391	4/18/07
9 VAC 5-140-5010 through 9 VAC 5-140-5750	Added	23:13 VA.R. 2160-2186	4/4/07
9 VAC 5-140-1020	Erratum	23:16 VA.R. 2673	--
9 VAC 5-140-1061	Erratum	23:16 VA.R. 2673	--
9 VAC 5-140-1062	Erratum	23:16 VA.R. 2673	--
9 VAC 5-140-1130	Erratum	23:16 VA.R. 2673	--
9 VAC 5-140-1420	Erratum	23:16 VA.R. 2673	--

\* Effective Date Suspended 23:19

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9 VAC 5-140-1700	Erratum	23:16 VA.R. 2673	--
9 VAC 5-140-1740	Erratum	23:16 VA.R. 2673	--
9 VAC 5-140-2020	Erratum	23:16 VA.R. 2673	--
9 VAC 5-140-2030	Erratum	23:16 VA.R. 2673	--
9 VAC 5-140-2040	Erratum	23:16 VA.R. 2673	--
9 VAC 5-140-2060	Erratum	23:16 VA.R. 2673	--
9 VAC 5-140-2062	Erratum	23:16 VA.R. 2673	--
9 VAC 5-140-2740	Erratum	23:16 VA.R. 2673	--
9 VAC 5-140-3062	Erratum	23:16 VA.R. 2673	--
9 VAC 5-140-3840	Erratum	23:16 VA.R. 2673	--
9 VAC 5-140-5020	Erratum	23:16 VA.R. 2672	--
9 VAC 5-140-5060	Erratum	23:16 VA.R. 2672	--
9 VAC 5-140-5100	Erratum	23:16 VA.R. 2672	--
9 VAC 5-140-5150	Erratum	23:16 VA.R. 2672	--
9 VAC 5-140-5420	Erratum	23:16 VA.R. 2672	--
9 VAC 5-140-5510	Erratum	23:16 VA.R. 2672	--
9 VAC 5-140-5540	Erratum	23:16 VA.R. 2672	--
9 VAC 5-140-5560	Erratum	23:16 VA.R. 2672	--
9 VAC 5-140-5600	Erratum	23:16 VA.R. 2672	--
9 VAC 5-151-10 through 9 VAC 5-151-70	Added	23:17 VA.R. 2755-2764	5/31/07
9 VAC 5-240-10 through 9 VAC 5-240-50	Added	23:16 VA.R. 2595-2596	5/16/07
9 VAC 20-110-90	Amended	23:11 VA.R. 1665	3/21/07
9 VAC 20-110-110	Amended	23:11 VA.R. 1665	3/21/07
9 VAC 20-200-10 through 9 VAC 20-200-70	Added	23:11 VA.R. 1666-1667	3/21/07
9 VAC 25-31-100	Amended	24:3 VA.R. 313	11/14/07
9 VAC 25-31-120	Amended	24:3 VA.R. 309	11/14/07
9 VAC 25-31-165	Amended	24:3 VA.R. 333	11/14/07
9 VAC 25-71-20	Amended	23:15 VA.R. 2485	5/2/07
9 VAC 25-71-50	Amended	23:15 VA.R. 2485	5/2/07
9 VAC 25-71-70	Amended	23:15 VA.R. 2485	5/2/07
9 VAC 25-210-10	Amended	23:21 VA.R. 3464	7/25/07
9 VAC 25-210-50	Amended	23:21 VA.R. 3468	7/25/07
9 VAC 25-210-60	Amended	23:21 VA.R. 3469	7/25/07
9 VAC 25-210-75	Added	23:21 VA.R. 3473	7/25/07
9 VAC 25-210-80 through 9 VAC 25-210-115	Amended	23:21 VA.R. 3474-3484	7/25/07
9 VAC 25-210-116	Added	23:21 VA.R. 3484	7/25/07
9 VAC 25-210-130	Amended	23:21 VA.R. 3487	7/25/07
9 VAC 25-210-140	Amended	23:21 VA.R. 3488	7/25/07
9 VAC 25-210-170	Amended	23:21 VA.R. 3489	7/25/07
9 VAC 25-210-175	Added	23:21 VA.R. 3489	7/25/07
9 VAC 25-210-180	Amended	23:21 VA.R. 3490	7/25/07
9 VAC 25-210-185	Amended	23:21 VA.R. 3492	7/25/07
9 VAC 25-210-190	Repealed	23:21 VA.R. 3492	7/25/07
9 VAC 25-210-200	Repealed	23:21 VA.R. 3493	7/25/07
9 VAC 25-210-210	Repealed	23:21 VA.R. 3493	7/25/07
9 VAC 25-210-220	Amended	23:21 VA.R. 3493	7/25/07
9 VAC 25-210-230	Amended	23:21 VA.R. 3493	7/25/07
9 VAC 25-210-260	Amended	23:21 VA.R. 3494	7/25/07
9 VAC 25-260-30	Amended	24:2 VA.R. 139	9/11/07
9 VAC 25-260-30	Amended	24:2 VA.R. 140	9/11/07
9 VAC 25-720-50	Amended	23:11 VA.R. 1669	3/21/07

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9 VAC 25-720-50	Amended	23:15 VA.R. 2486	5/2/07
9 VAC 25-720-50	Amended	23:23 VA.R. 3881	10/22/07
9 VAC 25-720-50	Amended	23:23 VA.R. 3888	10/22/07
9 VAC 25-720-50	Amended	23:23 VA.R. 3895	10/22/07
9 VAC 25-720-50	Amended	24:2 VA.R. 140	11/15/07
9 VAC 25-720-60	Amended	23:12 VA.R. 1966	5/21/07
9 VAC 25-720-80	Amended	23:11 VA.R. 1670	3/21/07
9 VAC 25-720-80	Amended	23:23 VA.R. 3901	10/22/07
9 VAC 25-720-90	Amended	23:11 VA.R. 1671	3/21/07
9 VAC 25-720-90	Amended	24:2 VA.R. 147	11/15/07
9 VAC 25-720-100	Amended	23:11 VA.R. 1671	3/21/07
9 VAC 25-720-130	Amended	23:15 VA.R. 2487	5/2/07
<b>Title 10. Finance and Financial Institutions</b>			
10 VAC 5-40-50	Added	23:18 VA.R. 2882	5/1/07
10 VAC 5-160-40	Amended	23:13 VA.R. 2187	2/10/07
<b>Title 11. Gaming</b>			
11 VAC 10-20-310	Amended	23:18 VA.R. 2883	5/31/07
11 VAC 10-20-330	Amended	23:18 VA.R. 2884	5/31/07
11 VAC 10-20-340	Amended	23:18 VA.R. 2891	5/31/07
11 VAC 10-100-30	Amended	23:18 VA.R. 2892	5/31/07
11 VAC 10-110-30	Amended	23:18 VA.R. 2893	5/31/07
11 VAC 10-110-90	Amended	23:18 VA.R. 2893	5/31/07
11 VAC 10-120-80	Amended	23:18 VA.R. 2894	5/31/07
11 VAC 10-130-10	Amended	23:11 VA.R. 1672	1/10/07
11 VAC 10-130-10	Amended	23:18 VA.R. 2894	4/30/07
11 VAC 10-130-60	Amended	23:11 VA.R. 1673	1/10/07
11 VAC 10-140-12	Added	23:18 VA.R. 2896	5/31/07
11 VAC 10-140-15	Added	23:18 VA.R. 2896	5/31/07
11 VAC 10-140-210	Amended	23:18 VA.R. 2896	5/31/07
11 VAC 10-150-12	Added	23:18 VA.R. 2897	5/31/07
11 VAC 10-150-15	Added	23:18 VA.R. 2897	5/31/07
11 VAC 10-180-10	Amended	23:20 VA.R. 3164	5/18/07
11 VAC 10-180-20	Amended	23:20 VA.R. 3164	5/18/07
11 VAC 10-180-60	Amended	23:20 VA.R. 3166	5/18/07
11 VAC 10-180-80	Amended	23:20 VA.R. 3167	5/18/07
<b>Title 12. Health</b>			
12 VAC 5-70-10 through 12 VAC 5-70-50	Repealed	23:13 VA.R. 2187	4/4/07
12 VAC 5-71-10 through 12 VAC 5-71-190	Added	23:13 VA.R. 2188-2195	4/4/07
12 VAC 5-90 (Forms)	Erratum	23:15 VA.R. 2507-2509	--
12 VAC 5-90-10	Amended	23:15 VA.R. 2488	5/2/07
12 VAC 5-90-40	Amended	23:15 VA.R. 2493	5/2/07
12 VAC 5-90-80	Amended	23:15 VA.R. 2493	5/2/07
12 VAC 5-90-90	Amended	23:15 VA.R. 2497	5/2/07
12 VAC 5-90-100	Amended	23:15 VA.R. 2500	5/2/07
12 VAC 5-90-103	Added	23:15 VA.R. 2500	5/2/07
12 VAC 5-90-107	Added	23:15 VA.R. 2502	5/2/07
12 VAC 5-90-110	Amended	23:15 VA.R. 2503	5/2/07
12 VAC 5-90-130	Amended	23:15 VA.R. 2504	5/2/07
12 VAC 5-90-225	Amended	23:15 VA.R. 2504	5/2/07
12 VAC 5-90-250 through 12 VAC 5-90-280	Amended	23:15 VA.R. 2505-2506	5/2/07

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
12 VAC 5-90-330	Amended	23:15 VA.R. 2506	5/2/07
12 VAC 5-90-350	Amended	23:15 VA.R. 2507	5/2/07
12 VAC 5-90-360	Amended	23:15 VA.R. 2507	5/2/07
12 VAC 5-125-10	Added	23:23 VA.R. 3904	9/1/07
12 VAC 5-125-20	Added	23:23 VA.R. 3906	9/1/07
12 VAC 5-125-30	Added	23:23 VA.R. 3906	9/1/07
12 VAC 5-125-40	Added	23:23 VA.R. 3906	9/1/07
12 VAC 5-125-50	Added	23:23 VA.R. 3907	9/1/07
12 VAC 5-125-60	Added	23:23 VA.R. 3908	9/1/07
12 VAC 5-125-70	Added	23:23 VA.R. 3908	9/1/07
12 VAC 5-125-80	Added	23:23 VA.R. 3908	9/1/07
12 VAC 5-125-90	Added	23:23 VA.R. 3908	9/1/07
12 VAC 5-125-100	Added	23:23 VA.R. 3916	9/1/07
12 VAC 5-125-110	Added	23:23 VA.R. 3917	9/1/07
12 VAC 5-125-120	Added	23:23 VA.R. 3917	9/1/07
12 VAC 5-125-130	Added	23:23 VA.R. 3917	9/1/07
12 VAC 5-125-140	Added	23:23 VA.R. 3918	9/1/07
12 VAC 5-125-150	Added	23:23 VA.R. 3918	9/1/07
12 VAC 5-125-160	Added	23:23 VA.R. 3918	9/1/07
12 VAC 5-125-170	Added	23:23 VA.R. 3918	9/1/07
12 VAC 5-125-180	Added	23:23 VA.R. 3919	9/1/07
12 VAC 5-190-10 through 12 VAC 5-190-690	Repealed	23:21 VA.R. 3498	7/25/07
12 VAC 5-191-10 through 12 VAC 5-191-320	Added	23:21 VA.R. 3498-3509	7/25/07
12 VAC 5-371-10	Amended	23:10 VA.R. 1544	3/1/07
12 VAC 5-371-20	Repealed	23:10 VA.R. 1546	3/1/07
12 VAC 5-371-30	Amended	23:10 VA.R. 1547	3/1/07
12 VAC 5-371-40	Amended	23:10 VA.R. 1547	3/1/07
12 VAC 5-371-50	Repealed	23:10 VA.R. 1548	3/1/07
12 VAC 5-371-60	Amended	23:10 VA.R. 1548	3/1/07
12 VAC 5-371-70 through 12 VAC 5-371-130	Amended	23:10 VA.R. 1548-1551	3/1/07
12 VAC 5-371-150	Amended	23:10 VA.R. 1551	3/1/07
12 VAC 5-371-160	Amended	23:10 VA.R. 1551	3/1/07
12 VAC 5-371-190	Amended	23:10 VA.R. 1551	3/1/07
12 VAC 5-371-200	Amended	23:10 VA.R. 1552	3/1/07
12 VAC 5-371-400	Amended	23:10 VA.R. 1552	3/1/07
12 VAC 5-371-410	Amended	23:10 VA.R. 1552	3/1/07
12 VAC 5-410-10	Amended	23:10 VA.R. 1554	3/1/07
12 VAC 5-410-30	Amended	23:10 VA.R. 1555	3/1/07
12 VAC 5-410-70	Amended	23:10 VA.R. 1555	3/1/07
12 VAC 5-410-80	Amended	23:10 VA.R. 1555	3/1/07
12 VAC 5-410-100	Amended	23:10 VA.R. 1555	3/1/07
12 VAC 5-410-110	Amended	23:10 VA.R. 1555	3/1/07
12 VAC 5-410-130	Amended	23:10 VA.R. 1555	3/1/07
12 VAC 5-410-140	Amended	23:10 VA.R. 1555	3/1/07
12 VAC 5-410-150	Amended	23:10 VA.R. 1556	3/1/07
12 VAC 5-410-180	Amended	23:10 VA.R. 1556	3/1/07
12 VAC 5-410-210	Amended	23:10 VA.R. 1556	3/1/07
12 VAC 5-410-220	Amended	23:10 VA.R. 1557	3/1/07
12 VAC 5-410-270	Amended	23:10 VA.R. 1558	3/1/07
12 VAC 5-410-442	Amended	23:10 VA.R. 1558	3/1/07
12 VAC 5-410-445	Amended	23:10 VA.R. 1559	3/1/07

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12 VAC 5-410-650	Amended	23:10 VA.R. 1560	3/1/07
12 VAC 5-410-720	Amended	23:10 VA.R. 1560	3/1/07
12 VAC 5-410-760	Amended	23:10 VA.R. 1560	3/1/07
12 VAC 5-410-1150	Amended	23:10 VA.R. 1560	3/1/07
12 VAC 5-410-1170	Amended	23:10 VA.R. 1561	3/1/07
12 VAC 5-410-1350	Amended	23:10 VA.R. 1561	3/1/07
12 VAC 5-410-1380	Amended	23:10 VA.R. 1561	3/1/07
12 VAC 5-421-10	Amended	24:2 VA.R. 149	10/16/07
12 VAC 5-421-90	Amended	24:2 VA.R. 157	10/16/07
12 VAC 5-421-100	Amended	24:2 VA.R. 157	10/16/07
12 VAC 5-421-120	Amended	24:2 VA.R. 158	10/16/07
12 VAC 5-421-140	Amended	24:2 VA.R. 158	10/16/07
12 VAC 5-421-160	Amended	24:2 VA.R. 159	10/16/07
12 VAC 5-421-170	Amended	24:2 VA.R. 159	10/16/07
12 VAC 5-421-180	Amended	24:2 VA.R. 159	10/16/07
12 VAC 5-421-190	Amended	24:2 VA.R. 159	10/16/07
12 VAC 5-421-200	Amended	24:2 VA.R. 160	10/16/07
12 VAC 5-421-230	Amended	24:2 VA.R. 160	10/16/07
12 VAC 5-421-250	Amended	24:2 VA.R. 160	10/16/07
12 VAC 5-421-270	Amended	24:2 VA.R. 160	10/16/07
12 VAC 5-421-295	Added	24:2 VA.R. 160	10/16/07
12 VAC 5-421-300	Amended	24:2 VA.R. 160	10/16/07
12 VAC 5-421-330	Amended	24:2 VA.R. 161	10/16/07
12 VAC 5-421-340	Amended	24:2 VA.R. 161	10/16/07
12 VAC 5-421-350	Amended	24:2 VA.R. 161	10/16/07
12 VAC 5-421-360	Amended	24:2 VA.R. 161	10/16/07
12 VAC 5-421-430	Amended	24:2 VA.R. 162	10/16/07
12 VAC 5-421-440	Amended	24:2 VA.R. 162	10/16/07
12 VAC 5-421-450	Amended	24:2 VA.R. 162	10/16/07
12 VAC 5-421-460	Added	24:2 VA.R. 162	10/16/07
12 VAC 5-421-500	Amended	24:2 VA.R. 162	10/16/07
12 VAC 5-421-520	Amended	24:2 VA.R. 163	10/16/07
12 VAC 5-421-530	Amended	24:2 VA.R. 163	10/16/07
12 VAC 5-421-550	Amended	24:2 VA.R. 163	10/16/07
12 VAC 5-421-560	Amended	24:2 VA.R. 163	10/16/07
12 VAC 5-421-570	Amended	24:2 VA.R. 163	10/16/07
12 VAC 5-421-580	Amended	24:2 VA.R. 163	10/16/07
12 VAC 5-421-590	Amended	24:2 VA.R. 164	10/16/07
12 VAC 5-421-600	Amended	24:2 VA.R. 164	10/16/07
12 VAC 5-421-620	Amended	24:2 VA.R. 164	10/16/07
12 VAC 5-421-670	Amended	24:2 VA.R. 164	10/16/07
12 VAC 5-421-680	Amended	24:2 VA.R. 164	10/16/07
12 VAC 5-421-700	Amended	24:2 VA.R. 164	10/16/07
12 VAC 5-421-720	Amended	24:2 VA.R. 166	10/16/07
12 VAC 5-421-760	Amended	24:2 VA.R. 166	10/16/07
12 VAC 5-421-765	Added	24:2 VA.R. 166	10/16/07
12 VAC 5-421-780	Amended	24:2 VA.R. 166	10/16/07
12 VAC 5-421-790	Amended	24:2 VA.R. 166	10/16/07
12 VAC 5-421-800	Amended	24:2 VA.R. 167	10/16/07
12 VAC 5-421-820	Amended	24:2 VA.R. 167	10/16/07

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
12 VAC 5-421-830	Amended	24:2 VA.R. 167	10/16/07
12 VAC 5-421-840	Amended	24:2 VA.R. 169	10/16/07
12 VAC 5-421-850	Amended	24:2 VA.R. 169	10/16/07
12 VAC 5-421-860	Amended	24:2 VA.R. 170	10/16/07
12 VAC 5-421-870	Amended	24:2 VA.R. 170	10/16/07
12 VAC 5-421-880	Added	24:2 VA.R. 171	10/16/07
12 VAC 5-421-890	Added	24:2 VA.R. 171	10/16/07
12 VAC 5-421-900	Added	24:2 VA.R. 171	10/16/07
12 VAC 5-421-910	Added	24:2 VA.R. 171	10/16/07
12 VAC 5-421-920	Added	24:2 VA.R. 171	10/16/07
12 VAC 5-421-930	Added	24:2 VA.R. 171	10/16/07
12 VAC 5-421-940	Amended	24:2 VA.R. 172	10/16/07
12 VAC 5-421-950	Amended	24:2 VA.R. 172	10/16/07
12 VAC 5-421-960	Amended	24:2 VA.R. 173	10/16/07
12 VAC 5-421-970	Amended	24:2 VA.R. 173	10/16/07
12 VAC 5-421-990	Amended	24:2 VA.R. 173	10/16/07
12 VAC 5-421-1000	Amended	24:2 VA.R. 173	10/16/07
12 VAC 5-421-1010	Amended	24:2 VA.R. 173	10/16/07
12 VAC 5-421-1020	Amended	24:2 VA.R. 173	10/16/07
12 VAC 5-421-1030	Amended	24:2 VA.R. 173	10/16/07
12 VAC 5-421-1040	Amended	24:2 VA.R. 173	10/16/07
12 VAC 5-421-1070	Amended	24:2 VA.R. 174	10/16/07
12 VAC 5-421-1090	Amended	24:2 VA.R. 174	10/16/07
12 VAC 5-421-1120	Amended	24:2 VA.R. 174	10/16/07
12 VAC 5-421-1200	Amended	24:2 VA.R. 174	10/16/07
12 VAC 5-421-1260	Amended	24:2 VA.R. 174	10/16/07
12 VAC 5-421-1270	Amended	24:2 VA.R. 174	10/16/07
12 VAC 5-421-1300	Amended	24:2 VA.R. 174	10/16/07
12 VAC 5-421-1310	Amended	24:2 VA.R. 174	10/16/07
12 VAC 5-421-1320	Amended	24:2 VA.R. 175	10/16/07
12 VAC 5-421-1330	Amended	24:2 VA.R. 175	10/16/07
12 VAC 5-421-1340	Amended	24:2 VA.R. 175	10/16/07
12 VAC 5-421-1350	Amended	24:2 VA.R. 175	10/16/07
12 VAC 5-421-1360	Amended	24:2 VA.R. 175	10/16/07
12 VAC 5-421-1370	Amended	24:2 VA.R. 176	10/16/07
12 VAC 5-421-1460	Amended	24:2 VA.R. 176	10/16/07
12 VAC 5-421-1510	Amended	24:2 VA.R. 176	10/16/07
12 VAC 5-421-1520	Amended	24:2 VA.R. 176	10/16/07
12 VAC 5-421-1530	Amended	24:2 VA.R. 177	10/16/07
12 VAC 5-421-1540	Amended	24:2 VA.R. 177	10/16/07
12 VAC 5-421-1620	Amended	24:2 VA.R. 177	10/16/07
12 VAC 5-421-1640	Amended	24:2 VA.R. 177	10/16/07
12 VAC 5-421-1660	Amended	24:2 VA.R. 177	10/16/07
12 VAC 5-421-1670	Amended	24:2 VA.R. 178	10/16/07
12 VAC 5-421-1680	Amended	24:2 VA.R. 178	10/16/07
12 VAC 5-421-1690	Amended	24:2 VA.R. 178	10/16/07
12 VAC 5-421-1700	Amended	24:2 VA.R. 178	10/16/07
12 VAC 5-421-1710	Amended	24:2 VA.R. 179	10/16/07
12 VAC 5-421-1720	Amended	24:2 VA.R. 179	10/16/07
12 VAC 5-421-1730	Amended	24:2 VA.R. 179	10/16/07
12 VAC 5-421-1750	Amended	24:2 VA.R. 179	10/16/07

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
12 VAC 5-421-1760	Amended	24:2 VA.R. 179	10/16/07
12 VAC 5-421-1780	Amended	24:2 VA.R. 179	10/16/07
12 VAC 5-421-1810	Amended	24:2 VA.R. 180	10/16/07
12 VAC 5-421-1820	Amended	24:2 VA.R. 180	10/16/07
12 VAC 5-421-1880	Amended	24:2 VA.R. 180	10/16/07
12 VAC 5-421-1890	Amended	24:2 VA.R. 180	10/16/07
12 VAC 5-421-1900	Amended	24:2 VA.R. 180	10/16/07
12 VAC 5-421-1960	Amended	24:2 VA.R. 181	10/16/07
12 VAC 5-421-2010	Amended	24:2 VA.R. 181	10/16/07
12 VAC 5-421-2080	Amended	24:2 VA.R. 181	10/16/07
12 VAC 5-421-2190	Amended	24:2 VA.R. 181	10/16/07
12 VAC 5-421-2200	Amended	24:2 VA.R. 181	10/16/07
12 VAC 5-421-2210	Amended	24:2 VA.R. 181	10/16/07
12 VAC 5-421-2270	Amended	24:2 VA.R. 181	10/16/07
12 VAC 5-421-2310	Amended	24:2 VA.R. 182	10/16/07
12 VAC 5-421-2320	Amended	24:2 VA.R. 182	10/16/07
12 VAC 5-421-2520	Amended	24:2 VA.R. 182	10/16/07
12 VAC 5-421-2630	Amended	24:2 VA.R. 182	10/16/07
12 VAC 5-421-2680	Amended	24:2 VA.R. 182	10/16/07
12 VAC 5-421-2710	Amended	24:2 VA.R. 182	10/16/07
12 VAC 5-421-2790	Amended	24:2 VA.R. 182	10/16/07
12 VAC 5-421-2810	Amended	24:2 VA.R. 182	10/16/07
12 VAC 5-421-2820	Amended	24:2 VA.R. 183	10/16/07
12 VAC 5-421-2840	Amended	24:2 VA.R. 183	10/16/07
12 VAC 5-421-2850	Amended	24:2 VA.R. 183	10/16/07
12 VAC 5-421-2870	Amended	24:2 VA.R. 183	10/16/07
12 VAC 5-421-2880	Amended	24:2 VA.R. 183	10/16/07
12 VAC 5-421-2930	Amended	24:2 VA.R. 183	10/16/07
12 VAC 5-421-2990	Amended	24:2 VA.R. 184	10/16/07
12 VAC 5-421-3040	Amended	24:2 VA.R. 184	10/16/07
12 VAC 5-421-3120	Amended	24:2 VA.R. 184	10/16/07
12 VAC 5-421-3200	Amended	24:2 VA.R. 184	10/16/07
12 VAC 5-421-3210	Amended	24:2 VA.R. 184	10/16/07
12 VAC 5-421-3230	Amended	24:2 VA.R. 184	10/16/07
12 VAC 5-421-3310	Amended	24:2 VA.R. 184	10/16/07
12 VAC 5-421-3370	Amended	24:2 VA.R. 185	10/16/07
12 VAC 5-421-3380	Amended	24:2 VA.R. 185	10/16/07
12 VAC 5-421-3450	Amended	24:2 VA.R. 185	10/16/07
12 VAC 5-421-3510	Amended	24:2 VA.R. 185	10/16/07
12 VAC 5-421-3560	Amended	24:2 VA.R. 185	10/16/07
12 VAC 5-421-3580	Amended	24:2 VA.R. 185	10/16/07
12 VAC 5-421-3590	Amended	24:2 VA.R. 186	10/16/07
12 VAC 5-421-3620	Amended	24:2 VA.R. 186	10/16/07
12 VAC 5-421-3660	Amended	24:2 VA.R. 186	10/16/07
12 VAC 5-421-3700	Amended	24:2 VA.R. 186	10/16/07
12 VAC 5-421-3750	Amended	24:2 VA.R. 187	10/16/07
12 VAC 5-421-3760	Amended	24:2 VA.R. 188	10/16/07
12 VAC 5-421-3800	Amended	24:2 VA.R. 188	10/16/07
12 VAC 5-421-3815	Added	24:2 VA.R. 188	10/16/07
12 VAC 5-421-3860	Amended	24:2 VA.R. 188	10/16/07

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12 VAC 5-421-3900	Amended	24:2 VA.R. 188	10/16/07
12 VAC 5-421-3960	Amended	24:2 VA.R. 189	10/16/07
12 VAC 5-421-3970	Amended	24:2 VA.R. 189	10/16/07
12 VAC 5-421-4000	Amended	24:2 VA.R. 189	10/16/07
12 VAC 5-421-4035	Added	24:2 VA.R. 190	10/16/07
12 VAC 5-421-4050	Amended	24:2 VA.R. 191	10/16/07
12 VAC 5-421-4070	Amended	24:2 VA.R. 191	10/16/07
12 VAC 5-585-760 through 12 VAC 5-585-830	Added	23:25 VA.R. 4298-4301	10/1/07
12 VAC 30-10-140	Amended	23:16 VA.R. 2653	7/1/07
12 VAC 30-10-560	Amended	23:14 VA.R. 2396	9/1/07
12 VAC 30-10-820	Added	24:2 VA.R. 191	10/31/07
12 VAC 30-20-140	Amended	23:14 VA.R. 2397	9/1/07
12 VAC 30-30-20 emer	Amended	23:20 VA.R. 3169	5/30/07-5/29/08
12 VAC 30-30-60	Added	23:11 VA.R. 1673	3/7/07
12 VAC 30-40-10	Amended	23:11 VA.R. 1674	3/7/07
12 VAC 30-40-20	Amended	23:18 VA.R. 2897	7/1/07
12 VAC 30-40-105 emer	Added	23:20 VA.R. 3170	5/30/07-5/29/08
12 VAC 30-40-280 emer	Amended	23:20 VA.R. 3171	5/30/07-5/29/08
12 VAC 30-40-290	Amended	23:14 VA.R. 2398	9/1/07
12 VAC 30-40-290 emer	Amended	23:20 VA.R. 3172	5/30/07-5/29/08
12 VAC 30-50-20	Amended	23:16 VA.R. 2654	7/1/07
12 VAC 30-50-35	Added	23:11 VA.R. 1675	3/7/07
12 VAC 30-50-60	Amended	23:16 VA.R. 2654	7/1/07
12 VAC 30-50-75	Added	23:11 VA.R. 1676	3/7/07
12 VAC 30-50-130	Amended	23:21 VA.R. 3518	1/1/08
12 VAC 30-50-141 emer	Added	23:21 VA.R. 3510	7/1/07-6/30/08
12 VAC 30-50-151 emer	Added	23:21 VA.R. 3510	7/1/07-6/30/08
12 VAC 30-50-181 emer	Added	23:21 VA.R. 3510	7/1/07-6/30/08
12 VAC 30-50-228 emer	Added	23:21 VA.R. 3511	7/1/07-6/30/08
12 VAC 30-50-320	Amended	23:16 VA.R. 2654	7/1/07
12 VAC 30-50-321	Added	23:16 VA.R. 2655	7/1/07
12 VAC 30-50-325	Added	23:16 VA.R. 2655	7/1/07
12 VAC 30-50-328	Added	23:16 VA.R. 2655	7/1/07
12 VAC 30-50-461 emer	Added	23:21 VA.R. 3512	7/1/07-6/30/08
12 VAC 30-50-490	Amended	23:20 VA.R. 3175	7/11/07
12 VAC 30-50-530	Amended	23:11 VA.R. 1676	3/7/07
12 VAC 30-60-250 emer	Added	23:21 VA.R. 3513	7/1/07-6/30/08
12 VAC 30-60-255 emer	Added	23:21 VA.R. 3515	7/1/07-6/30/08
12 VAC 30-60-500 emer	Added	23:26 VA.R. 4427	8/8/07-8/7/08
<u>12 VAC 30-70-311</u>	Amended	23:19 VA.R. 3003	7/1/07
<u>12 VAC 30-70-321</u>	Amended	23:19 VA.R. 3003	7/1/07
12 VAC 30-70-331	Amended	23:20 VA.R. 3225	8/25/07
<u>12 VAC 30-70-341</u>	Amended	23:19 VA.R. 3003	7/1/07
<u>12 VAC 30-70-391</u>	Amended	23:19 VA.R. 3004	7/1/07
12 VAC 30-80-30	Amended	23:20 VA.R. 3232	7/11/07
12 VAC 30-80-32 emer	Added	23:21 VA.R. 3516	7/1/07-6/30/08
12 VAC 30-80-40 emer	Amended	24:3 VA.R. 377	10/1/07-9/30/08
12 VAC 30-80-95	Added	23:21 VA.R. 3520	1/1/08
12 VAC 30-80-190	Amended	23:19 VA.R. 3004	7/1/07
12 VAC 30-80-190	Amended	23:20 VA.R. 3225	8/25/07
12 VAC 30-80-190	Amended	23:20 VA.R. 3242	7/11/07

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12 VAC 30-90-31	Amended	23:19 VA.R. 3005	7/1/07
12 VAC 30-90-41	Amended	23:20 VA.R. 3226	8/25/07
12 VAC 30-90-271	Amended	23:20 VA.R. 3229	8/25/07
12 VAC 30-90-290	Amended	23:20 VA.R. 3230	8/25/07
12 VAC 30-90-264	Amended	23:14 VA.R. 2400	4/18/07
12 VAC 30-110-950	Amended	23:18 VA.R. 2898	7/1/07
12 VAC 30-120	Erratum	23:24 VA.R. 4080	--
12 VAC 30-120-61	Amended	23:16 VA.R. 2655	7/1/07
12 VAC 30-120-62	Amended	23:16 VA.R. 2657	7/1/07
12 VAC 30-120-64	Amended	23:16 VA.R. 2659	7/1/07
12 VAC 30-120-65	Amended	23:16 VA.R. 2660	7/1/07
12 VAC 30-120-66	Amended	23:16 VA.R. 2660	7/1/07
12 VAC 30-120-68	Amended	23:16 VA.R. 2661	7/1/07
12 VAC 30-120-310 emer	Amended	23:21 VA.R. 3516	7/1/07-6/30/08
12 VAC 30-120-370 emer	Amended	23:24 VA.R. 4029	9/1/07-8/31/08
12 VAC 30-120-380 emer	Amended	23:21 VA.R. 3517	7/1/07-6/30/08
12 VAC 30-120-380 emer	Amended	23:24 VA.R. 4032	9/1/07-8/31/08
12 VAC 30-120-700 through 12 VAC 30-120-750	Amended	23:20 VA.R. 3177-3192	7/11/07
12 VAC 30-120-752	Amended	23:20 VA.R. 3192	7/11/07
12 VAC 30-120-753	Amended	23:20 VA.R. 3194	7/11/07
12 VAC 30-120-754	Amended	23:20 VA.R. 3195	7/11/07
12 VAC 30-120-756	Amended	23:20 VA.R. 3197	7/11/07
12 VAC 30-120-758	Amended	23:20 VA.R. 3198	7/11/07
12 VAC 30-120-760	Amended	23:20 VA.R. 3198	7/11/07
12 VAC 30-120-762	Amended	23:20 VA.R. 3199	7/11/07
12 VAC 30-120-764	Amended	23:20 VA.R. 3199	7/11/07
12 VAC 30-120-766	Amended	23:20 VA.R. 3201	7/11/07
12 VAC 30-120-768	Repealed	23:20 VA.R. 3204	7/11/07
12 VAC 30-120-770	Amended	23:20 VA.R. 3206	7/11/07
12 VAC 30-120-772	Amended	23:20 VA.R. 3211	7/11/07
12 VAC 30-120-774	Amended	23:20 VA.R. 3211	7/11/07
12 VAC 30-120-776	Amended	23:20 VA.R. 3213	7/11/07
12 VAC 30-120-780	Repealed	23:20 VA.R. 3215	7/11/07
12 VAC 30-120-790	Repealed	23:20 VA.R. 3216	7/11/07
12 VAC 30-120-1600 through 12 VAC 30-120-1660	Added	23:20 VA.R. 3244-3251	7/11/07
12 VAC 30-130-900	Amended	23:12 VA.R. 1967	3/21/07
12 VAC 30-130-910	Amended	23:12 VA.R. 1968	3/21/07
12 VAC 30-130-930	Amended	23:12 VA.R. 1968	3/21/07
12 VAC 30-135-10 through 12 VAC 30-135-40	Amended	23:21 VA.R. 3520-3522	11/1/07
12 VAC 30-135-80	Amended	23:21 VA.R. 3522	11/1/07
12 VAC 30-135-100 through 12VAC30-135-360	Added	24:2 VA.R. 196-218	12/1/07
12 VAC 30-141-740	Amended	23:19 VA.R. 3006	7/1/07
12 VAC 35-45-10	Amended	23:10 VA.R. 1562	2/21/07
12 VAC 35-45-25	Added	23:10 VA.R. 1565	2/21/07
12 VAC 35-45-70	Amended	23:10 VA.R. 1564	2/21/07
12 VAC 35-45-80	Amended	23:10 VA.R. 1564	2/21/07
12 VAC 35-45-210	Added	23:10 VA.R. 1564	2/21/07
12 VAC 35-105-20	Amended	23:10 VA.R. 1567	2/21/07
12 VAC 35-105-30	Amended	23:10 VA.R. 1575	2/21/07
12 VAC 35-105-115 emer	Added	23:10 VA.R. 1566	1/3/07-1/2/08

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12 VAC 35-105-590	Amended	23:10 VA.R. 1575	2/21/07
12 VAC 35-105-660	Amended	23:10 VA.R. 1576	2/21/07
12 VAC 35-105-925	Added	23:20 VA.R. 3252	7/11/07
12 VAC 35-115-10 through 12 VAC 35-115-250	Amended	23:25 VA.R. 4301-4340	9/19/07
12 VAC 35-115-145	Added	23:25 VA.R. 4329	9/19/07
12 VAC 35-115-146	Added	23:25 VA.R. 4330	9/19/07
12 VAC 35-115-160	Repealed	23:25 VA.R. 4332	9/19/07
12 VAC 35-210-10 through 12 VAC 35-210-120	Added	23:21 VA.R. 3525-3529	7/25/07
<b>Title 13. Housing</b>			
13 VAC 5-31	Erratum	23:24 VA.R. 4079	--
13 VAC 5-91	Erratum	23:24 VA.R. 4080	--
13 VAC 5-111-10 through 13 VAC 5-111-400	Repealed	23:12 VA.R. 1971	3/21/07
13 VAC 5-112-10 through 13 VAC 5-112-560	Added	23:12 VA.R. 1971-1994	3/21/07
<b>Title 14. Insurance</b>			
14 VAC 5-200-20	Repealed	23:17 VA.R. 2766	9/1/07
14 VAC 5-200-30 through 14 VAC 5-200-60	Amended	23:17 VA.R. 2766-2770	9/1/07
14 VAC 5-200-70 through 14 VAC 5-200-90	Amended	23:17 VA.R. 2770-2774	9/1/07
14 VAC 5-200-110	Amended	23:17 VA.R. 2774	9/1/07
14 VAC 5-200-120	Amended	23:17 VA.R. 2777	9/1/07
14 VAC 5-200-153	Amended	23:17 VA.R. 2777	9/1/07
14 VAC 5-200-170	Amended	23:17 VA.R. 2780	9/1/07
14 VAC 5-200-175	Amended	23:17 VA.R. 2781	9/1/07
14 VAC 5-200-181	Added	23:17 VA.R. 2782	9/1/07
14 VAC 5-200-183	Added	23:17 VA.R. 2782	9/1/07
14 VAC 5-200-185	Amended	23:17 VA.R. 2783	9/1/07
14 VAC 5-200-187	Amended	23:17 VA.R. 2785	9/1/07
14 VAC 5-200-200	Amended	23:17 VA.R. 2786	9/1/07
14 VAC 5-200-201	Added	23:17 VA.R. 2788	9/1/07
14 VAC 5-200-205	Added	23:17 VA.R. 2788	9/1/07
14 VAC 5-215-20	Amended	23:22 VA.R. 3768	7/1/07
14 VAC 5-215-30	Amended	23:22 VA.R. 3768	7/1/07
14 VAC 5-215-50	Amended	23:22 VA.R. 3769	7/1/07
14 VAC 5-215-60	Amended	23:22 VA.R. 3770	7/1/07
14 VAC 5-215-80	Amended	23:22 VA.R. 3770	7/1/07
14 VAC 5-321-10	Amended	23:10 VA.R. 1577	1/1/07
14 VAC 5-321-20	Amended	23:10 VA.R. 1577	1/1/07
14 VAC 5-321-30	Amended	23:10 VA.R. 1578	1/1/07
14 VAC 5-321-70	Added	23:10 VA.R. 1578	1/1/07
14 VAC 5-322-10 through 14 VAC 5-322-50	Added	23:10 VA.R. 1579-1581	1/1/07
<b>Title 16. Labor and Employment</b>			
16 VAC 15-21-30	Amended	23:23 VA.R. 3933	8/23/07
16 VAC 25-55-10 and 16 VAC 25-55-20	Added	23:12 VA.R. 1995-1996	3/22/07
16 VAC 25-75-10	Added	23:21 VA.R. 3544	7/26/07
16 VAC 25-90-1910.6	Amended	24:1 VA.R. 26	12/15/07
16 VAC 25-90-1910.66 Appendix D	Amended	24:1 VA.R. 26	12/15/07
16 VAC 25-90-1910.134	Amended	23:12 VA.R. 1997	3/21/07
16 VAC 25-90-1910.268 (b) (7)	Repealed	23:21 VA.R. 3545	7/26/07
16 VAC 25-90-1910.302 through 16 VAC 25-90-1910.308	Amended	24:1 VA.R. 26	12/15/07
16 VAC 25-90-1910.399 Subpart S Appendix A	Amended	24:1 VA.R. 26	12/15/07
16 VAC 25-90-1910.1000	Amended	23:12 VA.R. 1996	3/21/07

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16 VAC 25-90-1910.1001	Amended	23:12 VA.R. 1997	3/21/07
16 VAC 25-90-1910.1017	Amended	23:12 VA.R. 1997	3/21/07
16 VAC 25-90-1910.1018	Amended	23:12 VA.R. 1997	3/21/07
16 VAC 25-90-1910.1025	Amended	23:12 VA.R. 1997	3/21/07
16 VAC 25-90-1910.1027	Amended	23:12 VA.R. 1997	3/21/07
16 VAC 25-90-1910.1028	Amended	23:12 VA.R. 1997	3/21/07
16 VAC 25-90-1910.1029	Amended	23:12 VA.R. 1997	3/21/07
16 VAC 25-90-1910.1043	Amended	23:12 VA.R. 1997	3/21/07
16 VAC 25-90-1910.1044	Amended	23:12 VA.R. 1997	3/21/07
16 VAC 25-90-1910.1045	Amended	23:12 VA.R. 1997	3/21/07
16 VAC 25-90-1910.1047	Amended	23:12 VA.R. 1997	3/21/07
16 VAC 25-90-1910.1048	Amended	23:12 VA.R. 1997	3/21/07
16 VAC 25-90-1910.1050	Amended	23:12 VA.R. 1997	3/21/07
16 VAC 25-90-1910.1052	Amended	23:12 VA.R. 1997	3/21/07
16 VAC 25-100-1915.5	Amended	23:12 VA.R. 1998	3/21/07
16 VAC 25-100-1915.505	Amended	23:12 VA.R. 1998	3/21/07
16 VAC 25-100-1915.507	Amended	23:12 VA.R. 1998	3/21/07
16 VAC 25-100-1915.1000	Amended	23:12 VA.R. 1996	3/21/07
16 VAC 25-100-1915.1001	Amended	23:12 VA.R. 1997	3/21/07
16 VAC 25-175-1926.55	Added	23:12 VA.R. 1996	3/21/07
16 VAC 25-175-1926.60	Amended	23:12 VA.R. 1997	3/21/07
16 VAC 25-175-1926.62	Amended	23:12 VA.R. 1997	3/21/07
16 VAC 25-175-1926.1002, Appendix A of Subpart W	Amended	23:12 VA.R. 1999	3/21/07
16 VAC 25-175-1926.1101	Amended	23:12 VA.R. 1997	3/21/07
16 VAC 25-175-1926.1127	Amended	23:12 VA.R. 1997	3/21/07
16 VAC 25-190-1928.52	Amended	23:12 VA.R. 1999	3/21/07
16 VAC 25-190-1928.53, Appendix B to Subpart C	Amended	23:12 VA.R. 1999	3/21/07
<b>Title 18. Professional and Occupational Licensing</b>			
18 VAC 5-10-10 through 18 VAC 5-10-90	Amended	23:11 VA.R. 1678-1680	4/23/07
18 VAC 10-20-230	Amended	23:21 VA.R. 3548	9/10/07
18 VAC 10-20-420	Amended	23:21 VA.R. 3550	8/1/07
18 VAC 10-20-440	Amended	23:21 VA.R. 3551	8/1/07
18 VAC 10-20-450	Amended	23:21 VA.R. 3551	8/1/07
18 VAC 15-20 (Forms)	Added	23:15 VA.R. 2514	--
18 VAC 15-30 (Forms)	Amended	23:15 VA.R. 2514	--
18 VAC 25-21-80	Amended	23:21 VA.R. 3557	8/1/07
18 VAC 25-21-90	Amended	23:21 VA.R. 3558	8/1/07
18 VAC 25-21-180	Amended	23:21 VA.R. 3558	8/1/07
18 VAC 25-21-230 through 18 VAC 25-21-280	Added	23:21 VA.R. 3559-3560	8/1/07
18 VAC 30-10-10 through 18 VAC 30-10-80	Amended	23:20 VA.R. 3276-3277	8/25/07
18 VAC 30-10-100	Amended	23:20 VA.R. 3277	8/25/07
18 VAC 30-10-110	Amended	23:20 VA.R. 3277	8/25/07
18 VAC 30-10-120	Amended	23:20 VA.R. 3277	8/25/07
18 VAC 41-60-10 through 18 VAC 41-60-220	Added	23:12 VA.R. 2000-2009	4/1/07
18 VAC 41-70-10 through 18 VAC 41-70-280	Added	23:25 VA.R. 4349-4359	9/20/07
18 VAC 45-20-40	Amended	23:21 VA.R. 3562	9/10/07
18 VAC 47-20-10	Amended	23:21 VA.R. 3563	8/1/07
18 VAC 47-20-35	Added	23:21 VA.R. 3564	8/1/07
18 VAC 47-20-210	Amended	23:21 VA.R. 3564	8/1/07
18 VAC 47-20-240	Repealed	23:21 VA.R. 3564	8/1/07

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
18 VAC 47-20-250	Added	23:21 VA.R. 3564	8/1/07
18 VAC 47-20-260	Added	23:21 VA.R. 3565	8/1/07
18 VAC 47-20-270	Added	23:21 VA.R. 3565	8/1/07
18 VAC 50-30-10 through 18 VAC 50-30-50	Amended	23:12 VA.R. 2020-2025	4/1/07
18 VAC 50-30-10	Amended	24:3 VA.R. 416	11/15/07
18 VAC 50-30-40	Amended	24:3 VA.R. 418	11/15/07
18 VAC 50-30-60	Repealed	23:12 VA.R. 2025	4/1/07
18 VAC 50-30-70	Amended	23:12 VA.R. 2025	4/1/07
18 VAC 50-30-80	Repealed	23:12 VA.R. 2025	4/1/07
18 VAC 50-30-90 through 18 VAC 50-30-150	Amended	23:12 VA.R. 2026-2028	4/1/07
18 VAC 50-30-90	Amended	24:3 VA.R. 419	11/15/07
18 VAC 50-30-100	Amended	24:3 VA.R. 419	11/15/07
18 VAC 50-30-120	Amended	24:3 VA.R. 419	11/15/07
18 VAC 50-30-130	Amended	24:3 VA.R. 420	11/15/07
18 VAC 50-30-180	Repealed	23:12 VA.R. 2028	4/1/07
18 VAC 50-30-185	Added	23:12 VA.R. 2028	4/1/07
18 VAC 50-30-190	Amended	23:12 VA.R. 2028	4/1/07
18 VAC 50-30-190	Amended	24:3 VA.R. 421	11/15/07
18 VAC 50-30-200	Amended	23:12 VA.R. 2029	4/1/07
18 VAC 50-30-200	Amended	24:3 VA.R. 422	11/15/07
18 VAC 50-30-210 through 18 VAC 50-30-260	Added	23:12 VA.R. 2030-2031	4/1/07
18 VAC 50-30-220	Amended	24:3 VA.R. 422	11/15/07
18 VAC 60-10-10 through 18 VAC 60-10-80	Amended	23:20 VA.R. 3283-3284	8/25/07
18 VAC 60-10-100	Amended	23:20 VA.R. 3284	8/25/07
18 VAC 60-10-110	Amended	23:20 VA.R. 3284	8/25/07
18 VAC 60-10-120	Amended	23:20 VA.R. 3284	8/25/07
18 VAC 60-20-17	Amended	24:3 VA.R. 424	11/29/07
18 VAC 60-20-71	Amended	23:23 VA.R. 3934	8/22/07
18 VAC 60-20-180	Amended	23:15 VA.R. 2510	5/2/07
18 VAC 60-20-210	Amended	23:20 VA.R. 3286	8/25/07
18 VAC 65-10-10 through 18VAC65-10-80	Amended	24:2 VA.R. 226-228	11/15/07
18 VAC 65-10-100	Amended	24:2 VA.R. 228	11/15/07
18 VAC 65-10-110	Amended	24:2 VA.R. 228	11/15/07
18 VAC 65-10-120	Amended	24:2 VA.R. 228	11/15/07
18 VAC 65-40-10	Amended	23:12 VA.R. 2031	3/21/07
18 VAC 65-40-40	Amended	23:12 VA.R. 2031	3/21/07
18 VAC 65-40-90	Amended	23:12 VA.R. 2032	3/21/07
18 VAC 65-40-110	Amended	23:12 VA.R. 2032	3/21/07
18 VAC 65-40-130	Amended	23:12 VA.R. 2032	3/21/07
18 VAC 65-40-160	Repealed	23:12 VA.R. 2032	3/21/07
18 VAC 65-40-220	Amended	23:12 VA.R. 2032	3/21/07
18 VAC 65-40-250	Amended	23:12 VA.R. 2032	3/21/07
18 VAC 65-40-300	Repealed	23:12 VA.R. 2032	3/21/07
18 VAC 65-40-320	Amended	23:12 VA.R. 2033	3/21/07
18 VAC 65-40-340	Amended	23:12 VA.R. 2033	3/21/07
18 VAC 75-10-10 through 18 VAC 75-10-80	Amended	23:20 VA.R. 3288-3290	8/25/07
18 VAC 75-10-100	Amended	23:20 VA.R. 3290	8/25/07
18 VAC 75-10-110	Amended	23:20 VA.R. 3290	8/25/07
18 VAC 75-10-120	Amended	23:20 VA.R. 3290	8/25/07
18 VAC 75-20-60	Amended	23:21 VA.R. 3574	9/10/07
18 VAC 75-20-70	Amended	23:21 VA.R. 3575	9/10/07

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
18 VAC 75-20-120	Added	23:21 VA.R. 3575	9/10/07
18 VAC 75-20-130	Added	23:21 VA.R. 3575	9/10/07
18 VAC 75-20-140	Added	23:21 VA.R. 3575	9/10/07
18 VAC 76-30-10 through 18 VAC 76-30-80	Amended	23:20 VA.R. 3292-3294	8/25/07
18 VAC 76-30-100	Amended	23:20 VA.R. 3294	8/25/07
18 VAC 76-30-110	Amended	23:20 VA.R. 3294	8/25/07
18 VAC 76-30-120	Amended	23:20 VA.R. 3294	8/25/07
18 VAC 85-10 through 18 VAC 85-10-70	Amended	23:20 VA.R. 3296-3297	8/25/07
18 VAC 85-10-90	Amended	23:20 VA.R. 3297	8/25/07
18 VAC 85-10-100	Amended	23:20 VA.R. 3297	8/25/07
18 VAC 85-10-110	Amended	23:20 VA.R. 3298	8/25/07
18 VAC 85-20-30	Amended	23:20 VA.R. 3299	8/25/07
18 VAC 85-20-140	Amended	24:1 VA.R. 27	10/17/07
18 VAC 85-20-235	Amended	23:11 VA.R. 1692	4/21/07
18 VAC 85-20-235	Amended	23:25 VA.R. 4360	9/20/07
18 VAC 85-20-235	Amended	23:25 VA.R. 4361	9/20/07
18 VAC 85-20-290	Amended	23:13 VA.R. 2206	4/4/07
18 VAC 85-20-290	Amended	23:23 VA.R. 3934	8/22/07
18 VAC 85-20-400 through 18 VAC 85-20-420	Adding	23:25 VA.R. 4362-4363	9/20/07
18 VAC 85-40-61	Amended	24:1 VA.R. 28	10/17/07
18 VAC 85-40-61	Amended	24:1 VA.R. 29	10/18/07
18 VAC 85-40-65	Amended	24:1 VA.R. 28	10/17/07
18 VAC 85-50-58	Amended	24:1 VA.R. 29	10/18/07
18 VAC 85-80-72	Amended	24:1 VA.R. 29	10/18/07
18 VAC 85-101-50	Amended	23:15 VA.R. 2511	5/2/07
18 VAC 85-101-152	Amended	24:1 VA.R. 30	10/18/07
18 VAC 85-110-155	Amended	24:1 VA.R. 30	10/18/07
18 VAC 85-120-130	Amended	24:2 VA.R. 229	10/31/07
18 VAC 85-130-10 through 18 VAC 85-130-170	Added	23:10 VA.R. 1582-1586	2/21/07
18 VAC 90-10-10 through 18 VAC 90-10-80	Amended	23:20 VA.R. 3307-3309	8/25/07
18 VAC 90-10-100	Amended	23:20 VA.R. 3309	8/25/07
18 VAC 90-10-110	Amended	23:20 VA.R. 3309	8/25/07
18 VAC 90-10-120	Amended	23:20 VA.R. 3309	8/25/07
18 VAC 90-20-30	Amended	23:25 VA.R. 4363	10/1/07
18 VAC 90-20-60	Amended	23:12 VA.R. 2033	3/21/07
18 VAC 90-20-225	Added	23:25 VA.R. 4364	10/1/07
18 VAC 90-25-15 through 18 VAC 90-25-80	Amended	23:21 VA.R. 3576-3581	7/25/07
18 VAC 90-25-71	Added	23:21 VA.R. 3580	7/25/07
18 VAC 90-25-72	Added	23:21 VA.R. 3580	7/25/07
18 VAC 90-25-81	Added	23:21 VA.R. 3581	7/25/07
18 VAC 90-25-100 through 18 VAC 90-25-130	Amended	23:21 VA.R. 3581-3583	7/25/07
18 VAC 90-30-120	Amended	23:14 VA.R. 2404	4/18/07
18 VAC 90-30-230	Amended	23:12 VA.R. 2034	3/21/07
18 VAC 90-30-240	Added	24:3 VA.R. 427	11/29/07
18 VAC 90-40-140	Amended	23:12 VA.R. 2034	3/21/07
18 VAC 90-60-10 through 18 VAC 90-60-120	Added	23:19 VA.R. 3008-3012	7/1/07
18 VAC 90-60-100	Amended	24:3 VA.R. 429	11/29/07
18 VAC 90-60-120	Erratum	23:20 VA.R. 3378	--
18 VAC 95-10-10 through 18VAC95-10-80	Amended	24:2 VA.R. 231-232	11/15/07
18 VAC 95-10-100	Amended	24:2 VA.R. 232	11/15/07

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
18 VAC 95-10-110	Amended	24:2 VA.R. 232	11/15/07
18 VAC 95-10-120	Amended	24:2 VA.R. 232	11/15/07
18 VAC 105-10-10 through 18 VAC 105-10-80	Amended	23:20 VA.R. 3315-3316	8/25/07
18 VAC 105-10-100	Amended	23:20 VA.R. 3316	8/25/07
18 VAC 105-10-110	Amended	23:20 VA.R. 3316	8/25/07
18 VAC 105-10-120	Amended	23:20 VA.R. 3316	8/25/07
18 VAC 105-20-10	Amended	23:22 VA.R. 3791	9/24/07
18 VAC 110-10-10 through 18 VAC 110-10-80	Amended	23:20 VA.R. 3318-3320	8/25/07
18 VAC 110-10-100	Amended	23:20 VA.R. 3320	8/25/07
18 VAC 110-10-110	Amended	23:20 VA.R. 3320	8/25/07
18 VAC 110-10-120	Amended	23:20 VA.R. 3320	8/25/07
18 VAC 110-20-180	Erratum	24:3 VA.R. 444	--
18 VAC 110-20-285	Amended	23:17 VA.R. 2791	5/30/07
18 VAC 110-40-10 through 18VAC110-40-50	Amended	24:3 VA.R. 430-431	11/14/07
18 VAC 112-10-10 through 18 VAC 112-10-80	Amended	23:20 VA.R. 3327-3329	8/25/07
18 VAC 112-10-100	Amended	23:20 VA.R. 3329	8/25/07
18 VAC 112-10-110	Amended	23:20 VA.R. 3329	8/25/07
18 VAC 112-10-120	Amended	23:20 VA.R. 3329	8/25/07
18 VAC 115-10-10 through 18 VAC 115-10-80	Amended	23:20 VA.R. 3331-3332	8/25/07
18 VAC 115-10-100	Amended	23:20 VA.R. 3332	8/25/07
18 VAC 115-10-110	Amended	23:20 VA.R. 3333	8/25/07
18 VAC 115-10-120	Amended	23:20 VA.R. 3333	8/25/07
18 VAC 115-20-20	Amended	23:14 VA.R. 2404	4/18/07
18 VAC 115-20-130	Amended	23:21 VA.R. 3584	7/25/07
18 VAC 115-30-30	Amended	23:14 VA.R. 2405	4/18/07
18 VAC 115-40-20	Amended	23:14 VA.R. 2405	4/18/07
18 VAC 115-50-20	Amended	23:14 VA.R. 2405	4/18/07
18 VAC 115-50-110	Amended	23:21 VA.R. 3585	7/25/07
18 VAC 115-60-20	Amended	23:14 VA.R. 2406	4/18/07
18 VAC 115-60-130	Amended	23:21 VA.R. 3587	7/25/07
18 VAC 120-30-10	Amended	23:21 VA.R. 3589	8/1/07
18 VAC 120-30-30	Amended	23:21 VA.R. 3590	8/1/07
18 VAC 120-30-40	Amended	23:21 VA.R. 3590	8/1/07
18 VAC 120-30-50	Amended	23:21 VA.R. 3591	8/1/07
18 VAC 120-30-55	Added	23:21 VA.R. 3591	8/1/07
18 VAC 120-30-90	Repealed	23:21 VA.R. 3592	8/1/07
18 VAC 120-30-100	Amended	23:21 VA.R. 3588	8/1/07
18 VAC 120-30-100	Amended	23:21 VA.R. 3592	8/1/07
18 VAC 120-30-130	Amended	23:21 VA.R. 3592	8/1/07
18 VAC 120-30-150	Amended	23:21 VA.R. 3592	8/1/07
18 VAC 120-30-160	Amended	23:21 VA.R. 3592	8/1/07
18 VAC 120-30-180	Amended	23:21 VA.R. 3592	8/1/07
18 VAC 120-30-190	Amended	23:21 VA.R. 3593	8/1/07
18 VAC 120-30-200	Amended	23:21 VA.R. 3593	8/1/07
18 VAC 120-30-220	Amended	23:21 VA.R. 3593	8/1/07
18 VAC 120-30-230	Amended	23:21 VA.R. 3594	8/1/07
18 VAC 120-30-240	Amended	23:21 VA.R. 3594	8/1/07
18 VAC 120-30-250	Amended	23:21 VA.R. 3594	8/1/07
18 VAC 120-30-270	Amended	23:21 VA.R. 3594	8/1/07
18 VAC 120-30-280	Amended	23:21 VA.R. 3595	8/1/07
18 VAC 120-30-290	Added	23:21 VA.R. 3595	8/1/07

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
18 VAC 120-30-300	Added	23:21 VA.R. 3595	8/1/07
18 VAC 120-30-310	Added	23:21 VA.R. 3595	8/1/07
18 VAC 120-40-10	Amended	23:24 VA.R. 4038	9/5/07
18 VAC 120-40-15	Added	23:24 VA.R. 4039	9/5/07
18 VAC 120-40-20	Amended	23:24 VA.R. 4039	9/5/07
18 VAC 120-40-60	Repealed	24:3 VA.R. 433	12/29/07
18 VAC 120-40-80 through 18VAC120-40-360	Amended	23:24 VA.R. 4040-4052	9/5/07
18 VAC 120-40-221	Added	23:24 VA.R. 4043	9/5/07
18 VAC 120-40-222	Added	23:24 VA.R. 4043	9/5/07
18 VAC 120-40-295	Added	23:24 VA.R. 4048	9/5/07
18 VAC 120-40-342	Added	23:24 VA.R. 4050	9/5/07
18 VAC 120-40-370	Repealed	23:24 VA.R. 4052	9/5/07
18 VAC 120-40-380	Repealed	23:24 VA.R. 4052	9/5/07
18 VAC 120-40-385	Added	23:24 VA.R. 4052	9/5/07
18 VAC 120-40-390	Amended	23:24 VA.R. 4053	9/5/07
18 VAC 120-40-400	Repealed	23:24 VA.R. 4053	9/5/07
18 VAC 120-40-410	Amended	23:24 VA.R. 4053	9/5/07
18 VAC 120-40-411	Added	23:24 VA.R. 4053	9/5/07
18 VAC 120-40-411.1 through 18VAC120-40-411.21	Added	23:24 VA.R. 4054-4064	9/5/07
18 VAC 120-40-415	Added	23:24 VA.R. 4064	9/5/07
18 VAC 120-40-415.1	Added	23:24 VA.R. 4065	9/5/07
18 VAC 120-40-415.2	Added	23:24 VA.R. 4065	9/5/07
18 VAC 120-40-415.3	Added	23:24 VA.R. 4065	9/5/07
18 VAC 120-40-420	Amended	23:24 VA.R. 4066	9/5/07
18 VAC 120-40-430	Amended	23:24 VA.R. 4066	9/5/07
18 VAC 125-10-10 through 18 VAC 125-10-80	Amended	23:20 VA.R. 3346-3348	8/25/07
18 VAC 125-10-100	Amended	23:20 VA.R. 3348	8/25/07
18 VAC 125-10-110	Amended	23:20 VA.R. 3348	8/25/07
18 VAC 125-10-120	Amended	23:20 VA.R. 3348	8/25/07
18 VAC 125-20-30	Amended	23:12 VA.R. 2035	3/21/07
18 VAC 125-30-20	Amended	23:12 VA.R. 2035	3/21/07
18 VAC 135-30 (Forms)	Amended	24:1 VA.R. 41	--
18 VAC 135-40 (Forms)	Amended	24:1 VA.R. 43	--
18 VAC 135-50-10	Amended	23:22 VA.R. 3794	9/22/07
18 VAC 135-50-20	Amended	23:22 VA.R. 3795	9/22/07
18 VAC 135-50-220	Amended	23:22 VA.R. 3795	9/22/07
18 VAC 135-50-400	Amended	23:22 VA.R. 3795	9/22/07
18 VAC 140-10-10 through 18 VAC 140-10-80	Amended	23:20 VA.R. 3350-3351	8/25/07
18 VAC 140-10-100	Amended	23:20 VA.R. 3351	8/25/07
18 VAC 140-10-110	Amended	23:20 VA.R. 3352	8/25/07
18 VAC 140-10-120	Amended	23:20 VA.R. 3352	8/25/07
18 VAC 145-30-40	Amended	23:20 VA.R. 3352	7/12/07
18 VAC 150-10-10	Amended	23:23 VA.R. 3937	10/7/07
18 VAC 150-10-20	Amended	23:23 VA.R. 3937	10/7/07
18 VAC 150-10-30	Amended	23:23 VA.R. 3937	10/7/07
18 VAC 150-10-40	Amended	23:23 VA.R. 3938	10/7/07
18 VAC 150-10-50	Amended	23:23 VA.R. 3938	10/7/07
18 VAC 150-10-60	Amended	23:23 VA.R. 3938	10/7/07
18 VAC 150-10-70	Amended	23:23 VA.R. 3938	10/7/07
18 VAC 150-10-80	Amended	23:23 VA.R. 3938	10/7/07

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18 VAC 150-10-100	Amended	23:23 VA.R. 3939	10/7/07
18 VAC 150-10-110	Amended	23:23 VA.R. 3939	10/7/07
18 VAC 150-10-120	Amended	23:23 VA.R. 3939	10/7/07
18 VAC 150-20-30	Amended	24:3 VA.R. 436	11/29/07
18 VAC 150-20-100	Amended	24:3 VA.R. 436	11/29/07
18 VAC 150-20-140	Amended	24:3 VA.R. 437	11/29/07
18 VAC 150-20-220	Added	24:3 VA.R. 438	11/29/07
18 VAC 150-20-230	Added	24:3 VA.R. 438	11/29/07
18 VAC 150-20-240	Added	24:3 VA.R. 438	11/29/07
<b>Title 19. Public Safety</b>			
19 VAC 30-20-80	Amended	23:10 VA.R. 1587	3/1/07
19 VAC 30-170-15	Amended	24:2 VA.R. 233	10/1/07
19 VAC 30-170-50	Amended	24:2 VA.R. 233	10/1/07
<b>Title 21. Securities and Retail Franchising</b>			
21 VAC 5-10	Erratum	23:18 VA.R. 2935	--
21 VAC 5-10-40	Amended	23:23 VA.R. 3940	7/1/07
21 VAC 5-20	Erratum	23:18 VA.R. 2935	--
21 VAC 5-20-65	Added	23:23 VA.R. 3942	7/1/07
21 VAC 5-20-95	Added	23:23 VA.R. 3942	7/1/07
21 VAC 5-20-280	Amended	23:23 VA.R. 3943	7/1/07
21 VAC 5-20-330	Amended	23:23 VA.R. 3947	7/1/07
21 VAC 5-80-65	Added	23:23 VA.R. 3949	7/1/07
21 VAC 5-80-160	Amended	23:23 VA.R. 3950	7/1/07
21 VAC 5-80-200	Amended	23:23 VA.R. 3954	7/1/07
21 VAC 5-110	Erratum	23:18 VA.R. 2935	--
21 VAC 5-110	Erratum	23:24 VA.R. 4079	--
21 VAC 5-110-65	Added	23:23 VA.R. 3959	7/1/07
21 VAC 5-110-75	Added	23:23 VA.R. 3960	7/1/07
<b>Title 22. Social Services</b>			
22 VAC 15-10-40	Amended	23:10 VA.R. 1587	3/1/07
22 VAC 15-10-50	Amended	23:10 VA.R. 1587	3/1/07
22 VAC 15-30-10	Amended	23:20 VA.R. 3353	7/11/07
22 VAC 15-30-310	Amended	23:20 VA.R. 3356	7/11/07
22 VAC 15-30-580	Amended	23:20 VA.R. 3358	7/11/07
22 VAC 40-20-10	Repealed	23:20 VA.R. 3364	8/1/07
22 VAC 40-25-10 through 22 VAC 40-25-70	Amended	23:20 VA.R. 3360-3364	8/1/07
22 VAC 40-25-45	Added	23:20 VA.R. 3363	8/1/07
22 VAC 40-35-10	Amended	23:23 VA.R. 3962	9/1/07
22 VAC 40-35-80	Amended	23:23 VA.R. 3965	9/1/07
22 VAC 40-35-90	Amended	23:23 VA.R. 3965	9/1/07
22 VAC 40-35-100	Amended	23:23 VA.R. 3966	9/1/07
22 VAC 40-41-10 through 22 VAC 40-41-50	Amended	23:22 VA.R. 3796-3799	9/1/07
22 VAC 40-41-55	Amended	23:22 VA.R. 3799	9/1/07
22 VAC 40-41-60	Amended	23:22 VA.R. 3799	9/1/07
22 VAC 40-72-930	Amended	24:1 VA.R. 38	11/1/07
22 VAC 40-72-960	Amended	24:1 VA.R. 39	11/1/07
22 VAC 40-540-10	Repealed	23:20 VA.R. 3364	8/1/07
22 VAC 40-600-10 through 22 VAC 40-600-240	Repealed	23:20 VA.R. 3364	8/1/07
22 VAC 40-601-10 through 22 VAC 40-601-40	Added	23:20 VA.R. 3365-3366	8/1/07
22 VAC 40-740-10	Amended	23:10 VA.R. 1588	3/1/07
22 VAC 40-740-15	Added	23:10 VA.R. 1591	3/1/07

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

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
22 VAC 40-740-20	Repealed	23:10 VA.R. 1592	3/1/07
22 VAC 40-740-21	Added	23:10 VA.R. 1592	3/1/07
22 VAC 40-740-30	Repealed	23:10 VA.R. 1593	3/1/07
22 VAC 40-740-31	Added	23:10 VA.R. 1593	3/1/07
22 VAC 40-740-40	Amended	23:10 VA.R. 1593	3/1/07
22 VAC 40-740-50	Amended	23:10 VA.R. 1594	3/1/07
22 VAC 40-740-60	Amended	23:10 VA.R. 1595	3/1/07
22 VAC 40-740-70	Added	23:10 VA.R. 1596	3/1/07
22 VAC 40-740-80	Added	23:10 VA.R. 1596	3/1/07
22 VAC 40-770-10 through 22 VAC 40-770-160	Repealed	24:2 VA.R. 234	11/1/07
22 VAC 40-771-10 through 22 VAC 40-771-160	Added	24:2 VA.R. 234-242	11/1/07
22 VAC 40-880-200	Amended	23:20 VA.R. 3367	8/1/07
22 VAC 40-880-250	Amended	23:20 VA.R. 3367	8/1/07
22 VAC 40-880-270	Amended	23:20 VA.R. 3367	8/1/07
22 VAC 40-880-350	Amended	23:20 VA.R. 3368	8/1/07
22 VAC 40-880-620	Amended	23:20 VA.R. 3369	8/1/07
<b>Title 23. Taxation</b>			
23 VAC 10-210-485	Amended	23:24 VA.R. 4069	9/6/07
23 VAC 10-210-693 emer	Amended	23:25 VA.R. 4364	7/26/07-07/25/08
23 VAC 10-210-6041	Amended	23:24 VA.R. 4068	9/6/07
23 VAC 10-210-6042	Amended	23:24 VA.R. 4069	9/6/07
23 VAC 10-210-6043	Amended	23:24 VA.R. 4069	9/6/07
23 VAC 10-240-20 through 23 VAC 10-240-60	Repealed	23:25 VA.R. 4372-4373	10/04/07
23 VAC 10-240-100	Repealed	23:25 VA.R. 4373	10/04/07
23 VAC 10-240-130	Repealed	23:25 VA.R. 4373	10/04/07
23 VAC 10-240-140	Repealed	23:25 VA.R. 4373	10/04/07
23 VAC 10-240-150	Repealed	23:25 VA.R. 4373	10/04/07
23 VAC 10-240-200	Repealed	23:25 VA.R. 4373	10/04/07
23 VAC 10-240-210	Repealed	23:25 VA.R. 4373	10/04/07
23 VAC 10-240-240	Repealed	23:25 VA.R. 4373	10/04/07
23 VAC 10-240-270	Repealed	23:25 VA.R. 4373	10/04/07
23 VAC 10-240-280	Repealed	23:25 VA.R. 4373	10/04/07
23 VAC 10-240-300	Repealed	23:25 VA.R. 4374	10/04/07
23 VAC 10-240-310	Repealed	23:25 VA.R. 4374	10/04/07
23 VAC 10-240-330	Repealed	23:25 VA.R. 4374	10/04/07
23 VAC 10-240-340	Repealed	23:25 VA.R. 4374	10/04/07
23 VAC 10-240-360	Repealed	23:25 VA.R. 4374	10/04/07
23 VAC 10-240-380	Repealed	23:25 VA.R. 4374	10/04/07
23 VAC 10-240-400	Repealed	23:25 VA.R. 4375	10/04/07
23 VAC 10-240-420	Repealed	23:25 VA.R. 4375	10/04/07
23 VAC 10-240-430	Repealed	23:25 VA.R. 4375	10/04/07
23 VAC 10-240-450	Repealed	23:25 VA.R. 4375	10/04/07
23 VAC 10-240-460	Repealed	23:25 VA.R. 4375	10/04/07
<b>Title 24. Transportation and Motor Vehicles</b>			
24 VAC 22-20-10	Amended	24:3 VA.R. 439	12/1/07
24 VAC 22-20-20	Amended	24:3 VA.R. 440	12/1/07
24 VAC 27-10-10 through 24VAC27-10-120	Added	23:24 VA.R. 4071-4075	9/20/07
24 VAC 30-45-10	Added	24:2 VA.R. 243	10/1/07
24 VAC 30-45-20	Added	24:2 VA.R. 243	10/1/07
24 VAC 30-45-30	Added	24:2 VA.R. 244	10/1/07

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

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
24 VAC 30-155	Erratum	23:21 VA.R. 3619	--
24 VAC 30-155-10 through 24 VAC 30-155-100	Added	23:18 VA.R. 2915-2930	7/1/07
24 VAC 30-320	Repealed	23:16 VA.R. 2665	3/22/07
24 VAC 30-325-10	Added	23:16 VA.R. 2665	3/22/07
24 VAC 30-325-20	Added	23:16 VA.R. 2666	3/22/07
24 VAC 30-330	Repealed	23:16 VA.R. 2665	3/22/07

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# NOTICES OF INTENDED REGULATORY ACTION

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VA.R. Doc. No. R05-144; Filed October 16, 2007, 11:05 a.m.

## TITLE 6. CRIMINAL JUSTICE AND CORRECTIONS

### BOARD OF CORRECTIONS

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with §2.2-4007.01 of the Code of Virginia that the Board of Corrections intends to consider amending the following regulations: **6VAC15-80, Standards for Planning, Design, Construction and Reimbursement of Local Correctional Facilities**. The purpose of the proposed action is to amend definitions and add a new section to existing Standards for Planning, Design, Construction and Reimbursement of Local Correctional Facilities to make provisions relative to a Value Management Assessment Study. The amendment will allow local and regional correctional facilities to receive Value Management Assessment cost reimbursement, which is currently not provided for in 6VAC15-80.

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

Statutory Authority: §53.1-5 of the Code of Virginia.

Public comments: Public comments may be submitted until 5 p.m. on November 28, 2007.

Agency Contact: Brooks Ballard, Architectural & Engineering Services, Department of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone 804-674-3102, FAX 804-674-3529, or email brooks.ballard@vadoc.virginia.gov.

VA.R. Doc. No. R08-865; Filed October 3, 2007, 1:10 p.m.

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## TITLE 8. EDUCATION

### BOARD OF EDUCATION

#### Withdrawal of Notice of Intended Regulatory Action

Notice is hereby given that the Board of Education has WITHDRAWN the Notice of Intended Regulatory Action for **8VAC20-520, Regulations Governing Reduction of State Aid When Length of School Term Below 180 School Days**, which was published in 21:14 VA.R. 1984 March 21, 2005. The agency promulgated new regulations under the fast-track provisions of the Administrative Process Act, and the NOIRA is no longer needed.

Agency Contact: Dr. Margaret N. Roberts, Office of Policy and Communications, Department of Education, P.O. Box 2120, Richmond, VA 23218-2120, telephone (804) 225-2540, FAX (804) 225-2524 or email margaret.roberts@doe.virginia.gov.

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## TITLE 12. HEALTH

### STATE BOARD OF HEALTH

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with §2.2-4007.01 of the Code of Virginia that the State Board of Health intends to consider amending the following regulations: **12VAC5-31, Virginia Emergency Medical Services Regulations**. The purpose of the proposed action is to amend current regulations to include new regulations as a result of legislative changes and changes in the practice of EMS in order to address the dynamic, ever-changing nature of EMS.

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

Statutory Authority: §32.1-111.3 of the Code of Virginia.

Public comments: Public comments may be submitted until 5 p.m. on November 28, 2007.

Agency Contact: Michael Berg, Regulatory and Compliance Manager, Department of Health, 109 Governor St., Richmond, VA 23219, telephone 804-864-7615 or email michael.berg@vdh.virginia.gov.

VA.R. Doc. No. R08-877; Filed September 28, 2007, 10:48 a.m.

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## TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

### BOARD OF PHYSICAL THERAPY

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with §2.2-4007.01 of the Code of Virginia that the Board of Physical Therapy intends to consider amending the following regulations: **18VAC112-20, Regulations Governing the Practice of Physical Therapy**. The purpose of the proposed action is to establish requirements for certification in direct access care.

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

Statutory Authority: §§54.1-2400 and 54.1-3482.1 of the Code of Virginia.

Public comments: Public comments may be submitted until 5 p.m. on November 28, 2007.

Agency Contact: Lisa R. Hahn, Executive Director, Board of Physical Therapy, 9960 Mayland Dr., Suite 300, Richmond,

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# Notices of Intended Regulatory Action

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VA 23233, telephone (804) 367-4424, FAX (804) 527-4413,  
or email [lisa.hahn@dhp.virginia.gov](mailto:lisa.hahn@dhp.virginia.gov).

VA.R. Doc. No. R08-857; Filed October 10, 2007, 10:02 a.m.



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# REGULATIONS

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For information concerning the different types of regulations, see the Information Page.

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## Symbol Key

Roman type indicates existing text of regulations. Underscored language indicates proposed new text. Language that has been stricken indicates proposed text for deletion. Brackets are used in final regulations to indicate changes from the proposed regulation.

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## TITLE 4. CONSERVATION AND NATURAL RESOURCES

### MARINE RESOURCES COMMISSION

#### Final Regulation

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

**Title of Regulation:** **4VAC20-252. Pertaining to the Taking of Striped Bass (amending 4VAC20-252-90, 4VAC20-252-100).**

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

**Effective Date:** October 1, 2007.

**Agency Contact:** Brandy L. Battle, Agency Regulatory Coordinator, Marine Resources Commission, 2600 Washington Ave., 3rd Floor, Newport News, VA 23607, telephone (757) 247-2248, FAX (757) 247-2002, or email [brandy.battle@mrc.virginia.gov](mailto:brandy.battle@mrc.virginia.gov).

#### Summary:

*The amendments set the possession limits for the Bay and Potomac River tributaries fall striped bass recreational fishery as two fish per person from October 4 through December 9, and one fish per person from December 10 through December 31. These possession limits may consist of only one striped bass 34 inches or greater.*

#### **4VAC20-252-90. Bay fall striped bass recreational fishery.**

A. The open season for the bay fall striped bass recreational fishery shall be October 4 through December 31, inclusive.

B. The area open for this fishery shall be the Chesapeake Bay and its tributaries.

C. The minimum size limit for this fishery shall be 18 inches total length.

D. The maximum size limit for this fishery shall be 28 inches total length, except as provided in subsection F of this section.

E. The possession limit for this fishery shall be two fish per person from October 4 through December 9.

F. The possession limit for this fishery shall be one fish per person from December 10 through December 31.

~~F. G.~~ The possession ~~limit~~ limits described in subsection E and F of this section may consist of only one striped bass 34 inches or greater.

#### **4VAC20-252-100. Potomac River tributaries summer/fall striped bass recreational fishery.**

A. The open season for the Potomac River tributaries fall striped bass fishery shall correspond to the open fall season as established by the Potomac River Fisheries Commission for the mainstem Potomac River.

B. The area open for this fishery shall be the Potomac River tributaries.

C. The minimum size limit for this fishery shall be 18 inches total length.

D. The maximum size limit for this fishery shall be 28 inches total length, except as provided in subsection F of this section.

E. The possession limit for this fishery shall be two fish per person from October 4 through December 9.

F. The possession limit for this fishery shall be one fish per person from December 10 through December 31.

~~F. G.~~ The possession ~~limit~~ limits described in subsection E and F of this section may consist of only one striped bass 34 inches or greater.

VA.R. Doc. No. R08-957; Filed October 1, 2007, 9:37 a.m.

#### Final Regulation

**Title of Regulation:** **4VAC20-260. Pertaining to Designation of Seed Areas and Clean Cull Areas (amending 4VAC20-260-10, 4VAC20-260-20, 4VAC20-260-30, 4VAC20-260-40, 4VAC20-260-60, adding 4VAC20-260-35).**

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

**Effective Date:** October 1, 2007.

**Agency Contact:** Brandy L. Battle, Agency Regulatory Coordinator, Marine Resources Commission, 2600 Washington Ave., 3rd Floor, Newport News, VA 23607, telephone (757) 247-2248, FAX (757) 247-2002, or email [brandy.battle@mrc.virginia.gov](mailto:brandy.battle@mrc.virginia.gov).

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# Regulations

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## Summary:

*The amendments establish for the Lower Rappahannock River a maximum cull size of 4-1/4 inches for harvested oysters, culling tolerances and standards, and stricter penalties for the 2007-2008 public oyster harvest season.*

### CHAPTER 260

#### PERTAINING TO THE CULLING OF OYSTERS DESIGNATION OF SEED AREAS AND CLEAN CULL AREAS

#### **4VAC20-260-10. Purpose.**

The purpose of this chapter is to establish clean cull and seed areas, culling requirements (minimum and maximum size ~~limit~~ limits) and inspection procedures ~~which that~~ will provide protection for the public oyster beds, rocks, and shoals in Virginia's tidal waters.

#### **4VAC20-260-20. Designation of seed areas and clean cull areas.**

A. Seed areas. The following natural public oyster beds, rocks, or shoals are designated for the harvest of seed oysters:

~~1. Seaside of Eastern Shore. All of the public oyster grounds on the eastern side of Accomack and Northampton Counties on Virginia's Eastern Shore.~~

~~2. 1. James River. All of the public oyster grounds in the James River and its tributaries above a line drawn from Cooper's Creek in Isle of Wight County on the south side of the James River to a line in a northeasterly direction across the James River to the Newport News municipal water tank located on Warwick Boulevard between 59th and 60th ~~Streets~~ Street in the City of Newport News, excluding the Jail Island and Point of Shoals Clean Cull areas and the Deep Water Shoal State Repletion Seed Area.~~

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

B. Clean cull areas. All natural public oyster beds, rocks, or shoals in the tidal waters of Virginia, except those designated by the Marine Resources Commission as seed areas shall be considered clean cull areas.

Two areas within the James River Seed Area are set aside as clean cull areas and are described as follows:

~~1. Jail Island Clean Cull Area (1,342.23 acres). Beginning at a point approximately 2,000 feet southwest of the shore of Mulberry Island at Point A as located by Virginia State Plane Coordinates, South Zone, NAD 1927 North 281,468.20, East 2,558,879.7; thence North Azimuth 131°26'56", 8,422.95 feet to Corner 1B, North 275,892.62, East 2,565,193.09, then North Azimuth 210°28'11", 3,468.98 feet to Corner 628, North 272,902.72, East 2,563,434.03, thence North Azimuth 309°07'41", 9,174.96 feet to Corner 629, North 278,692.63, East 2,556,316.67; then North Azimuth 39°40'29", 1,777.88 feet to Corner 22, North 280,061.03, East 2,557,451.72, then North Azimuth 311°26'22", 13,325.00 feet to Corner 3, North 288,879.88, East 2,547,462.55, thence North Azimuth 45°25'14", 2,004.82 feet to Corner 4, North 290,287.06, East 2,548,890.54, thence North Azimuth 131°26'22", 13,325.00 feet to Point A, being the point of beginning. (Map 2)~~

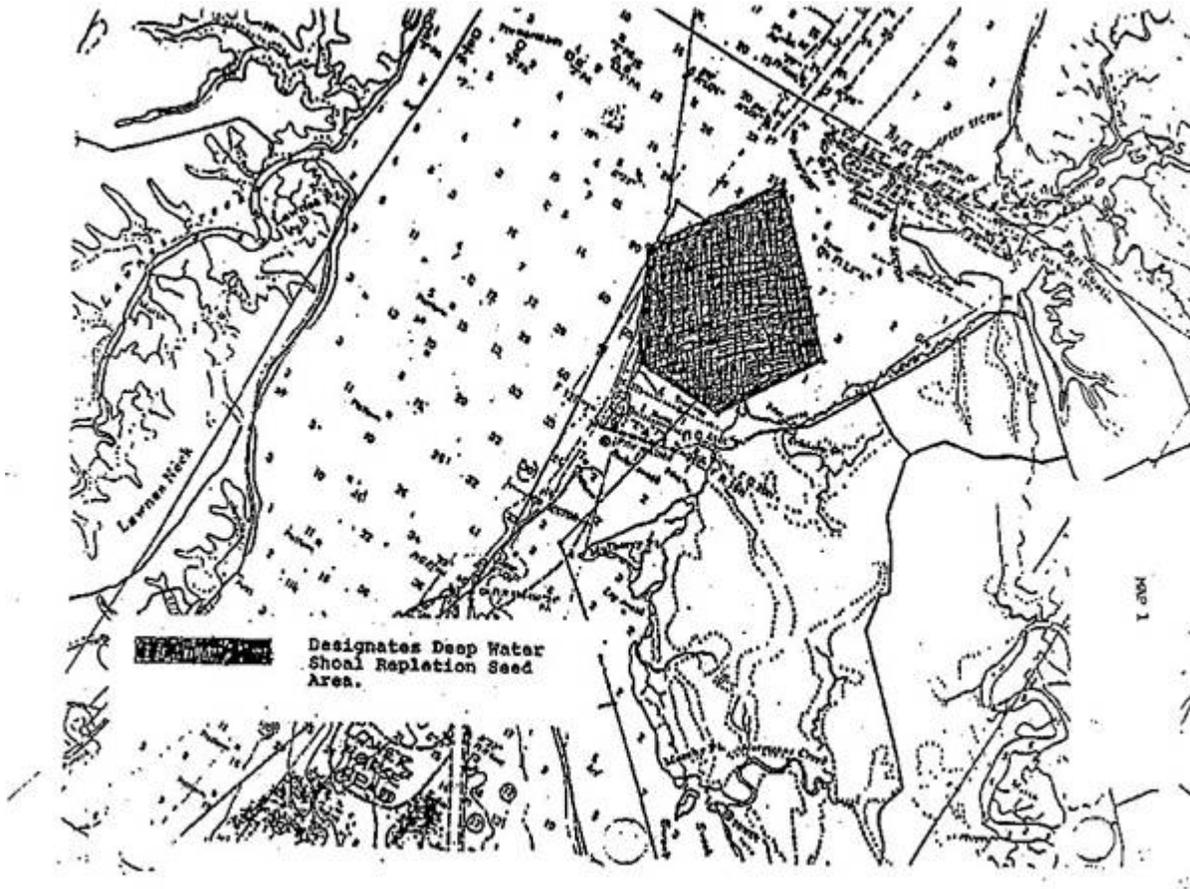
~~Additional Clean Cull Area (Jail Island) (227.19 acres). Beginning at a point, Corner 4 (being the northernmost corner on existing Jail Island Clean Cull Area) as located by Virginia State Plane Coordinates, South Zone, NAD 1927 (feet) North 290,287.06, East 2,548,890.54; thence North Azimuth 222°25'14", 2,004.82 feet to Corner 3 (a point on existing Jail Island Clean Cull Area) North 288,879.88, East 2,547,462.55; thence North Azimuth 296°26'55", 4,468.22 feet to Channel Light 24 North 290,870.0, East 2,543,462.0; thence North Azimuth 54°57'40", 825.34 feet to the Southernmost Mulberry Point Reef "Danger" Piling, North 291,343.85, East 2,544,137.75; thence North Azimuth 54°57'40", 3,103.87 feet to Corner 836, North 292,652.03, East 2,546,003.33; thence North Azimuth 128°18'48", 752.48 feet to Corner 33, North 292,185.52, East 2,546,593.75; thence North Azimuth 128°19'00", 1,778.27 feet to Corner 1, North 291,082.98, East 2,547,988.97; thence North Azimuth 131°26'19", 1,202.63 feet to Corner 4, being the point of beginning. (Map 4)~~

~~2. Point of Shoals Clean Cull Area (Baylor Acres 820 acres). Beginning at Channel Light #7 and continuing along the south side of channel to Tylers Beach to Channel Light #1 at entrance to Tylers Beach Channel, thence North Azimuth 101°08'43", 8,417 feet to an intersection corner near east end of Long Roek, Latitude 37°04'28.2", Longitude 76°37'37.5", thence North Azimuth 205°11'49", 9,604 feet to Day Marker #4, Latitude 37°03'03.17", Longitude 76°38'30", extending on same Azimuth line to other private ground. This area excludes any private leases within the outlined area. (Map 3)~~

~~Additional Clean Cull Area near Point of Shoals (3,800 acres). Beginning at Buoy 16 Latitude 37°04'22",~~

~~Longitude 76°36'14.5", thence North Azimuth 148°10'48", 7,230.86 feet to buoy 12 Latitude 37°03'20.5", Longitude 76°35'29"; thence southerly to Mogarts Beach; thence westerly along the shore to the inshore corner of the westernmost inshore private oyster lease corner; thence north and westerly along the offshore line of private oyster lease lines to an intersection with a line extending inshore from Day Marker 4 along a North Azimuth of 205°11'49"; thence along this same extended line a North Azimuth 25°11'49" through Day Marker 4 Latitude 37°03'17";~~

~~Longitude 76°38'30" to an intersection point near the east end of Long Rock, 9,604 feet from Day Marker 4, said intersection point being Latitude 37°04'28.2", Longitude 76°37'37.5"; thence North Azimuth 94°11'07", 6,755.01 feet to Buoy 16, being the point of beginning. (This area excludes any private leases within the outlined area.) (Map 5)~~



**EDITOR'S NOTE:** Maps 2, 3, 4, and 5 are being stricken from the regulation.

#### 4VAC20-260-30. Minimum cull size.

In order to encourage a continued supply of marketable oysters, minimum size limits are hereby established. Undersized oysters ~~and/or~~ or shells shall be returned immediately to their natural beds, rocks, or shoals where taken. When small oysters are adhering so closely to the shell of the marketable oyster as to render removal impossible without destroying the young oyster, then it shall not be necessary to remove it. Allowances for undersized oysters and shells incidentally retained during culling are found in 4VAC20-260-40.

1. Oysters taken from clean cull areas shall not have shells less than three inches in length.
2. In the James River seed areas, there shall be no size limit on oysters harvested for replanting as seed oysters and seed oysters shall not be marketed for direct consumption.
3. In the James River seed areas, the shells of oysters harvested for direct consumption shall not be less than three inches in length.
4. On the seaside of Eastern Shore seed area, the shells of oysters marketed for direct consumption shall not be less

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than three inches in length. (~~Oysters marketed as seed oysters shall have no size limit.~~)

5. In the Rappahannock River, the shells of oysters harvested for direct consumption, from the areas known as Russ' Rock and Carter's Rock, shall not be less than 2-1/2 inches in length.

## **4VAC20-260-35. Maximum cull size in the Rappahannock River.**

In order to protect potentially disease tolerant oysters in the Lower Rappahannock River, maximum size limits are hereby established. In the Lower Rappahannock River, Rotation Areas 1 through 6, oysters larger than the maximum size limit shall either be collected by the Marine Resources Commission or returned immediately to the natural beds, rocks, or shoals when taken. Allowance for oversized oysters and shells incidentally retained during culling are described in 4VAC20-260-40.

Oysters taken for direct human consumption from Rotation Areas 1 through 6 in the Lower Rappahannock River shall not have shells greater than 4-1/4 inches in length.

## **4VAC20-260-40. Culling tolerances or standards.**

A. In the clean cull areas, except the Lower Rappahannock River, Rotation Areas 1 through 6, if more than one four-quart measure of undersized oysters or shells is found per bushel inspected, it shall constitute a violation of this chapter.

B. In the Lower Rappahannock River, Rotation Areas 1 through 6, if more than one four-quart measure of undersized or oversized oysters or shells is found per bushel inspected, it shall constitute a violation of this chapter.

~~B. C.~~ In the James River seed areas, if more than one six-quart measure of shells is found per bushel of seed oysters inspected, it shall constitute a violation of this chapter.

~~C. D.~~ In the James River seed areas, if more than one four-quart measure of undersized oysters or shells are found per bushel of clean cull oysters inspected, it shall constitute a violation of this chapter.

~~D. E.~~ On the seaside of Eastern Shore seed areas, if more than one four-quart measure of undersized (less than three inches) oysters and shell is found per bushel of oysters to be marketed for direct consumption, it shall constitute a violation of this chapter.

## **4VAC20-260-60. Penalty.**

A. As set forth in §§28.2-510 and 28.2-511 of the Code of Virginia, any person, firm, or corporation violating any provision of this chapter except 4VAC20-260-50 C shall be guilty of a Class 3 misdemeanor.

B. As set forth in §28.2-526 of the Code of Virginia, any person violating any provision of 4VAC20-260-50 C of the chapter shall be guilty of a Class 1 misdemeanor.

C. In addition to the penalty set forth by §28.2-903 of the Code of Virginia, any person violating any provisions of this chapter shall return all oysters in possession to the water and shall cease harvesting on that day. All harvesting apparatus of the person in violation of this chapter shall be subject to seizure, and pursuant to §28.2-232 of the Code of Virginia, that person shall be subject to the immediate forfeiture of all oyster licenses and permits until appearing before the Marine Resources Commission.

VA.R. Doc. No. R08-970; Filed October 1, 2007, 9:39 a.m.

## **Final Regulation**

Title of Regulation: 4VAC20-650. Establishment of Oyster Sanctuary Areas (amending 4VAC20-650-20, 4VAC20-650-30, 4VAC20-650-40).

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

Effective Date: October 1, 2007.

Agency Contact: Brandy L. Battle, Agency Regulatory Coordinator, Marine Resources Commission, 2600 Washington Ave., 3rd Floor, Newport News, VA 23607, telephone (757) 247-2248, FAX (757) 247-2002, or email brandy.battle@mrc.virginia.gov.

### Summary:

*The amendments establish sanctuary (no harvest) areas that replace former management areas and prescribe strict penalties on persons who don't adhere to the management measures.*

## CHAPTER 650

### ESTABLISHMENT OF OYSTER MANAGEMENT SANCTUARY AREAS

#### **4VAC20-650-20. Oyster replenishment ~~management~~ sanctuary areas.**

A. The following Oyster ~~Management~~ Sanctuary Area is established: The Wreck Shoals—James River Oyster ~~Management~~ Sanctuary Area shall consist of all public oyster grounds ~~within the boundaries as~~ with a boundary defined by as: beginning at Corner 1 of Public Ground No.1—Warwick County (Lat 37° 04.520'N, Lon 76° 33.7333'W—NAD 1983); thence southeasterly to Deep Creek Channel Marker "2" (Lat 37° 03.609'N, Lon 76° 32.102'W); thence south-southwesterly to James River Channel Marker "5" (Lat 37° 02.345'N, Lon 76° 32.769'W); thence southwesterly to the chimney of a beach house east of the Luter airstrip (Lat 37° 01.666'N, Lon 76° 35.136'W); thence northerly to James River Channel Marker "12" (Lat 37° 03.323'N, Lon 76° 35.169'W); thence northeasterly to Corner 190 of Plat File 16734 (Lat 37° 04.904'N, Lon 76° 34.254'W); thence southeasterly to Corner 1 of Public Ground 1—Warwick County, the point of beginning.

B. Constructed oyster reefs include all reefs constructed and marked by a "no harvesting" sign provided by the Conservation and Replenishment Department.

**4VAC20-650-30. Closure of ~~management~~ sanctuary areas.**

A. All Oyster ~~Management~~ Sanctuary Areas shall be closed to the harvest of oysters, except that Seaside of the Eastern Shore Oyster ~~Management~~ Sanctuary Areas shall be closed to the harvest of all shellfish. Any person harvesting oysters or shellfish from the specified areas shall be guilty of a violation of this chapter.

B. It shall be unlawful for any person to possess any gear that could be used to harvest shellfish, within ~~300~~ 100 feet of public or unassigned oyster grounds, in the area surrounding any oyster ~~management~~ sanctuary area, and such possession shall be considered as prima facie evidence of a violation of this chapter.

**4VAC20-650-40. Penalty.**

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

B. In addition to the penalty ~~prescribed~~ set forth by §28.2-903 of the Code of Virginia, any ~~persons~~ person violating any provision of this chapter shall ~~forfeit all harvested oysters, have their gear license revoked immediately and shall be subject to seizure of all harvesting apparatus for the remainder of the season~~ return all oysters in possession to the water and shall cease harvesting on that day. All harvesting apparatus of the person in violation of this chapter shall be subject to seizure, and pursuant to §28.2-232 of the Code of Virginia, that person shall be subject to the immediate forfeiture of all oyster licenses and permits until appearing before the Marine Resources Commission.

VA.R. Doc. No. R08-969; Filed October 1, 2007, 9:40 a.m.

**Final Regulation**

Title of Regulation: **4VAC20-720. Pertaining to Restrictions on Oyster Harvest (amending 4VAC20-720-20, 4VAC20-720-40 through 4VAC20-720-80, 4VAC20-720-110; adding 4VAC20-720-95).**

Statutory Authority: §§28.2-201, 28.2-507, and 28.2-518 of the Code of Virginia.

Effective Date: October 1, 2007.

Agency Contact: Brandy L. Battle, Agency Regulatory Coordinator, Marine Resources Commission, 2600 Washington Ave., 3rd Floor, Newport News, VA 23607,

telephone (757) 247-2248, FAX (757) 247-2002, or email [brandy.battle@mrc.virginia.gov](mailto:brandy.battle@mrc.virginia.gov).

Summary:

*The amendments establish public grounds oyster harvest season dates and harvest restrictions and additional strict penalties for violations of this chapter.*

**4VAC20-720-20. Definitions.**

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

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

~~"Corrotoman River Hand Tong Area" means that area of the Corrotoman River north of the line drawn from Bar Pt. to the westernmost point on Black Stump Point.~~

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

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

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

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

"Hand scrape" means any device or instrument with a catching bar having an inside measurement of no more than 22 inches, which is used or usable for the purpose of

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extracting or removing shellfish from a water bottom or the bed of a body of water.

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

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

"Nomini River Hand Scrape Area" means that area of the Nomini River inside of Public Ground #1 to the Virginia-Maryland state line (PRV6A to PRV6B) (Kingscopsico), Public Ground 26 (Deans) and Public Ground 28 (Cut).

"Oyster Patent Tong" means any patent tong not exceeding 100 pounds in gross weight, including any attachment other than rope and with the teeth not to exceed four inches in length.

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

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

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

"Rappahannock River Rotation Area 1" shall consist of all public grounds in the Rappahannock River with a boundary defined as beginning at the MLW west of Broad Creek (37° 33.952', N., 76° 19.309', W.); thence north to a VMRC buoy on the Baylor line (37° 34.539', N., 76° 19.022', W.) to VMRC buoy (37° 34.683', N., 76° 19.100' W.); thence, northeasterly to VMRC Buoy (37° 35.017', N., 76° 19.450', W.); thence, northeasterly to Sturgeon Bar Light (7R) (37° 35.150', N., 76° 19.733', W.); thence, continuing northwest to Mosquito Point Light (8R) (37° 36.100', N., 76° 21.300', W.); thence to the house on Mosquito Point (37° 36.523', N., 76° 21.595', W.) bounded on the east by a line from Windmill Point (37° 35.793', N., 76° 14.180', W.); thence, southeast to Windmill Point Light (37° 35.793', N., 76° 14.180', W.); thence southwesterly to Stingray Point Light (37° 33.673', N., 76° 16.362', W.); thence, westerly to Stingray Point (37° 33.692', N., 76° 17.986', W.)

"Rappahannock River Rotation Area 2" shall consist of all public grounds in the Rappahannock River with a boundary on the east side defined as beginning at the house at Mosquito Point (37° 36.523', N., 76° 21.595', W.); thence, southeast to Mosquito Point Light "8R" (37° 36.100', N., 76° 21.300', W.); thence, continuing southeasterly to Sturgeon Bar Beacon

"7R" (37° 35.150', N., 76° 19.733', W.); thence, southwesterly to VMRC buoy (37° 34.933', N., 76° 21.050', W.); thence, southwesterly to VMRC buoy (37° 34.883', N., 76° 21.100', W.); thence, to a pier west of Hunting Creek at Grinels (37° 34.436', N., 76° 26.288', W.). Rappahannock River Rotation Area 2 is bordered on the west by a line beginning at Mill Creek channel marker "4" (37° 35.083', N., 76° 26.950', W.); thence, northeasterly to Mill Creek channel marker "2" (37° 35.483', N., 76° 24.567', W.); thence, northeasterly to the house at Mosquito Point (37° 36.523', N., 76° 21.595', W.).

"Rappahannock River Rotation Area 3" shall consist of all public grounds in the Rappahannock River with a boundary defined as beginning from the north channel fender at the Norris Bridge (37° 37.483', N., 76° 25.035', W.); thence, southeast to the house on Mosquito Point (37° 36.523', N., 76° 21.595', W.); thence southwest to Mill Creek channel marker "2" (37° 35.483', N., 76° 24.567', W.); thence southwesterly to Mill Creek channel marker "4" (37° 35.083', N., 76° 24.950', W.); thence northeasterly to Parrotts Creek channel marker "1" (37° 36.033', N., 76° 25.417', W.); thence northerly to VMRC buoy (37° 36.333', N., 76° 25.200', W.); thence returning northerly to the Norris Bridge north channel fender.

"Rappahannock River Rotation Area 4" shall consist of all public grounds in the Rappahannock River with the boundary defined as beginning at the White Stone end of the Norris Bridge (37° 38.129', N., 76° 24.722', W.); thence, along the Norris Bridge to the north channel fender (37° 37.483', N., 76° 25.035', W.); thence westerly to the VMRC buoy 5-4 (36° 38.005', N., 76° 30.028', W.); thence, north to Old House Point (37° 39.139', N., 76° 29.685', W.); thence, northerly to Ball Point (37° 41.660', N., 76° 28.632', W.); thence, continuing northerly to Bar Point (37° 41.666', N., 76° 28.866', W.); thence easterly to Black Stump Point (37° 41.737', N., 76° 28.111', W.); thence, southeasterly to the western headland of Taylor Creek (37° 40.983', N., 76° 27.602', W.); thence, southwesterly to VMRC Buoy at Ferry Bar north (37° 40.300', N., 76° 28.500', W.); thence, southeasterly to VMRC Buoy at Ferry Bar South (37° 40.167', N., 76° 28.583', W.); thence, southwesterly to Corrotoman Point Duck Blind (37° 39.945', N., 76° 28.467', W.); thence, southerly to VMRC Buoy 543 (37° 39.267', N., 76° 27.850', W.); thence, southerly to VMRC Buoy at Drumming West (37° 38.833', N., 76° 27.683', W.); thence, southerly to VMRC buoy at Drumming East (37° 38.833', N., 76° 27.567', W.); thence, northeasterly to Orchard Point (37° 38.924', N., 76° 27.126', W.).

"Rappahannock River Rotation Area 5" shall consist of public grounds in the Rappahannock River with a boundary defined as beginning east of a line from the east headland of Whiting Creek (37° 36.658', N., 76° 30.312', W.); thence, north to Towlest Pt. buoy "6" (37° 38.033', N., 76° 30.283', W.); thence, easterly to VMRC buoy 5-4 (37° 38.005', N., 76°

30.028', W.) continuing easterly to the Norris Bridge north channel fender (37° 37.483', N., 76° 25.035', W.); thence, along the Norris Bridge southwest to Grey's Point (37° 36.833', N., 76° 25.999', W.).

"Rappahannock River Rotation Area 6" shall consist of all public grounds in the Rappahannock River with a boundary defined as beginning from Balls Point (37° 39.355', N., 76° 34.444', W.); thence, northeast to the flashing red buoy "8" off Rogue Pt. (37° 40.158', N., 76° 32.939', W.); thence, southeasterly to VMRC Towles Point Area buoy (37° 38.833', N., 76° 31.536', W.); thence, southwesterly to VMRC White House Sanctuary buoy (37° 38.150', N., 76° 30.533', W.); thence, southeasterly to red buoy "6" (37° 38.033', N., 76° 30.283', W.); thence, southerly to the eastern headland of the mouth of Whiting Creek (37° 36.658', N., 76° 30.312', W.).

~~"Rappahannock River Hand Scrape Area 7" means that area shall consist of all public grounds in the Rappahannock River including all public grounds between a line extending from the eastern most point of Long Point thence in an easterly direction to flashing red buoy #8; thence due east to Rogue Point, upriver to a line extending from Tarpley Point; thence in a southwesterly direction to flashing green buoy #13; thence south southwesterly to Jones Point with a boundary defined as beginning south of a line from Punchbowl Point (37° 44.675', N., 76° 37.325', W.) to Monaskon Point (37° 44.063', N., 76° 34.108', W.) to a line from Rogue's Point (37° 40.040', N., 76° 32.253', W.); thence, northwest to flashing red buoy "8" (37° 40.158', N., 76° 32.939', W.) continuing southwest to Balls Point (37° 39.355', N., 76° 34.444', W.).~~

"Rappahannock River Area 8" shall consist of all public grounds in the Rappahannock River with a boundary defined as beginning east and south of a line from Jones Point (37° 48.786', N., 76° 40.835', W.) to Sharps Point (37° 49.364', N., 76° 42.087', W.) to a line from Punchbowl Point (37° 44.675', N., 76° 37.325', W.) to Monaskon Point (37° 44.063', N., 76° 34.108', W.).

~~"Rappahannock River Hand Tong Area 9" means that area shall consist of all public grounds in the Rappahannock River with a boundary defined as beginning west of the line drawn from Sharps Pt. (37° 49.364', N., 76° 42.087', W.) Tarpley Pt. to Green Buoy #13 to Jones Pt (37° 46.786', N., 76° 40.835', W.) to the Route 360 (Drumming Bridge).~~

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

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

"Tangier-Pocomoke Sounds Rotation Area 1" shall include all public and unassigned grounds within the PTSMA, in Tangier Sound, that are west and south of a line beginning at the Maryland-Virginia Line (37° 54.61360', N., 75° 53.97396', W.) continuing south on Great Fox Island (37° 53.69465', N., 75° 53.88988', W.); thence continuing west to point "Area 2-NW" (37° 53.36335', N., 75° 56.55896', W.); thence south to a point "Area 2-SW" (37° 48.44291', N., 75° 56.48836', W.); thence continuing east to the north end of Watts Island (37° 48.77578', N., 75° 53.59941', W.). Area 1 shall also include all of the public and unassigned grounds in the PTSMA in Pocomoke Sound south and west of a line beginning at the house on Great Fox Island (37° 53.69465', N., 75° 53.88988', W.); thence east southeast to Red Channel Marker # 8 (37° 52.45833', N., 75° 49.40000', W.); thence south southeast to Green Channel Marker "C - 1" (37° 52.10000', N., 75° 47.80833', W.) thence southeast to Flashing Red "2+1" (37° 50.95333', N., 75° 46.64167', W.); thence south to the northernmost tip of Russell Island (37° 48.38796', N., 75° 47.02241', W.).

"Tangier-Pocomoke Sounds Rotation Area 2" shall include all public and unassigned grounds in the PTSMA with a boundary defined as beginning at the house on Great Fox Island (37° 53.69465', N., 75° 53.88988', W.); thence south to the north end of Watts Island (37° 48.77578', N., 75° 53.59941', W.); thence west to a point "Area 2-SW" (37° 48.44291', N., 75° 56.48836', W.); thence north to point "Area 2-NW" (37° 53.36335', N., 75° 56.55896', W.); thence back east to the house on Great Fox Island. This area includes Public Ground # 7, known as "Thoroughfare Rock" and Public Ground # 8, known as "California Rock" in Tangier Sound. Area 2 shall also include all public and unassigned grounds in the PTSMA in Pocomoke Sound northeast of a line beginning at the house on Great Fox Island (37° 53.69465', N., 75° 53.88988', W.); thence east southeast to Red Channel Marker # 8 (37° 52.45833', N., 75° 49.40000', W.); thence south southeast to Green Channel Marker "C - 1" (37° 52.10000', N., 75° 47.80833', W.); thence southeast to Flashing Red "2+1" (37° 50.95333', N., 75° 46.64167', W.); thence south to the northernmost tip of Russell Island (37° 48.38796', N., 75° 47.02241', W.).

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

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the mean low water line of Cod Harbor in a west, north and northeast direction crossing Canton Creek and Mailboat Harbor from headland to headland to the point of beginning.

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

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

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

"Upper Chesapeake Bay (Blackberry Hangs Hand Scrape Area)" means the area in Public Ground Number 118, south from the Smith Point Light to the Great Wicomico Light.

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

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

## **4VAC20-720-40. Open season and areas.**

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

1. James River Seed Area, including the Deep Water Shoal State Replenishment Seed Area ~~and James River Jail Island and Point of Shoals Clean Cull Areas~~: October 1, ~~2006~~ 2007, through April 30, ~~2007~~ 2008.
2. Seaside of Eastern Shore: for clean cull oysters only, October 1, ~~2006~~ 2007, through ~~December 31, 2006~~ January 31, 2008.
3. The following areas shall be opened from October 1, ~~2006~~ 2007, through December 31, ~~2006~~ 2007: the Rappahannock River ~~Hand Tong Area Areas 8 and 9; the Corrotoman River Hand Tong Area; the Rappahannock River Hand Scrape Area; the Drumming Ground Hand Scrape Area (Rappahannock River); the Temples Bay Hand Scrape Area (Rappahannock River); the Nomini River Hand Scrape Area; the James River Hand Scrape Area; the Upper Chesapeake Bay (Blackberry Hangs Hand Scrape Area) (Upper Chesapeake Bay); the York River Hand Scrape Area; Deep Rock Patent Tong Area (Lower~~

~~Chesapeake Bay); and the Thomas Rock Hand Scrape Area (James River).~~

4. The Rappahannock River Rotation Areas 1 and 6: October 1, 2007, through November 30, 2007.

~~4. Tangier Sound and 5. Tangier - Pocomoke Sound Sounds Rotation Area 1: December 1, 2006~~ 2007, through February 28, ~~2007~~ 2008.

## **4VAC20-720-50. Closed harvest season and areas.**

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

1. All public oyster grounds and unassigned grounds in the Chesapeake Bay and its tributaries, including the tributaries of the Potomac River, except those areas listed in 4VAC20-720-40, are closed: October 1, ~~2006~~ 2007, through September 30, ~~2007~~ 2008.

2. James River Seed Area, including the Deep Water Shoal State Replenishment Seed Area ~~and the James River Jail Island and Point of Shoals Clean Cull Areas~~: May 1, ~~2007~~ 2008, through September 30, ~~2007~~ 2008.

3. All public oyster grounds and unassigned grounds on the Seaside of Eastern Shore: for clean cull oysters, ~~January 1, 2007~~ February 1, 2008, through September 30, ~~2007~~ 2008, and for seed oysters, all year. ~~Oyster harvest from leased oyster ground and fee simple oyster ground shall require a permit from the Marine Resources Commission as set forth in 4VAC20-720-90.~~

4. The following areas shall be closed from January 1, ~~2007~~ 2008, through September 30, ~~2007~~ 2008: ~~the Rappahannock River Hand Tong Area Areas 8 and 9; the Corrotoman River Hand Tong Area; the Rappahannock River Hand Scrape Area; the Temples Bay Hand Scrape Area (Rappahannock River); the Drumming Ground Hand Scrape Area (Rappahannock River); the Nomini River Hand Scrape Area; the James River Hand Scrape Area; Deep Rock Patent Tong Area (Lower Chesapeake Bay); the Thomas Rock Hand Scrape Area (James River) and the Upper Chesapeake Bay (Blackberry Hangs Hand Scrape Area (Upper Chesapeake Bay); and the York River Hand Scrape Area.~~

5. The Rappahannock River Rotation Areas 1 and 6: December 1, 2007, through September 30, 2008.

~~5. Tangier Sound and 6. Tangier - Pocomoke Sound Sounds Rotation Area 1: October 1, 2006~~ 2007, through November 30, ~~2006~~ 2007, and March 1, ~~2007~~ 2008, through September 30, ~~2007~~ 2008.

## **4VAC20-720-60. Day and time limit.**

A. It shall be unlawful to take, catch or possess oysters on Saturday and Sunday from the public oyster grounds or unassigned grounds in the waters of the Commonwealth of

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

B. It shall be unlawful for any person to harvest or attempt to harvest oysters prior to sunrise or after 2 p.m. from the areas described in subdivisions 1, 3 and 4-5 of 4VAC20-720-40, except as described in 4VAC20-720-105.

C. It shall be unlawful for any person to harvest or attempt to harvest oysters in the Rappahannock River Rotation Areas 1 and 6 prior to 7 a.m. and after 1 p.m.

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

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

**4VAC20-720-70. Gear restrictions.**

A. It shall be unlawful for any person to harvest oysters in the James River Seed Areas, including the Deep Water Shoal State Replenishment Seed Area ~~the James River Jail Island and Point of Shoals Clean Cull Areas,~~ and the Rappahannock River ~~Hand Tong Area 9, the Corrotoman River Hand Tong Area,~~ except by hand or ordinary tong. It shall be unlawful for any person to have a hand scrape on board a boat that is harvesting or attempting to harvest oysters from public grounds by hand tong.

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

C. It shall be unlawful to harvest oysters ~~from the hand scrape areas~~ in the Rappahannock River Rotation Area 1 or 6, Rappahannock River Area 8; James River Hand Scrape Area, Thomas Rock Hand Scrape Area, Nomini River Hand Scrape Area, Upper Chesapeake Bay (Blackberry Hangs Hand Scrape Area), and York River Hand Scrape Area, except by hand scrape.

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

E. It shall be unlawful to harvest oysters from the ~~Pocomoke and Tangier Sounds Management~~ Tangier – Pocomoke Rotation Area 1, except by a standard oyster dredge.

F. It shall be unlawful to harvest oysters from the Deep Rock Patent Tong Area, except by a standard oyster patent tong.

**4VAC20-720-75. Gear license.**

A. It shall be unlawful for any person to harvest shellfish, from the hand scrape areas in the Rappahannock River, James River, Upper Chesapeake Bay, York River, and Nomini River Area ~~who has not~~ , unless that person has first obtained a current hand scrape license.

B. It shall be unlawful for any person to harvest shellfish, with a dredge from the public oyster grounds in the ~~PTSMA who has not Tangier – Pocomoke Sounds Rotation Area 1,~~ unless that person has first obtained a current dredge license.

C. It shall be unlawful for any person to harvest shellfish, with a patent tong from the public oyster grounds in the Deep Rock Patent Tong Area unless that person has first obtained a current patent tong license.

**4VAC20-720-80. Quotas and harvest limits.**

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

B. The lawful daily limit of clean cull oysters harvested from the areas as described in ~~subdivision~~ subdivisions 3 and 4 of 4VAC20-720-40 shall be determined by the number of registered commercial fishermen licensees on board the vessel multiplied by ~~10~~ eight bushels. It shall be unlawful to possess on board any vessel or to land more than the daily limit of clean cull oysters.

C. In the ~~PTSMA in Tangier Sound and in the Tangier - Pocomoke Sound~~ Sounds Rotation Area 1, where harvesting is allowed by dredge, there shall be a harvest limit of eight bushels per registered commercial fisherman licensee on board the vessel. It shall be unlawful for any registered commercial fisherman licensee to possess more than eight bushels per day. No blue crab bycatch is allowed. It shall be unlawful to possess on board any vessel more than 250 hard clams.

D. Harvesters who export the oysters to an out-of-state market or do not sell the oysters to a licensed and Department of Health certified Virginia buyer but sell the oysters directly

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to the public for human consumption shall report oysters harvested on a daily basis and pay oyster taxes weekly.

## **4VAC20-720-95. Harvesting permit required for the Rappahannock River Rotation Areas 1 through 6.**

A harvesting permit is required for the Rappahannock River rotation areas 1 through 6. Included with this permit will be a map of the two rotation areas that are open for harvesting in any given year and a culling stick specific to management provisions for these areas. It shall be unlawful for any person to harvest or attempt to harvest oysters from the Rappahannock River Rotation Areas 1 through 6 without first obtaining and having on board a harvest permit, map of lower Rappahannock Rotation Areas 1 through 6, and culling stick specific to these areas.

## **4VAC20-720-110. Penalty.**

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

B. In addition to the penalty prescribed by law, any person violating any provisions of this chapter shall return all oysters in possession to the water, shall cease harvesting on that day, ~~and~~ all harvesting apparatus shall be subject to seizure and pursuant to §28.2-232 of the Code of Virginia shall be subject to the immediate forfeiture of all oyster licenses and permits until appearing before the Marine Resources Commission.

C. In addition to the penalty prescribed by §28.2-802 of the Code of Virginia, any person violating any provisions of 4VAC20-720-105 shall destroy all oysters harvested by that person in violation of 4VAC20-720-105 in the presence of a marine police officer, and shall be subject to the immediate forfeiture of all oyster licenses and permits until appearing before the Marine Resources Commission.

VA.R. Doc. No. R08-971; Filed October 1, 2007; 9:41 a.m.



## **TITLE 9. ENVIRONMENT**

### **VIRGINIA WASTE MANAGEMENT BOARD**

#### **Final Regulation**

Title of Regulation: 9VAC20-130. Solid Waste Planning and Recycling Regulations (amending 9VAC20-130-10, 9VAC20-130-40, 9VAC20-130-60, 9VAC20-130-70, 9VAC20-130-90, 9VAC20-130-110, 9VAC20-130-120, 9VAC20-130-130, 9VAC20-130-165, 9VAC20-130-175 through 9VAC20-130-230; adding 9VAC20-130-125, repealing 9VAC20-130-140, 9VAC20-130-150).

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

Effective Date: November 28, 2007.

Agency Contact: Allen Brockman, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone 804-698-4468, FAX 804-698-4327, or email arbrockman@deq.virginia.gov.

#### Summary:

*The amendments revise the minimum recycling rate to conform to Chapters 7 and 40 of the 2006 Acts of Assembly, no longer require the Department of Environmental Quality to approve minor plan amendments, and eliminate a duplicative provision on the waste information assessment program.*

*The changes made since publication of the proposed regulation (i) delete the requirement that the planning unit submit an action plan if the solid waste plan does not meet the requirements of the chapter; (ii) clarify the public participation requirements; and (iii) modify major and minor plan amendments.*

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 130**

### **REGULATIONS FOR THE DEVELOPMENT OF SOLID WASTE MANAGEMENT PLANS PLANNING AND RECYCLING REGULATIONS**

#### **9VAC20-130-10. Definitions.**

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

~~"Abandoned material" means any material that is: disposed of, burned or incinerated; or accumulated, stored or treated (but not recycled) before or instead of being abandoned by being disposed of, burned or incinerated.~~

"Agricultural waste" means all solid waste produced from farming operations, ~~or related commercial preparation of farm products for marketing.~~

"Board" means the Virginia Waste Management Board.

"Commercial waste" means all solid waste generated by establishments engaged in business operations other than manufacturing or construction. This category includes, but is not limited to, solid waste resulting from the operation of stores, markets, office buildings, restaurants and shopping centers.

"Compost" means a stabilized organic product produced by composting in such a manner that the product can be handled, stored, and/or applied to the land.

"Composting" means the manipulation of the natural ~~aerobic~~ process of decomposition of organic materials to increase the rate of decomposition.

"Construction waste" means solid waste that is produced or generated during construction, remodeling, or repair of pavements, houses, commercial buildings, and other structures. Construction wastes include, but are not limited to, lumber, wire, sheetrock, broken brick, shingles, glass, pipes, concrete, paving materials, and metal and plastics if ~~they~~ the metal or plastics are a part of the materials of construction material or empty containers for such materials. Paints, coatings, solvents, asbestos-containing material, any liquid, compressed gases, or semi-liquids and garbage are not construction wastes.

~~"Contamination" means the degradation in quality of naturally occurring water, air, or soil resulting either directly or indirectly from human activity.~~

"Debris waste" means solid waste resulting from land clearing operations. Debris wastes include, but are not limited to, stumps, wood, brush, leaves, soil, and road spoils.

"Demolition waste" means solid waste produced by the destruction of structures and their foundations and includes the same materials as construction wastes.

"Department" means the Department of Environmental Quality.

"Director" means the Director of the Department of Environmental Quality or his designee. For purposes of submissions to the director as specified in the Waste Management Act, submissions may be made to the department.

~~"Discarded material" means a material that is: (i) abandoned material as defined in this chapter; (ii) recycled material as defined in this chapter; or (iii) considered inherently waste-like.~~

"Disposal" means the discharge, deposit, injection, dumping, spilling, leaking or placing of any solid waste into or on any

land or water so that such solid waste or any constituent of it may enter the environment or be emitted into the air or discharged into any waters.

"Facility" means solid waste management facility unless the context clearly indicates otherwise.

~~"Friable asbestos" means any material containing more than 1.0% asbestos by weight that, when dry, may be crumbled, pulverized or reduced to powder by hand pressure and regulated as a special waste.~~

~~"Garbage" means readily putrescible discarded materials composed of animal, vegetable or other organic matter.~~

~~"Groundwater" means any water below the land surface in the zone of saturation.~~

"Hazardous waste" means a "hazardous waste" as defined by the Virginia Hazardous Waste Management Regulation, 9VAC20-60 [ -12 et seq ].

~~"Household waste" means any waste material, including garbage, trash and refuse, derived from households. Households include single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds and day use recreation areas. Household wastes do not include sanitary waste in septic tanks (septage), which is regulated by other state agencies.~~

"Incineration" means the controlled combustion of solid waste for disposal.

~~"Incinerator" means a facility or device designed for the treatment for volume reduction of solid waste by combustion.~~

"Industrial waste" means any solid waste generated by manufacturing or industrial process that is not a regulated hazardous waste. Such waste may include, but is not limited to, waste resulting from the following manufacturing processes: electric power generation; fertilizer/agricultural chemicals; food and related products/byproducts; inorganic chemicals; iron and steel manufacturing; leather and leather products; nonferrous metals manufacturing/foundries; organic chemicals; plastics and resins manufacturing; pulp and paper industry; rubber and miscellaneous plastic products; stone, glass, clay, and concrete products; textile manufacturing; transportation equipment; and water treatment. This term does not include mining waste or oil and gas waste.

~~"Industrial waste landfill" means a solid waste landfill used primarily for the disposal of a specific industrial waste or a waste that is a byproduct of a production process.~~

"Institutional waste" means all solid waste emanating from institutions such as, but not limited to, hospitals, nursing homes, orphanages, and public or private schools. It can include regulated medical waste from health care facilities and research facilities that must be managed as ~~an~~ a regulated medical waste.

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"Integrated waste management plan" means a governmental plan that considers all elements of waste management during generation, collection, transportation, treatment, storage, disposal, and litter control and selects the appropriate methods of providing necessary control and services for effective and efficient management of all wastes. An "integrated waste management plan" must provide for source reduction, reuse and recycling within the jurisdiction and the proper funding and management of waste management programs.

"Jurisdiction" means a local governing body; city, county or town; or any independent entity, such as a federal or state agency, which join with local governing bodies to develop a waste management plan.

"Landfill" means a sanitary landfill, an industrial waste landfill, or a construction/demolition/debris landfill (as these terms are defined in [the Solid Waste Management Regulations ( ) 9VAC20-80].

~~"Large diameter tree stumps" means tree stumps larger than six inches in diameter.~~

"Litter" means all waste material disposable packages or containers, but not including the wastes of the primary processes of mining, logging, farming, or manufacturing.

"Market" or "markets" means interim or end destinations for the recyclable materials, including a materials recovery facility (MRF).

"Market conditions" means business and system related issues used to determine if materials can be targeted, collected, and delivered to an interim or end market in an efficient manner. Issues may include, but are not limited to: the cost of collection, storage and [ ~~or~~ ] preparation [ or both ] ; the cost of transportation; accessible volumes of materials targeted for recycling; market value of materials targeted for collection/recycling; and distance to viable markets.

"Materials recovery facility (MRF)" means, for the purpose of this regulation, a facility for the collection, processing and marketing of recyclable materials including, but not limited to: metal, paper, plastics, and glass.

"Mulch" means woody waste consisting of stumps, trees, limbs, branches, bark, leaves and other clean wood waste that has undergone size reduction by grinding, shredding, or chipping, and is distributed to the general public for landscaping purposes or other horticultural uses, except composting as defined and regulated under the Solid Waste Management Regulations (9VAC20-80) or the Vegetative Waste Management and Yard Waste Composting Regulations (9VAC20-101).

"Municipal solid waste" means waste that is normally composed of residential, commercial, and institutional solid

waste and residues derived from the combustion of these wastes.

~~"Open dump" means a site on which any solid waste is placed, discharged, deposited, injected, dumped or spilled so as to create a nuisance or present a threat of a release of harmful substances into the environment or present a hazard to human health. Such a site is subject to the open dump criteria in 9VAC20-80-180.~~

"Permit" means the written permission of the director to own, operate or construct a solid waste management facility.

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

"Principal recyclable materials (PRMs)" means paper, metal ~~(except automobile bodies)~~, plastic, glass, commingled yard waste, wood, and textiles, tires, used oil, used oil filters, used antifreeze, batteries, electronics, or material as may be approved by the director. "Principal recyclable materials" does not include large diameter tree stumps. Commingled materials [ refer refers ] to single stream collections of recyclables where sorting is done at a materials recovery facility.

~~"Recycled material" means a material that is derived from recycling.~~

"Recycling" means the process of separating a given waste material from the waste stream and processing it so that it may be used again as a raw material for a product, which may or may not be similar to the original product. For the purpose of this chapter, recycling shall not include processes that only involve size reduction.

"Recycling residue" means the (i) nonmetallic substances, including but not limited to plastic, rubber, and insulation, [ ~~that~~ which ] remain after a shredder has separated [ for purposes of recycling ] the ferrous and nonferrous metal from a motor vehicle, appliance or other discarded metallic item [ ~~for purposes of recycling~~ ] and (ii) organic waste remaining after removal of metals, glass, plastics and paper that are to be recycled as part of a resource recovery process for municipal solid waste resulting in the production of a refuse derived fuel.

~~"Refuse" means all solid waste products having the character of solids rather than liquids and that are composed wholly or partially of materials such as garbage, trash, rubbish, litter, residues from clean up of spills or contamination, or other discarded materials.~~

"Regional boundary" means the boundary defining an area of land that will be a unit for the purpose of developing a waste management plan, and is established in accordance with 9VAC20-130-180 through 9VAC20-130-220.

"Regulated medical waste" means solid wastes so defined by the Regulated Medical Waste Management Regulations (9VAC20-120-10 et seq.) as promulgated by the Virginia Waste Management Board.

"Residential waste" means ~~household waste~~ any waste material, including garbage, trash and refuse, derived from households. Households include single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds and day-use recreation areas. Residential wastes do not include sanitary waste in septic tanks (septage), that is regulated by other state agencies.

"Resource recovery system" means a solid waste management system that provides for collection, separation, recycling and recovery of energy or solid wastes, including disposal of nonrecoverable waste residues.

"Reuse" means the process of separating a given solid waste material from the waste stream and using it, without processing or changing its form, other than size reduction, for the same or another end use.

~~"Rubbish" means combustible or slowly putrescible discarded materials that include but are not limited to trees, wood, leaves, trimmings from shrubs or trees, printed matter, plastic and paper products, grass, rags and other combustible or slowly putrescible materials not included under the term "garbage."~~

"Sanitary landfill" means an engineered land burial facility for the disposal of ~~solid household waste that, which~~ is so located, designed, constructed and operated to contain and isolate the solid waste so that it does not pose a substantial present or potential hazard to human health or the environment. A sanitary landfill also may receive other types of solid wastes, such as commercial solid waste, nonhazardous sludge, hazardous waste from conditionally exempt small quantity generators, construction demolition debris, and nonhazardous industrial solid waste.

~~"Scrap metal" means bits and pieces of metal parts such as bars, rods, wire, or metal pieces that may be combined together with bolts or soldering that are discarded material and can be recycled. For the purposes of this chapter, this definition includes the reclaimable metal parts of white goods.~~

"Site" means all land and structures, other appurtenances, and improvements on them used for treating, storing, and disposing of solid waste. This term includes adjacent land within the facility boundary used for the utility systems such as repair, storage, shipping or processing areas, or other areas incident to the management of solid waste. (Note: This term includes all sites whether they are planned and managed facilities or open dumps.)

"Sludge" means any solid, semisolid or liquid [ ~~wastes~~ ] with similar characteristics and effects [ waste ] generated from a public, municipal, commercial or industrial waste-water wastewater treatment plant, water supply treatment plant, or air pollution control facility, or any other waste-producing facility.

~~"Solid waste" means any garbage, refuse, sludge and other discarded material, including solid, liquid, semisolid or contained gaseous material, resulting from industrial, commercial, mining and agricultural operations, or community activities but does not include (i) solid or dissolved material in domestic sewage, (ii) solid or dissolved material in irrigation return flows or in industrial discharges that are sources subject to a permit from the State Water Control Board, or (iii) source, special nuclear, or byproduct material as defined by the Federal Atomic Energy Act of 1954, as amended of those materials defined as "solid waste" in [ the Solid Waste Management Regulations ( ) 9VAC20-80 [ 140 ] ] .~~

"Solid waste planning unit" means each region or locality that submits a solid waste management plan.

"Solid waste management facility ("SWMF [ : ' ] )" means a site used for planned treating, storing, or disposing of solid waste. A facility may consist of several treatment, storage, or disposal units.

"Source reduction" means any action that reduces or eliminates the generation of waste at the source, usually within a process. Source reduction measures include process modifications, feedstock substitutions, improvements in feedstock purity, improvements in housekeeping and management practices, increases in the efficiency of machinery, and recycling within a process. Source reduction minimizes the material that must be managed by waste disposal or nondisposal options by creating less waste. "Source reduction" is also called "waste prevention," "waste minimization," or "waste reduction."

"Source separation" means separation of recyclable materials from the waste stream by the waste generator of materials that are collected for use, reuse, reclamation, or recycling.

~~"Special wastes" means solid wastes that are difficult to handle, require special precautions because of hazardous properties or the nature of the waste creates waste management problems in normal operations.~~

~~"Supplemental recyclable material" means waste tires, used oil, used oil filters, used antifreeze, automobile bodies, construction waste, demolition waste, debris waste, batteries, ash, sludge or large diameter tree stumps, or material as may be authorized by the director.~~

"Tons" means 2,000 pounds.

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"Transfer station" means any solid waste storage or collection facility at which solid waste is transferred from collection vehicles to haulage vehicles for transportation to a central solid waste management facility for disposal, incineration or resource recovery.

~~"Trash" means combustible and noncombustible discarded materials and is used interchangeably with the term rubbish.~~

~~"Used or reused material" means a material which is either:~~

~~1. Employed as an ingredient (including use as an intermediate) in a process to make a product, excepting those materials possessing distinct components that are recovered as separate end products; or~~

~~2. Employed in a particular function or application as an effective substitute for a commercial product or natural resources.~~

For purposes of these regulations, "used or reused material" means a given solid waste material that is separated from the waste stream and used, without processing or changing its form, for the same or another end use.

"Vegetative waste" means ~~decomposable~~ decomposable materials generated by yard and lawn care or land-clearing activities and includes, but is not limited to, leaves, grass trimmings, and woody wastes such as shrub and tree prunings, bark, limbs, roots, and stumps. For more detail see [ Vegetative Waste Management and Yard Waste Composting Regulations ( ) 9VAC20-101 ( ) ] .

"Waste exchange" means any system to identify sources of wastes with potential for use reuse, recycling or reclamation and to facilitate its acquisition by persons who reuse, recycle or reclaim it, with a provision for maintaining confidentiality of trade secrets.

"White goods" means any stoves, washers, hot water heaters or other large appliances. For the purposes of this chapter, this definition also includes, but is not limited to, such Freon-containing appliances as refrigerators, freezers, air conditioners, and dehumidifiers.

"Yard waste" means decomposable waste materials generated by yard and lawn care and includes leaves, grass trimmings, brush, wood chips, and shrub and tree trimmings. Yard waste shall not include roots or stumps that exceed six inches in diameter.

## 9VAC20-130-40. Purpose of regulations.

The purpose of these regulations is to:

1. Establish minimum requirements for solid waste management ~~standards~~ and planning requirements and recycling for protection of the public health, public safety, the environment, and natural resources throughout the Commonwealth; promote local and regional planning that provides for environmentally sound and compatible solid

waste management with the most effective and efficient use of available resources;

2. Establish procedures and rules for designation of regional boundaries for solid waste management plans;

3. Establish state, local government, regional or area served by the plan ~~responsibility~~ responsible for meeting and maintaining the minimum recycling rates of ~~25%~~;

4. Establish the requirement in compliance with the Virginia Waste Management Act, §§10.1-1411 and 10.1-1408.1 D 1 (vi) of the Code of Virginia, for withholding issuance of permits for solid waste management facility; [ and ]

5. Provide for reasonable variance and exemptions [ ~~and~~ ]

[ ~~6. Provide for reporting and assessment of solid waste management and recycling in the Commonwealth in accordance with the Virginia Waste Management Act, §10.1-1413.1 of the Code of Virginia. ]~~

## 9VAC20-130-60. Applicability of regulations.

A. This chapter applies to all cities, counties, towns, designated ~~regions~~ solid waste planning units (under 9VAC20-130-180) and permitted solid waste facilities within the solid waste planning unit, including those facilities covered under permit by rule procedures found in 9VAC20-80. Any city, county, and town within that county may mutually agree to unite for the purpose of solid waste management planning, and upon joint written notification to the director, shall be deemed to be a single solid waste planning unit for development of a ~~local~~ solid waste management plan.

B. Any cities, counties, and towns may be represented by a planning district, public service authority, or designated region that has been adopted under 9VAC20-130-90 B.

C. The plan may (subject to statutory authority) specify that all solid waste must be recycled at the rate established by the plan regardless of the point of origin of the solid waste. Solid wastes from both public and private sources shall be subject to such requirement.

## 9VAC20-130-70. Enforcement and appeal.

A. All administrative enforcement and appeals taken from actions of the director relative to the provisions of this chapter shall be governed by ~~the Virginia Administrative Process Act (§9-6.14-1 et seq. Chapter 40 (§2.2-4000 et seq.) of Title 2.2 of the Code of Virginia)~~. Enforcement of this chapter will be in accord with §§10.1-1186, 10.1-1411 and 10.1-1455 of the Code of Virginia.

B. After July 1, ~~2000~~ 2007, no permit for a ~~solid waste management~~ new sanitary landfill, incinerator, or waste-to-energy facility, or for an expansion, increase in capacity, or increase in the intake rate of an existing sanitary landfill, incinerator, or waste-to-energy facility shall be issued ~~unless~~

~~the local or regional applicant has a plan approved in accordance with this chapter until the solid waste planning unit within which the facility is located has a solid waste management plan approved by the board in accordance with the regulations, except as otherwise provided in §10.1-1411 of the Code of Virginia and the permit complies with the statutory requirements of the Virginia Waste Management Act, §§10.4-1411 and 10.1-1408.1 D 1 (iv) and 10.1-1411 of the Code of Virginia. These provisions shall not be applicable to permits or permit amendments required for the operation or regulatory compliance of any existing facility, regardless of type, nor shall it be cause for the delay of any technical or administrative review of pending amendments thereto.~~

C. Failure to attain a mandated municipal solid waste recycling rate shall not be the sole cause for the denial of any permit or permit amendment, except as provided herein for sanitary landfills, incinerators, or waste-to-energy facilities, provided that all components of the solid waste management plan for the planning unit are in compliance with the regulations.

D. No application for a new solid waste management facility permit or for a modification of a permit to allow an existing solid waste management facility to expand or increase its capacity shall be complete unless the application contains certification, from the governing body for the locality in which the facility is or will be located, that (i) the proposed new facility or the expansion or increase in capacity of the existing facility is consistent with the applicable local or regional solid waste management plan developed and approved pursuant to §10.1-1411 of the Code of Virginia; or (ii) the local government or solid waste management planning unit has initiated the process to revise the solid waste management plan to include the new or expanded facility. Inclusion of such certification shall be sufficient to allow processing of the permit application, up to but not including publication of the draft permit or permit amendment for public comment, but shall not bind the director in making the determination required by §10.1-1408.1 D1 of the Code of Virginia.

E. No application for coverage under a permit-by-rule or for modification of coverage under a permit-by-rule shall be complete unless it contains certification from the governing body of the locality in which the facility is to be located that the facility is consistent with the solid waste management plan developed and approved in accordance with §10.1-1411 of the Code of Virginia.

**9VAC20-130-90. Relationship to other bodies of regulation.**

A. This chapter is a solid waste ~~management planning and recycling~~ regulation that specifies minimum standards and planning requirements for solid waste management in the Commonwealth, including solid waste management planning

by regional or local governmental entities of the Commonwealth and assessment of solid waste management in the Commonwealth. If there is a mutually exclusive conflict between this chapter and other adopted nonhazardous solid waste management regulations of this agency, the provisions of this chapter are superior. In any detail where there exists no mutually exclusive conflict between this chapter and other regulations of the board, compliance with all regulations is required.

B. Multi-jurisdictional plans developed in fulfillment of the requirements of this chapter must be adopted under authority of the Regional Cooperation Act (Chapter 42 (§15.2-4200 et seq.) of Title 15.2 of the Code of Virginia), the Virginia Water and Waste Authorities Act (Chapter 51 (§15.2-5100 et seq.) of Title 15.2 of The Code of Virginia), the provisions of the Code of Virginia governing joint exercise of powers by political subdivisions (§15.2-1300), or other authority as applicable.

C. If there is a mutually exclusive conflict between this chapter and the Virginia Hazardous Waste Management Regulations, the provisions of the hazardous waste regulations are superior. In any detail where no such mutually exclusive conflict exists, compliance with all regulations is required.

**9VAC20-130-110. Schedule for plan development.**

~~Every city, county and town~~ Each solid waste planning unit in the Commonwealth shall develop and maintain a solid waste management plan or amend an existing solid waste management plan and submit it for approval in accordance with this chapter. Existing plans may be amended by addendum of items such as consideration of the waste management hierarchy, the recycling program implementation activities and other requirements of this chapter that are not a part of the existing plan. A local jurisdiction participating in an authorized regional solid waste management plan is not required to develop a separate plan.

~~A complete, revised solid waste management plan in compliance with this chapter shall be provided to the department no later than July 1, 2004.~~

~~C.~~ B. The department shall review and approve or return comments on the deficiencies in each plan submitted in accordance with 9VAC20-130-110 A no later than 90 days from the date the plans are received. In the event the department is unable to complete its review within 90 days, the applicant will be notified and given a date as to when the review will be completed.

~~D.~~ C. Each submitter who receives comments on its solid waste management plan under subsection ~~C~~B of this section shall submit a ~~corrected~~ revised solid waste management plan to the department no later than 90 days following receipt of notification of deficiencies.

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~~E. D.~~ Plans approved without alteration shall become effective upon notification of such approval by the department. If after review of the corrected plan submitted pursuant to subsection ~~D C~~ of this section, the department cannot approve the corrected solid waste management plan because ~~it~~ the department finds the ~~plans~~ plan not to be in accordance with this chapter, it will issue a notice of intent to disapprove to the submitter. The notice of intent to disapprove shall set forth (i) the reason for the disapproval, (ii) what is required for approval, ~~and~~ (iii) the right of the submitter to an ~~informational~~ informal fact-finding proceeding under ~~Article 3 of the Virginia Administrative Process Act (§9-6.14:1 et seq. Chapter 40 (§2.2-4000 et seq.) of Title 2.2 of the Code of Virginia), and (iv) allow the development of an action plan for the solid waste planning unit as set forth [ in this chapter ] at 9VAC20-130-120 I. The department will give priority consideration for review of corrected plans where the ~~local or regional body~~ solid waste planning unit has a pending permit application for a solid waste management facility.~~

~~F-E.~~ The director may revoke the approval of any plan or require its revision and resubmittal if there is evidence that there has been significant deviation from the plan. Significant deviations are departures or omissions from activities planned in accordance with 9VAC20-130-120. The department will issue a notice of intent to revoke or require revision and resubmittal of a plan. The notice of intent shall set forth (i) whether the department intends to revoke or require revision and resubmittal of the plan, (ii) the reason the department intends to take the action, and (iii) the right of the submitter of the plan to an ~~informational~~ informal fact-finding proceeding under ~~Article 3 of the Virginia Administrative Process Act (§9-6.14:1 et seq. Chapter 40 (§2.2-4000 et seq.) of the Code of Virginia).~~

## **9VAC20-130-120. ~~Mandatory plan contents~~ Planning requirements.**

A. [ The solid waste management plan shall include ~~Basic~~ basic ] planning elements:

- ~~1. An integrated waste management strategy; Objectives for solid waste management within the planning unit;~~
- ~~2. A discussion as to how the plan will be implemented and tracked, consisting of an integrated waste management strategy to support and promote the hierarchy set forth at 9VAC20-130-30; giving preference to alternatives in the following order of priority: source reduction, reuse, recycling, resource recovery, incineration, and landfilling;~~
- ~~3. Objectives for solid waste management within the jurisdiction;~~
- ~~4. 3. Definition of incremental stages of progress toward the objectives and schedule for their implementation, including, for compliance with 9VAC20-80-500, specific~~

~~solid waste management facility names, facility capacities, and life based on 20-year need;~~

~~5. Descriptions of the funding and resources necessary, including consideration of fees dedicated to future facility development~~ 4. Strategy for the provision of necessary funds and resources;

~~6. Strategy for the provision of necessary funds and resources~~ 5. Descriptions of the funding and resources necessary, including consideration of fees dedicated to future facility development;

~~7. 6.~~ Strategy for public education and information on source reduction, reuse, and recycling; and

~~8. 7.~~ Consideration of public and private sector partnerships and private sector participation in execution of the plan. Existing private sector recycling operations should be incorporated in the plan and the expansion of such operations should be encouraged.

B. A minimum recycling rate of ~~25% of the~~ as specified in §10.1-1411 of the Code of Virginia for total municipal solid waste generated annually in each ~~city, county, town or region~~ solid waste planning unit shall be met and maintained. ~~The plan shall describe how this rate shall be met or exceeded.~~

1. The plan shall describe how the minimum recycling rate shall be met or exceeded. The department may approve the solid waste management plans of units that do not currently meet the minimum recycling rate only if all other requirements of these regulations have been met and the solid waste planning unit demonstrates its commitment to implementing a strong and detailed action plan for recycling to meet the required rate.

2. When a solid waste planning unit's annual recycling rate falls below the minimum rate, it shall constitute evidence of a significant deviation from the plan. The plan may be subject to revocation by the department under 9VAC20-130-110 E unless the solid waste planning unit submits a recycling action plan acceptable to the department per subsection I of this section.

C. Calculation methodology shall be included in the plan.

~~1. The plan shall describe the method of calculating the rate of recycling. The following formula shall be used:~~

$$\text{Rate} = (\text{Recycled}/\text{Total}) \times 100\%$$

~~Where, "Recycled" equals the amount of principal recyclable material received during the previous 12 months for recycling and "Total" is the amount of municipal solid waste generated within the jurisdiction during the previous 12 months.~~

~~The amounts may be expressed in the following units:~~

- ~~a. The actual weight of each component.~~

b. The volume of each component.

e. The estimated weight of each component based on the most accurate survey or estimated per capita weight.

2. The amount of supplemental recyclable material that is reused or recycled may be added into both the "Recycled" and "Total" amounts in each calculation method.

3. Any local government or regional solid waste management body that is participating in the used tire management program sponsored by the department may add the amount of those tires to both the "Recycling" and "Total" amounts in the recycling rate calculation.

4. Any local government or regional solid waste management body may include mulched yard waste in both the "Recycled" and "Total" amounts simultaneously for the required recycling rate calculations if it can be demonstrated that the finished mulch will be marketed or otherwise used productively. In addition, any local government or regional solid waste management body may include composted yard waste in both the "Recycled" and "Total" amounts simultaneously for the required recycling rate calculations if it can be demonstrated that the finished compost will be marketed or otherwise used productively.

5. Any local government or regional solid waste management body may include used oil, used oil filters, and used antifreeze in the "Recycled" and "Total" amounts if it can be demonstrated that the oil, used oil filters and used antifreeze will be marketed or used productively.

6. Where a source reduction of any municipal solid waste material or reuse of a principal recyclable material is documented to have occurred, is accurately quantified and is requested as a petition for a variance in accordance with 9VAC20-130-230, the director may issue a credit for the amount to be added into the "Recycled" and "Total" amounts in each calculation method. The credit may be for a part of the source reduction or reuse amount if the director finds that to be more appropriate. The director shall grant such a credit only where an effective recycling program is being implemented. The director shall not grant the credit if the minimum recycling rate of 25% is being achieved.

7. These regulations shall permit a credit, to be added into the "Recycled" and "Total" amounts in each calculation method, of one ton for each ton of recycling residue generated in Virginia and deposited in a landfill permitted under subsection M of §10.1-1408.1 of the Code of Virginia. The total annual credits shall not exceed one-fifth of the 25% required recycling rate.

C. The solid waste management plan shall include data and analyses of the following type(s) for each jurisdiction. Each item below shall be in a separate section and labeled as to content:

1. Population information and projections for 20 years of population growth and development patterns;

2. Urban concentrations, geographic conditions, economic growth and development, markets for the reuse and recycling of materials, transportation conditions, and related factors;

3. Estimates of solid waste generation from residential, commercial institutional, industrial, construction, demolition, debris and other types of sources, including the amounts reused, recycled, recovered as a resource, incinerated and landfilled. Entities engaged in the collection, processing, and marketing of recyclable materials should provide data for incorporation into the recycling rate calculation, when requested by the planning unit.

4. A listing of existing and planned solid waste collection, storage, treatment, transportation, disposal and other management facilities, their projected capacities, expected life and systems for their use;

5. All milestones in the implementation of the solid waste management plan over the 20-year projection and the parties responsible for each milestone;

6. A description of programs for solid waste reduction, reuse, recycling, resource recovery, incineration, storage, treatment, disposal and litter control;

7. A description of outreach programs for waste exchange, public education and public participation;

8. The procedures for and results of evaluating solid waste collection, including transfer stations; and

9. The assessment of all current and predicted needs for solid waste management for a period of 20 years and a description of the action to be taken to meet those needs.

D. All known solid waste disposal sites, closed, inactive and active, within the area of the solid waste management plan shall be documented and recorded at a centralized archive authorized to receive and record information and a copy shall be sent to the ~~director~~ department. All new sites shall be recorded at the same central data source.

E. A methodology shall be utilized to monitor the amount of solid waste of each type produced within the area of the solid waste management plan and to record the annual production by solid waste types at a centralized archive and a copy shall be sent to the ~~director~~ department. Waste types include but are not limited to broad classes such as municipal solid waste, construction/demolition/debris, industrial, regulated medical waste, white goods, friable asbestos, petroleum contaminated soil and the major categories of principle and supplemental recyclable materials.

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F. The solid waste management plan shall include, when developed locally, a copy of the local governing body's resolution adopting the solid waste management plan.

G. The solid waste management plan shall include, when developed regionally, a copy of the resolution approving the plan adopted in accordance with the Virginia Area Development Act, the Virginia Water and Waste Authorities Act, the provisions of the Code of Virginia governing joint exercise of powers by political subdivisions (§15.2-1300 of the Code of Virginia), or other authority as applicable.

H. The solid waste management plan shall clearly and explicitly demonstrate the manner in which the goals of the planning requirements in these regulations shall be accomplished and actions to take if these requirements are not met.

I. A planning unit that does not meet the requirements of these regulations [ may shall ] submit an action plan, by mail or electronic mail, for approval by the department. Such action plans shall include:

1. A description of the deficiency that requires the development of the action plan.
2. A time schedule to resolve the deficiency(ies) associated with the planning unit's failure to meet the requirements of the approved solid waste management plan.
3. A reporting requirement to the department, of a minimum of once every six months, including activities or updates documenting how the action plan requirements are being met.
4. Plans and all subsequent reports and submittals shall be reviewed by the department within 30 days of receipt by the department.
5. All the department's requests for further information or response(s) shall be provided within 30 days of receipt at the planning unit. The department may grant reasonable extensions to these deadlines on a case-by-case basis.

## **9VAC20-130-125. Recycling requirements.**

A. Each solid waste planning unit shall maintain a minimum recycling rate for municipal solid waste generated within the solid waste planning unit pursuant to the following schedule:

1. Except as provided in subdivision 2 of this subsection, each solid waste planning unit shall maintain a minimum 25% recycling rate; or
2. Each solid waste planning unit shall maintain a minimum 15% recycling rate if it has (i) a population density rate of less than 100 persons per square mile according to the most recent United States Census, or (ii) a not seasonally adjusted civilian unemployment rate for the immediately preceding calendar year that is at least 50%

greater than the state average as reported by the Virginia Employment Commission for such year.

B. The minimum recycling rate shall be determined by the following formula:

$$\text{Recycling Rate} = \frac{[\text{PRMs recycled}]}{[\text{MSW generated}] + [\text{all Credits in C}]}$$

Where: PRMs recycled equals the amount of principle recyclable materials received for recycling each calendar year; and

MSW generated equals the sum of PRMs recycled and MSW disposed. (MSW disposed equals the amount of MSW delivered to landfills, transfer stations, incineration and waste-to-energy facilities)

The amounts shall be expressed in tons using one of the methods below:

1. The actual weight of each component in tons; or
2. The volume of each component, converted to weight in tons (conversion chart in Form DEQ 50-30).

C. Credits may be added to the recycling formula in subsection B of this section provided that the aggregate of all such credits shall not exceed five percentage points of the annual municipal solid waste recycling rate achieved for each solid waste planning unit:

1. A credit of one ton for each ton of any nonmunicipal solid waste material that is recycled;
2. A credit of one ton for each ton of any solid waste material that is reused;
3. A credit of one ton for each ton of recycling residue generated in Virginia and deposited in a landfill permitted under §10.1-1408.1 of the Code of Virginia;
4. A credit of two percentage points of the minimum recycling rate mandated for the solid waste planning unit for a source reduction program that is implemented within the solid waste planning unit. The existence and operation of such a program shall be certified by the solid waste planning unit; and
5. A credit of one ton for each inoperable vehicle for which a locality receives reimbursement from the Virginia Department of Motor Vehicles under §46.2-1407 of the Code of Virginia.

D. Yard wastes and vegetative wastes are deemed to be recycled if they are composted or mulched and the finished mulch or compost is marketed or otherwise used productively. Tires are deemed to be recycled if they are beneficially used in a method consistent with the waste tire program operated by the department. Used oil, oil filters and antifreeze are deemed to be recycled if they are marketed or otherwise used productively.

**9VAC20-130-130. Public participation.**

~~[ A. Prior to the solid waste planning unit's submission of a solid waste management plan or a major amendment to the plan to the department, the submitter shall publish a notice and hold a public hearing on the plan in accordance with the procedures of the ] local [ government ] or regional planning agency [ or governments in the solid waste planning unit. When the solid waste planning unit represents multiple government units, the submitter of a major plan amendment(s) needs to conduct the above public participation requirements only in the county or locality where the major amendment is to be located. A record of the public hearing, a copy of all written comments and the submitter's response to all comments received shall be submitted with the plan.~~

~~B. Plan developers shall, in accordance with their own rules and procedures, provide for ] extensive [ participation by the public through the use of ] citizen advisory committees and [ public meetings during the development of the plan. A. Each solid waste planning unit shall provide for public participation during plan development through such means as public meetings or citizen advisory committees.~~

~~B. Prior to submission of a plan or major amendment the solid waste planning unit shall publish a notice and hold a public hearing on the plan. When the solid waste planning unit represents multiple government units, the unit submitting a major plan amendment(s) needs to conduct the above public participation requirements only in the county or locality involved in the major amendment. A record of the public hearing, a copy of all written comments and the submitter's response to all comments received shall be submitted with the plan or plan amendment. ]~~

**9VAC20-130-140. Plan objectives. (Repealed.)**

~~Every solid waste management plan shall be a fully integrated waste management plan that considers all elements of waste management. The plan shall:~~

- ~~1. Include consideration of the hierarchy defined in 9VAC20-130-30 giving preference to alternatives in the following order of priority: source reduction, reuse, recycling, resource recovery, incineration, and landfilling;~~
- ~~2. Clearly and explicitly demonstrate the manner in which the goals of the mandatory objectives defined in 9VAC20-130-120 shall be accomplished;~~
- ~~3. Include, when developed locally, a copy of the local governing body's resolution adopting the plan; and~~
- ~~4. Include, when developed regionally, a copy of the resolution approving the plan adopted in accordance with the Virginia Area Development Act, the Virginia Water and Waste Authorities Act, the provisions of the Code of Virginia governing joint exercise of powers by political~~

~~subdivisions §15.2-1300 of the Code of Virginia, or other authority as applicable.~~

**9VAC20-130-150. Incorporated data. (Repealed.)**

~~The local government or regional solid waste management plan shall include data and analyses of the following type for each jurisdiction. Each item below shall be in a separate section and labeled as to content:~~

- ~~1. Population information and projections for 20 years of population growth and development patterns;~~
- ~~2. Urban concentrations, geographic conditions, economic growth and development, markets for the reuse and recycling of materials, transportation conditions, and related factors;~~
- ~~3. Estimates of solid waste generation from households, commercial institutions, industries and other types of sources, including the amounts reused, recycled, recovered as a resource, incinerated and landfilled. Estimates should identify special waste to include, at least, the following: stumps, land clearing debris and construction wastes, motor vehicle tires, waste oil, batteries, sludges, mining wastes, septage, agricultural wastes and spill residues;~~
- ~~4. A listing of existing and planned solid waste collection, storage, treatment, transportation, disposal and other management facilities, their projected capacities, expected life and systems for their use;~~
- ~~5. All milestones in the implementation of the solid waste management plan over the 20 year projection and the parties responsible for each milestone;~~
- ~~6. A description of programs for solid waste reduction, reuse, recycling, resource recovery, incineration, storage, treatment, disposal and litter control;~~
- ~~7. A description of outreach programs for waste exchange, public education and public participation;~~
- ~~8. The procedures for and results of evaluating solid waste collection, including transfer stations; and~~
- ~~9. The assessment of all current and predicted needs for solid waste management for a period of 20 years and a description of the action to be taken to meet those needs.~~

**9VAC20-130-165. Waste Information and Assessment Program Annual recycling data reporting.**

~~A. The owners or operators of all permitted facilities that treat, store, or dispose of solid waste shall report by March 31 of each year the amount of solid waste, by weight or volume, received and managed in the Commonwealth during the preceding calendar year. The report shall identify solid waste by the following categories: (i) municipal solid waste; (ii) construction and demolition debris; (iii) industrial waste; (iv) regulated medical waste; (v) vegetative and yard waste; (vi)~~

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~~incinerator ash; (vii) sludge other than sludge that is land applied in accordance with §32.1-164.5 of the Code of Virginia; (viii) tires; (ix) white goods; (x) friable asbestos; (xi) petroleum contaminated soil; and (xii) other special waste. For each such category the report shall include an estimate of the amount that was generated outside of the Commonwealth and the jurisdictions where such waste originated.~~

~~The report shall also estimate the amount of solid waste managed or disposed of by each of the following methods: (i) recycling; (ii) composting; (iii) landfilling; (iv) incineration (v) sending off site for further management; and (vi) stored on site on December 31 of the reporting year. This section shall not apply to captive waste management facilities. The report is to be sent to the department regional office for the facility's location.~~

~~Information on the available capacity and expected life of the facilities at the disposal rates submitted in this subsection shall be included in the annual report required by this section.~~

~~B. At the option of the facility owner, the data collected may include an accounting of the facility's economic benefits to the locality where the facility is located including the value of disposal and recycling facilities provided to the locality at no cost or reduced cost, direct employment associated with the facility, and other economic benefits resulting from the facility during the preceding calendar year.~~

~~C. No facility shall be required pursuant to this section to provide information that is a trade secret as defined in §59.1-336 of the Code of Virginia.~~

~~D. Every city, county and town in the Commonwealth, or solid waste management planning region approved pursuant to 9VAC20-130-180, shall submit to the department by April 30 of each year, the data and calculations required in 9VAC20-130-120 B and C.~~

Every solid waste planning unit shall submit to the department by April 30 of each year the data and calculations required in 9VAC20-130-125 A, B, and C.

## **9VAC20-130-175. Amendments to plans.**

A. Amendments to the plans shall be classified as major or minor. These classifications are described in this section below.

1. Major amendments shall include:

- a. Any addition, deletion, or cessation of operation of any solid waste [ disposal ] facility;
- b. Any increase in landfill capacity;
- c. Any change that moves toward implementation of a waste management strategy that is lower in the waste management hierarchy;

d. Action plan(s), including an action plan to address a planning unit's recycling rate that has fallen below the statutory minimum; [ and or ]

e. Any change to membership in the approved area.

2. Minor amendments shall include [ any:

a. Any addition, deletion, or cessation of operation of any facility that is not a solid waste disposal facility;

b. Any ] change that moves toward implementation of a waste management strategy that is higher in the waste management hierarchy [ and any; or

c. Any ] nonsubstantive administrative change such as a change in name.

[ 3. ] Minor amendments shall be submitted, by mail or electronic mail, directly to the department for notation. The planning units are the repository for the minor amendments to the plans.

~~B. Any amendments to the plans shall be approved by the department prior to implementation.~~

~~C. B.~~ Major amendments shall require the same public participation as detailed in 9VAC20-130-130 before being submitted, by mail or electronic mail, to the department for approval prior to implementation.

~~D. Minor amendments shall be submitted directly to the department for approval.~~

~~E. C.~~ The department shall review major amendments and approve or return comments on the any deficiencies in each amendment submitted in accordance with this section no later than 90 days from the date the plans amendments are received. In the event the department is unable to complete its review within 90 days, the applicant will be notified and given a date as to when the review will be completed. No department approval shall be necessary for minor amendments.

~~F. D.~~ Each submitter who receives comments on his solid waste management plan major plan amendment under subsection E C of this section shall submit a corrected amendment to the department no later than 90 days following notification of deficiencies.

~~G. Amendments~~ E. Major amendments approved without alteration shall become effective upon notification. If after review of the corrected amendment submitted pursuant to subsection F D of this section, the department cannot approve the corrected amendment because it finds the amendment not to be in accordance with this chapter, it will issue a notice of intent to disapprove to the submitter. The notice of intent to disapprove shall set forth (i) the reason for the disapproval, (ii) what is required for approval, and (iii) the right of the submitter to an informational informal fact-finding proceeding under Article 3 of the Virginia Administrative

Process Act (§9 6.14:1 et seq. Chapter 40 (§2.2-4000 et seq.) of Title 2.2 of the Code of Virginia). The department will give priority consideration for review of corrected amendments when the ~~local or regional body~~ planning unit has a pending permit application for a solid waste management facility.

F. Solid waste management planning units are required to maintain current plans. On or before each five-year anniversary of the department's plan-approval date, the planning unit shall submit a letter to the department, by mail or electronic mail, certifying that the following plan elements, listed in 9VAC20-130-120 C, have been maintained and updated: waste generation estimates are current, the schedule increments have been met, and a projected 20-year waste management capacity remains available or projects otherwise are on schedule to meet the unit's solid waste needs. The letter of certification will be used in the department's assessment of whether any plan amendments are necessary and to ensure compliance with 9VAC20-130-110 E.

**9VAC20-130-180. Designation of ~~regions~~ solid waste planning units.**

The director has been authorized by the Governor to designate regional boundaries defining areas and jurisdictions to be considered for joint development of solid waste management plans. Only those ~~regions~~ solid waste planning units meeting the standards established in this chapter will be considered. Any group of jurisdictions may petition the director for designation as a ~~region~~ solid waste planning unit, and, if the proposed region meets the standards established for designation, the director shall approve the request.

**9VAC20-130-190. Development of designated ~~regions~~ solid waste planning units.**

A. At least 14 days prior to designating a regional boundary for solid waste management planning, the director shall place a notice of the proposed regional boundary and an opportunity to comment in the Virginia Register of Regulations and in a newspaper of general circulation within the proposed ~~region~~ solid waste planning unit.

B. If, as a result of the notices required by subsection A of this section, the director feels a significant need exists to hold a public hearing on the issues, a public hearing shall be held in the proposed region prior to the designation. At least 14 days prior to the public hearing, a notice of the proposed public hearing shall appear in the same publications as the notice under subsection A of this section.

**9VAC20-130-200. Considerations in designating a ~~regional boundary~~ solid waste planning unit boundaries.**

A. The following shall be considered in designating ~~regional~~ solid waste planning unit boundaries:

1. Geographic areas or jurisdictions which have a history of cooperating to solve problems in environmental or other related matters;
2. Existing regional management systems, authorities or similar institutions;
3. The size, configuration and location of the regional areas should have sufficient solid waste contribution and market availability to support the solid waste management system;
4. Solid waste types within areas and mutuality of solid waste management interests;
5. Geologic, hydrologic, soil and groundwater conditions; availability of land and soils; and natural barriers and ecosystems; and
6. Existing planning areas established for purposes other than solid waste management including the existence of informational databases containing data related to that needed for solid waste management planning and recycling.

B. Areas included within a solid waste planning boundary [unit's] boundaries [unit's] may be local or regional.

1. A local area may include a city, town or county and any towns within the county that through mutual agreement join with the county for the purpose of developing a plan.
2. A regional area may include:
  - a. The jurisdictions with existing regional planning district boundaries;
  - b. Any combination of local governments formally joined to form a region or service authority, or
  - c. Existing waste management or public service authorities.

**9VAC20-130-210. Criteria for designating a ~~regional planning agency~~ solid waste planning unit.**

A. The director may authorize an official committee or public body as authorized to develop, adopt and promulgate the solid waste management plan.

B. Prospective ~~regional planning agencies~~ solid waste planning units shall have:

1. Demonstrated ability to plan, manage or operate solid waste management and recycling services; or
2. Completed planning that resulted in successful implementation of solid waste management and recycling facilities or services.

C. An entity designated as responsible for developing a ~~regional~~ solid waste management plan shall:

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1. Be an organization that represents the executive boards of jurisdictions within the region solid waste planning unit;
2. Have planning authority for the regional area;
3. Be capable of readily starting the plan development work tasks;
4. Have an established methodology for resolving conflicts, making planning decisions and providing public participation in the development of the plan;
5. Have experience in environmental planning and have a staff experienced in the work tasks involved in such planning;
6. Have established a methodology and authority sufficient to implement the plan once it is complete and approved; and
7. Have access to informational resources within the region.

## **9VAC20-130-220. Amendment of regional boundary solid waste planning unit boundaries.**

The director may amend a regional solid waste planning unit's boundary based on an application from the governing body or bodies of the region solid waste planning unit. Along with the application, each locality (within the original region and any locality being added) must submit a letter acknowledging the change in the boundary.

## **9VAC20-130-230. Petitioning for variance or exemption.**

A. Any person regulated by this chapter may petition the director to grant a variance or an exemption from any requirement of this chapter subject to the provisions of this section. Any petition submitted to the director department is also subject to Article 3 of the Virginia Administrative Process Act (§9-6.14:1 et seq. Chapter 40 (§2.2-4000 et seq. of Title 2.2 of the Code of Virginia ).

B. The director may grant the variance or an exemption provided the applicant demonstrates to the satisfaction of the director that:

1. The solid waste planning unit has demonstrated that it has made a good faith effort to comply with the minimum recycling rates and with the requirements of this chapter before that unit petitioned for a variance; and
2. (i) If the minimum recycling rate is addressed in the petition, and strict application of the minimum recycling rates will result in undue hardship as a result of the solid waste planning unit's particular market conditions that are beyond the planning unit's control; or (ii) if the recycling rate is not addressed in the petition and granting the variance will not have an adverse impact on the integrity of the overall solid waste management plan.

~~B.~~ C. The petition shall be submitted to the director department by certified mail and shall include:

1. The petitioner's name and address;
2. A statement of petitioner's interest in the proposed action;
3. A description of desired action and a citation of the regulation from which a variance is requested;
4. A description of need and justification for the proposed action, including impacts from existing operations and market conditions (if, ~~based on the evidence submitted in a petition, the director determines that market conditions within a county, city, town or region make unreasonable the mandatory recycling rates specified in this chapter and that the market conditions are beyond the control of the county, city, town or region, a variance from those rates may be issued~~ the planning unit chooses to petition for [ subdivision ] B 2 (i) of this section);
5. The duration of the variance, if applicable;
- ~~6. The potential impact of the variance on public health or the environment;~~
- ~~7.~~ 6. Other information believed by the applicant to be pertinent; and
- ~~8.~~ 7. The following statement signed by the petitioner or authorized representative:

"I certify that I have personally examined and am familiar with the information submitted in this petition and all attached documents, and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

## D. Petition processing and resolution.

1. In the case of a denial, the petitioner's procedural rights are outlined in Chapter 40 (§2.2-4000 et seq.) of Title 2.2 of the Code of Virginia.
2. If the director grants a variance request, the notice to the petitioner shall provide that the variance may be terminated upon a finding by the director that the petitioner has failed to comply with any variance requirements.

**NOTICE:** The forms used in administering 9 VAC 20-130, Solid Waste Planning and Recycling 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 Environmental Quality, 629 East Main Street, Richmond, Virginia, or at the office of the Registrar of

Regulations, General Assembly Building, 2nd Floor,  
Richmond, Virginia.

AT RICHMOND, OCTOBER 5, 2007

FORMS

[ ~~Solid Waste Information and Assessment Program Reporting Table, DEQ Form 50-25 (rev. 2/05).~~ ]

Locality Recycling Rate Report, DEQ Form 50-30 (rev. 4/03 2/06).

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. BFI-2007-00161

Ex Parte: In re: credit union service organizations

V.A.R. Doc. No. R06-29; Filed October 5, 2007, 10:47 a.m.

ORDER TO TAKE NOTICE

**TITLE 10. FINANCE AND FINANCIAL INSTITUTIONS**

**STATE CORPORATION COMMISSION**

**Proposed Regulation**

REGISTRAR'S NOTICE: The State Corporation Commission is exempt from the Administrative Process Act in accordance with §2.2-4002 A 2 of the Code of Virginia, which exempts courts, any agency of the Supreme Court, and any agency that by the Constitution is expressly granted any of the powers of a court of record.

WHEREAS, §§ 6.1-225.3, 6.1-225.3:1, and 6.1-225.22 of the Code of Virginia authorize the State Corporation Commission ("Commission") to promulgate regulations to implement the provisions of the Virginia Credit Union Act and permit state-chartered credit unions to exercise powers comparable to federal credit unions;

WHEREAS, subsection 10 of § 6.1-225.57 of the Code of Virginia authorizes state-chartered credit unions to invest their funds in or make loans to entities known as credit union service organizations ("CUSOs");

WHEREAS, 12 U.S.C. § 1757(7)(I) and 12 C.F.R. § 712.1 et seq. prescribe the terms and conditions under which federal credit unions may invest in or make loans to CUSOs; and

WHEREAS, based on the terms and conditions under which federal credit unions are authorized to invest in or make loans to CUSOs, the Bureau of Financial Institutions has proposed regulations that would impose similar terms and conditions on state-chartered credit unions that wish to invest their funds in or make loans to CUSOs;

Title of Regulation: **10VAC5-40. Credit Unions (adding 10VAC5-40-5, 10VAC5-40-60).**

Statutory Authority: §§6.1-225.3, 6.1-225.3:1, 6.1-225.22, 6.1-225.57, and 12.1-13 of the Code of Virginia; 12 USC §1757 (7)(I) and 12 CFR 712.1.

Public Hearing Information: A public hearing will be scheduled upon request.

Public comments: Public comments may be submitted until 5 p.m. on December 14, 2007.

Agency Contact: George Latham, Deputy Commissioner, BFI, State Corporation Commission, P.O. Box 640, Richmond, VA 23218, telephone (804) 371-9698, FAX (804) 371-9416, or email george.latham@scc.virginia.gov.

Summary:

*The proposed regulation establishes the terms and conditions under which state-chartered credit unions may invest in or make loans to credit union service organizations.*

IT IS THEREFORE ORDERED THAT:

- (1) The proposed regulations are appended hereto and made a part of the record herein.
- (2) Comments or requests for hearing on the proposed regulations must be submitted in writing to Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218, on or before December 14, 2007. Requests for hearing shall state why a hearing is necessary and why the issues cannot be adequately addressed in written comments. All correspondence shall contain a reference to Case No. BFI-2007-00161. Interested persons desiring to submit comments electronically may do so by following the instructions available at the Commission's website: <http://www.scc.virginia.gov/caseinfo.htm>.
- (3) The proposed regulations shall be posted on the Commission's website at <http://www.scc.virginia.gov/caseinfo.htm>.

AN ATTESTED COPY hereof, together with a copy of the proposed regulations, shall be sent to the Registrar of Regulations for publication in the Virginia Register.

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AN ATTESTED COPY hereof shall be sent to the Commissioner of Financial Institutions, who shall forthwith mail a copy of this Order, together with a copy of the proposed regulations, to all state-chartered credit unions and such other interested parties as he may designate.

## **10VAC5-40-5. Definitions.**

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

"Credit union service organization" or "CUSO" means a corporation, limited liability company, or limited partnership of which more than 50% of the voting shares or ownership interest is held, directly or indirectly, by one or more credit unions or organizations of credit unions.

"GAAP" means generally accepted accounting principles.

"Immediate family member" means a spouse or other family member living in the same household.

"Officials" means a credit union's directors or committee members.

"Reserves" means the total of undivided earnings, regular reserves, and any other type of funds held in reserve except allowances for loan losses.

"Senior management employee" means a credit union's chief executive officer (typically the president or treasurer/manager), any assistant chief executive officers (e.g., assistant president, vice president, or assistant treasurer/manager), and the chief financial officer (comptroller).

## **10VAC5-40-60. Credit union service organizations (CUSOs).**

A. 1. Except as otherwise provided in this section, a state-chartered credit union shall not, directly or indirectly, invest its funds or make loans pursuant to subdivision 10 of §6.1-225.57 of the Code of Virginia.

2. A CUSO shall not, directly or indirectly, invest any of its funds in a corporation, limited liability company, partnership, association, trust, or other legal or commercial entity unless the state-chartered credit union or credit unions having an interest in the CUSO would be permitted to directly invest its funds in such entity and the state-chartered credit union or credit unions comply with the notice requirements in subsection B and the other provisions of this section.

3. CUSOs shall not, directly or indirectly, acquire control of another depository institution, nor invest in shares, stocks, or obligations of an insurance company, trade association, liquidity facility, or similar organization, corporation, or association.

B. 1. At least 60 days prior to investing in or making loans to a CUSO, either directly or indirectly, a state-chartered credit union shall give written notice of its proposed investment or loans to the Commissioner of Financial Institutions (commissioner) along with a business plan, marketing plan, financial analyses, and any other information the commissioner may require concerning the proposed investment or loans.

2. If a state-chartered credit union wishes to subsequently increase the amount of its investment in or loans to a CUSO, it shall give written notice to the commissioner at least 30 days prior to such additional investment or loans along with any additional information the commissioner may require.

3. A state-chartered credit union may invest up to 5.0% of its outstanding shares and reserves in a CUSO. However, a state-chartered credit union's total investments in all CUSOs shall not exceed, in the aggregate, 5.0% of its outstanding shares and reserves.

4. A state-chartered credit union may make loans to a CUSO provided that the amount of the loans, when combined with the credit union's total investments in and loans to all CUSOs, does not exceed, in the aggregate, 5.0% of its outstanding shares and reserves.

5. If the limits specified above are reached or exceeded because of the profitability of the CUSO and the related GAAP valuation of the investment under the equity method, without an additional cash outlay by the state-chartered credit union, divestiture is not required. A state-chartered credit union may continue to invest up to these limits without regard to the increase in the GAAP valuation resulting from a CUSO's profitability.

6. The 5.0% limits specified in this subsection may be exceeded with prior written approval from the commissioner.

C. 1. A state-chartered credit union may invest in or make loans to a CUSO only if the CUSO is or will be structured as a corporation, limited liability company, or limited partnership. A state-chartered credit union may only participate in a limited partnership as a limited partner.

2. A state-chartered credit union may invest in or make loans to a CUSO only if the CUSO is or will be providing its products and services exclusively to (i) the credit union or credit unions that have invested in the CUSO; (ii) the members of the credit union or credit unions that have invested in the CUSO; (iii) other credit unions; and (iv) organizations of credit unions.

3. A state-chartered credit union shall account for its investments in or loans to a CUSO in conformity with GAAP.

4. A state-chartered credit union shall obtain written agreements from a CUSO, prior to investing in or making loans to the CUSO, that the CUSO shall:

a. Account for all of its transactions in accordance with GAAP;

b. Prepare quarterly financial statements and obtain an annual financial statement audit of its financial statements by a licensed certified public accountant in accordance with generally accepted auditing standards. A wholly owned CUSO is not required to obtain a separate annual financial statement audit if it is included in the annual consolidated financial statement audit of the credit union that is its parent; and

c. Provide the Bureau of Financial Institutions (bureau) and its staff with complete access to any books and records of the CUSO and the ability to review CUSO internal controls, as deemed necessary by the bureau in carrying out its responsibilities under the Virginia Credit Union Act (§6.1-225.1 et seq. of the Code of Virginia).

5. A CUSO shall comply with all applicable federal, state, and local laws and regulations.

D. 1. A state-chartered credit union and a CUSO shall be operated in a manner that demonstrates to the public the separate existence of the state-chartered credit union and the CUSO. Good business practices dictate that each shall operate so that:

a. Its respective business transactions, accounts, and records are not intermingled;

b. Each observes the formalities of its separate company procedures;

c. Each is adequately financed as a separate unit in light of normal obligations reasonably foreseeable in a business of its size and character;

d. Each is held out to the public as a separate enterprise;

e. The state-chartered credit union does not dominate the CUSO to the extent that the CUSO is treated as a department of the credit union; and

f. Unless the state-chartered credit union has guaranteed a loan obtained by the CUSO, all borrowings by the CUSO shall indicate that the state-chartered credit union is not liable.

2. If a CUSO in which a state-chartered credit union has an investment plans to change its structure, the credit union shall obtain prior, written legal advice that the CUSO shall remain established in a manner that will limit potential exposure of the credit union to no more than the loss of funds invested in or loaned to the CUSO. The legal advice shall address factors that have led courts to "pierce the corporate veil" such as inadequate capitalization, lack of

separate corporate identity, common boards of directors and employees, control of one entity over another, and lack of separate books and records. The legal advice may be provided by independent legal counsel of either the investing state-chartered credit union or the CUSO.

E. The commissioner may at any time, based upon supervisory, legal, or safety and soundness considerations, prohibit or otherwise limit any CUSO activities or services.

F. A state-chartered credit union may only invest in or make loans to CUSOs that are or will be sufficiently bonded or insured for their specific operations.

G. A state-chartered credit union may only invest in or make loans to CUSOs that are or will be engaged in activities and services that are reasonably related to the operations of credit unions, including but not limited to the following:

1. Checking and currency services (i.e., check cashing, coin and currency services, money orders, savings bonds, travelers checks, and purchase and sale of U.S. Mint commemorative coin services);

2. Clerical, professional and management services (i.e., accounting services, courier services, credit analyses, facsimile transmissions, copying services, internal audits for credit unions, locator services, management and personnel training and support, marketing services, research services, and supervisory committee audits);

3. Business loan origination;

4. Consumer mortgage loan origination and processing;

5. Electronic transaction services (i.e., automated teller machine (ATM) services, credit card and debit card services, data processing, electronic fund transfer (EFT) services, electronic income tax filing, payment item processing, wire transfer services, and cyber financial services);

6. Financial counseling services (i.e., developing and administering Individual Retirement Accounts (IRAs), Keogh, deferred compensation, and other personnel benefit plans, estate planning, financial planning and counseling, income tax preparation, investment counseling, and retirement counseling);

7. Fixed asset services (i.e., management, development, sale, or lease of fixed assets, and sale, lease, or servicing of computer hardware or software);

8. Insurance brokerage or agency (i.e., agency for sale of insurance, provision of vehicle warranty programs, and provision of group purchasing programs);

9. Leasing personal property and real estate leasing of excess CUSO property;

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10. Loan support services (i.e., debt collection services, loan processing, loan servicing, loan sales, and selling repossessed collateral);

11. Record retention, security and disaster recovery services (i.e., alarm-monitoring and other security services, disaster recovery services, microfilm, microfiche, optical and electronic imaging, CD-ROM data storage and retrieval services, provision of forms and supplies, and record retention and storage);

12. Securities brokerage services;

13. Shared credit union branch (service center) operations;

14. Student loan origination;

15. Trust and trust-related services (i.e., acting as administrator for prepaid legal service plans, acting as trustee, guardian, conservator, estate administrator, or in any other fiduciary capacity, and other trust services); and

16. Real estate brokerage services and real estate listing services.

H. In order for a state-chartered credit union to invest in or make loans to a CUSO that is or will be engaged in activities or services that are not enumerated in subsection G of this section, the state-chartered credit union shall obtain prior approval from the State Corporation Commission (commission). A request for commission approval of an activity or service that is not enumerated in subsection G of this section shall be submitted with the written notice required by subsection B of this section and include a full explanation and complete documentation of the activity or service and how that activity or service is reasonably related to the operations of credit unions.

I. 1. If a state-chartered credit union has outstanding loans or investments in a CUSO, then the credit union's officials, senior management employees, and their immediate family members shall not receive, either directly or indirectly, any salary, commission, investment income, or other income or compensation from the CUSO or from any person being served through the CUSO. This provision does not prohibit the credit union's officials or senior management employees from assisting in the operation of a CUSO, provided the officials or senior management employees are not compensated by the CUSO. Furthermore, the CUSO may reimburse the state-chartered credit union for the services provided by such credit union officials and senior management employees only if the account receivable of the credit union due from the CUSO is paid in full at least every 120 days.

2. The prohibition contained in subdivision 1 of this subsection also applies to state-chartered credit union employees not otherwise covered if the employees are directly involved in dealing with the CUSO, unless the state-chartered credit union's board of directors determines

that the credit union's employees' positions do not present a conflict of interest.

3. All transactions with business associates or family members of state-chartered credit union officials, senior management employees, or their immediate family members that are not specifically prohibited by subdivision 1 or 2 of this subsection shall be conducted at arm's length and in the interest of the state-chartered credit union.

J. 1. A state-chartered credit union's investments in CUSOs in existence prior to February 1, 2008, shall conform with this section no later than August 1, 2008, unless the commissioner grants prior written approval to continue the credit union's investments for a stated period.

2. A state-chartered credit union's loans to CUSOs in existence prior to February 1, 2008, shall conform with this section no later than August 1, 2008, unless (i) the commissioner grants prior written approval to continue the credit union's loans for a stated period, or (ii) under the terms of its loan agreement, the credit union cannot require accelerated repayment without breaching the agreement.

VA.R. Doc. No. R08-921; Filed October 5, 2007, 1:20 p.m.

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## TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

### BOARD OF PHYSICAL THERAPY

#### Emergency Regulation

Title of Regulation: **18VAC112-20. Regulations Governing the Practice of Physical Therapy (amending 18VAC112-20-90, 18VAC112-20-130, 18VAC112-20-131, 18VAC112-20-150; adding 18VAC112-20-81).**

Statutory Authority: §§54.1-2400 and 54.1-3482.1 of the Code of Virginia.

Effective Dates: November 1, 2007, through October 31, 2008.

Agency Contact: Lisa R. Hahn, Executive Director, Board of Physical Therapy, 9960 Mayland Dr., Suite 300, Richmond, VA 23233, telephone (804) 367-4424, FAX (804) 527-4413, or email [lisa.hahn@dhp.virginia.gov](mailto:lisa.hahn@dhp.virginia.gov).

Preamble:

*The adoption of an emergency regulation by the Board of Physical Therapy is required to comply with amendments to Chapters 9 (§54.1-900 et seq.) and 18 (§54.1-1800 et seq.) of Title 54.1 of the Code of Virginia and the second enactment clause of Chapters 9 and 18 of the 2007 Acts of Assembly, which require: "That the Board shall*

*promulgate regulations to implement provisions of this act to be effective within 280 days of its enactment."*

*The purpose of the regulatory action is compliance with the statute that requires the board to establish criteria for certification to provide certain physical therapy services without referral. Regulations must provide for promotion of patient safety and for continuing education to carry out direct access duties. Therefore the qualifications for certification are a doctoral or transitional program that includes education in screening for medical disorders or differential diagnosis or specific continuing education in those areas coupled with at least three years of experience in active practice. In addition, a physical therapist who intends to maintain certification will have to direct at least four of the required 30 hours of continuing education each biennium to topics related to practice in a direct access environment.*

*In compliance with the law, a physical therapist treating a patient without referral will be required to obtain an attestation from a patient that he is not currently being treated for the same condition by another practitioner and written consent to provide a copy of the patient record to another practitioner identified by the patient if the condition for which he is seeking treatment does not improve after the 14-day period in which the physical therapist is allowed to treat.*

*The qualifications required for certification in direct access assure that the physical therapist has education and training in the recognition of and screening for medical disorders to protect patient health and safety while in the care of the physical therapist. The requirement for written consent to provide patient records to another health care practitioner will assure that the physical therapist is able to work collaboratively with other practitioners to provide safe and effective treatment.*

*The amended regulations (i) establish the qualifications and application requirements for certification in direct access; (ii) set out the responsibility for the physical therapist to obtain the medical release and patient consent required by the statute; (iii) establish a biennial renewal of certification with continuing education hours; and (iv) establish the fees for direct access certification.*

## **18VAC112-20-81. Requirements for direct access certification.**

A. An applicant for certification to provide services to patients without a referral as specified in §54.1-3482.1 of the Code of Virginia shall hold an active, unrestricted license as a physical therapist in Virginia and shall submit evidence satisfactory to the board, that he has one of the following qualifications:

1. Completion of a doctor of physical therapy program approved by the American Physical Therapy Association; or

2. Completion of a transitional program in physical therapy as recognized by the board; or

3. At least three years of post-licensure, active practice with evidence of 15 contact hours of continuing education in medical screening or differential diagnosis, including passage of a post-course examination. The required continuing education shall be offered by a provider or sponsor listed as approved by the board in 18VAC112-20-131 and may be face-to-face or on-line education courses.

B. In addition to the evidence of qualification for certification required in subsection A, an applicant seeking direct access certification shall submit to the board:

1. A completed application as provided by the board;

2. Any additional documentation as may be required by the board to determine eligibility of the applicant; and

3. The application fee as specified in 18VAC112-20-150.

## **18VAC112-20-90. General responsibilities.**

A. The physical therapist shall be responsible for managing all aspects of the physical therapy care of each patient and shall provide:

1. The initial evaluation for each patient and its documentation in the patient record; and

2. Periodic evaluations prior to patient discharge, including documentation of the patient's response to therapeutic intervention.

B. The physical therapist shall communicate the overall plan of care to the patient or his legally authorized representative and shall also communicate with a referring doctor of medicine, osteopathy, chiropractic, podiatry, or dental surgery, nurse practitioner or physician assistant to the extent required by §54.1-3482 of the Code of Virginia.

C. A physical therapist assistant may assist the physical therapist in performing selected components of physical therapy intervention to include treatment, measurement and data collection, but not to include the performance of an evaluation as defined in 18VAC112-20-10.

D. A physical therapist assistant's visits to a patient may be made under general supervision.

E. A physical therapist providing services with a direct access certification as specified in §54.1-3482 of the Code of Virginia shall utilize the Direct Access Patient Attestation and Medical Release Form prescribed by the board or otherwise include in the patient record the information, attestation and written consent required by subsection B of §54.1-3482.

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## **18VAC112-20-130. Biennial renewal of license and certification.**

A. A physical therapist and physical therapist assistant who intends to continue practice shall renew his license biennially by December 31 in each even-numbered year and pay to the board the renewal fee prescribed in 18VAC112-20-150.

B. A licensee whose licensure has not been renewed by the first day of the month following the month in which renewal is required shall pay a late fee as prescribed in 18VAC112-20-150.

C. In order to renew an active license, a licensee shall be required to:

1. Complete a minimum of 160 hours of active practice in the preceding two years; and
2. Comply with continuing competency requirements set forth in 18VAC112-20-131.

D. In order to renew a direct access certification, a licensee shall be required to:

1. Hold an active, unrestricted license as a physical therapist; and
2. Comply with continuing education requirements set forth in 18VAC112-20-131 I.

## **18VAC112-20-131. Continued competency requirements for renewal of an active license.**

A. In order to renew an active license biennially after December 31, 2003, a physical therapist or a physical therapist assistant shall complete at least 30 contact hours of continuing learning activities within the two years immediately preceding renewal. In choosing continuing learning activities or courses, the licensee shall consider the following: (i) the need to promote ethical practice, (ii) an appropriate standard of care, (iii) patient safety, (iv) application of new medical technology, (v) appropriate communication with patients, and (vi) knowledge of the changing health care system.

B. To document the required hours, the licensee shall maintain the Continued Competency Activity and Assessment Form that is provided by the board and that shall indicate completion of the following:

1. A minimum of 15 of the contact hours required for physical therapists and 10 of the contact hours required for physical therapist assistants shall be in Type 1 face-to-face courses. For the purpose of this section, "course" means an organized program of study, classroom experience or similar educational experience that is directly related to the clinical practice of physical therapy and approved or provided by one of the following organizations or any of its components:

a. The Virginia Physical Therapy Association;

b. The American Physical Therapy Association;

c. Local, state or federal government agencies;

d. Regionally accredited colleges and universities;

e. Health care organizations accredited by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO);

f. The American Medical Association - Category I Continuing Medical Education course; and

g. The National Athletic Trainers Association.

2. No more than 15 of the contact hours required for physical therapists and 20 of the contact hours required for physical therapist assistants may be Type 2 activities or courses, which may or may not be offered by an approved organization but which shall be related to the clinical practice of physical therapy. Type 2 activities may include but not be limited to consultation with colleagues, independent study, and research or writing on subjects related to practice.

3. Documentation of specialty certification by the American Physical Therapy Association may be provided as evidence of completion of continuing competency requirements for the biennium in which initial certification or recertification occurs.

C. A licensee shall be exempt from the continuing competency requirements for the first biennial renewal following the date of initial licensure in Virginia.

D. The licensee shall retain his records on the completed form with all supporting documentation for a period of four years following the renewal of an active license.

E. The licensees selected in a random audit conducted by the board shall provide the completed Continued Competency Activity and Assessment Form and all supporting documentation within 30 days of receiving notification of the audit.

F. Failure to comply with these requirements may subject the licensee to disciplinary action by the board.

G. The board may grant an extension of the deadline for continuing competency requirements for up to one year for good cause shown upon a written request from the licensee prior to the renewal date.

H. The board may grant an exemption for all or part of the requirements for circumstances beyond the control of the licensee, such as temporary disability, mandatory military service, or officially declared disasters.

I. Physical therapists holding certification to provide direct access without a referral shall include four contact hours related to carrying out direct access duties as part of the required 30 contact hours of continuing education. Courses

for direct access continuing education shall relate to clinical practice in a direct access setting.

## 18VAC112-20-150. Fees.

A. Unless otherwise provided, fees listed in this section shall not be refundable.

B. Licensure by examination.

1. The application fee shall be \$140 for a physical therapist and \$100 for a physical therapist assistant.
2. The fees for taking all required examinations shall be paid directly to the examination services.

C. Licensure by endorsement. The fee for licensure by endorsement shall be \$140 for a physical therapist and \$100 for a physical therapist assistant.

D. Licensure renewal and reinstatement.

1. The fee for active license renewal for a physical therapist shall be \$135 and for a physical therapist assistant shall be \$70 and shall be due by December 31 in each even-numbered year. From January 1, 2006, through December 31, 2006, the fee for active license renewal fee shall be \$60 for a physical therapist and \$30 for a physical therapist assistant.
2. A fee of \$25 for a physical therapist assistant and \$50 for a physical therapist for processing a late renewal within one renewal cycle shall be paid in addition to the renewal fee.
3. The fee for reinstatement of a license that has expired for two or more years shall be \$180 for a physical therapist and \$120 for a physical therapist assistant and shall be submitted with an application for licensure reinstatement.

E. Other fees.

1. The fee for an application for reinstatement of a license that has been revoked shall be \$1,000.
2. The fee for a duplicate license shall be \$5, and the fee for a duplicate wall certificate shall be \$15.
3. The fee for a returned check shall be \$35.
4. The fee for a letter of good standing/verification to another jurisdiction shall be \$10.

F. Direct access certification fees.

1. The application fee shall be \$100 for a physical therapist to obtain certification to provide services without a referral.
2. The fee for renewal on a direct access certification shall be \$35 and shall be due by December 31st in each even-numbered year.

3. A fee of \$15 for processing a late renewal of certification within one renewal cycle shall be paid in addition to the renewal fee.

**NOTICE:** The forms used in administering 18VAC112-20, Regulations Governing the Practice of Physical Therapy, are not being published; however, the name of each form is listed below. The forms are available for public inspection at the Department of Health Professions, 9960 Mayland Drive, Richmond, Virginia, or at the office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia.

## FORMS

Application for Licensure by Examination to Practice ~~Physical Therapy as a Physical Therapist or a Physical Therapist Assistant~~ (rev. ~~7/04~~ 9/07).

Application for Licensure by Endorsement to Practice Physical Therapy as a Physical Therapist or a Physical Therapist Assistant (rev. ~~7/04~~ 8/07).

Application for Reinstatement ~~of Licensure~~ to Practice Physical Therapy as a Physical Therapist or a Physical Therapist Assistant (rev. ~~7/04~~ 8/07).

Instructions for Licensure by Endorsement to Practice as a Physical Therapist or Physical Therapist Assistant (Graduate of an American/Approved Program) (rev. ~~8/05~~ 8/07).

Instructions for Licensure by Endorsement to Practice as a Physical Therapist or Physical Therapist Assistant (Graduate of a Non-American/Nonapproved Program) (rev. ~~8/05~~ 8/07).

Instructions for Licensure by Examination to Practice as a Physical Therapist or Physical Therapist Assistant (Graduate of an American/Approved Program) (rev. ~~8/05~~ 8/07).

Instructions for Licensure by Examination to Practice as a Physical Therapist or Physical Therapist Assistant (Graduate of a Non-American/Nonapproved Program) (rev. ~~8/05~~ 8/07).

Instructions for Completing Reinstatement of Licensure Application for Physical Therapist/Physical Therapist Assistant (rev. ~~7/04~~ 2/05).

~~Score Transfer Request Application (rev. 5/03).~~

Traineeship Application, Statement of Authorization (rev. ~~7/04~~ 8/07).

Traineeship Application, Statement of Authorization (1,000-hour traineeship) (rev. ~~7/04~~ 8/07).

Traineeship Application, Statement of Authorization, Relicensure (480-hour traineeship) (rev. ~~7/04~~ 8/07).

Form #A, Claims History Sheet (rev. 7/04).

~~Form #B, Employment/Practice Verification of Physical Therapy (rev. 7/04).~~

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~~Form #C, Verification of State Licensure (rev. 7/04).~~

Form #L, Certificate of Physical Therapy Education (rev. 7/04 4/07).

~~Renewal Notice and Application (rev. 7/04).~~

Continued Competency Activity and Assessment Form (rev. 7/04 10/06).

Instructions for Direct Access Certification (eff. 8/07).

Application for Direct Access Certification (eff. 8/07).

Patient Attestation and Medical Release Form for Physical Therapy Treatment (eff. 7/07).

VA.R. Doc. No. R08-857; Filed October 10, 2007, 10:02 a.m.

## BOARD OF SOCIAL WORK

### Proposed Regulation

**Title of Regulation:** 18VAC140-20. Regulations Governing the Practice of Social Work (amending 18VAC140-20-10, 18VAC140-20-40, 18VAC140-20-50, 18VAC140-20-60, 18VAC140-20-105, 18VAC140-20-150, 18VAC140-20-160; adding 18VAC140-20-51; repealing 18VAC140-20-140).

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

**Public Hearing Information:**

November 14, 2007 - 10 a.m. - Perimeter Center, 9960 Mayland Drive, 2nd Floor, Richmond, VA

**Public comments:** Public comments may be submitted until 5 p.m. on December 28, 2007.

**Agency Contact:** Evelyn B. Brown, Executive Director, Board of Social Work, 9960 Mayland Drive, Suite 300, Richmond, VA 23233-1463, telephone (804) 367-4488, FAX (804) 527-4435, or email [evelyn.brown@dhp.virginia.gov](mailto:evelyn.brown@dhp.virginia.gov).

**Basis:** Section 54.1-2400 of the Code of Virginia provides the Board of Social Work the authority to promulgate regulations to administer the regulatory system.

Chapter 37 (§54.1-3700 et seq.) of Title 54.1 of the Code of Virginia provides for licensure and regulation of social workers.

**Purpose:** The board is amending existing regulations to address several issues that have arisen. First, the Standards of Practice for Social Work, relating to professional conduct and grounds for disciplinary action, need to be updated for consistency with current practice and with the other behavioral sciences. Specific standards for informed consent, continuation of services, confidentiality of patient records, and improper relationships with clients are intended to protect the health and safety of those who are vulnerable in the care of a social worker providing counseling or case management.

Second, the board's amendments will allow for applicants for licensed social worker (LSW) designation to take the licensure examination upon completion of the required education and prior to the completion of the required supervised experience for applicants with a Bachelor of Social Work degree. Licensed social worker applicants possessing a Masters of Social Work degree currently are not required to fulfill the supervision requirement and will continue to be exempt from this requirement under the regulatory change.

Third, the board has amended the supervision section to accept "group supervision" as a method of obtaining the required hours necessary for licensure. The language would specify a limitation of six people as the maximum size in a group and that only half of the required hours could be gained through group. The professional training necessary to provide supervision is also specified to ensure adequate preparation for safe and competent practice by supervisees and later licensees.

**Substance:** The board has amended 18VAC140-20-150 on professional conduct and 18VAC140-20-160 on grounds for disciplinary action or denial of issuance of a license, both of which fall under Part VI, Standards of Practice, in the board's regulations. Amendments address issues such as standards for therapy not rendered in face-to-face settings; information that should be provided to clients at the initial sessions; informed consent; appropriate collaboration with other treating professionals; the requirement to maintain adequate information in client records; and the prohibition against engaging in relationships with clients, supervisees, students and those in collateral relationships with clients (such as spouses or other relatives). The proposed regulations will provide a more consistent and up-to-date basis for disciplinary action that will better serve to protect the health and safety of the client and provide clearer guidance for the practice of social workers.

The board adopted amendments to allow bachelors education (BSW) applicants to take the basic level examination for licensed social worker (LSW) designation prior to completion of 3,000 hours of postbachelor's experience required in 18VAC140-20-60 B 2 a.

The proposed change will not reduce the requirements for LSW licensure nor will it result in applicants obtaining licensure without completing all existing requirements. This change will allow applicants to take the required examination upon completion of the educational requirements as set out in 18VAC140-20-60. The rationale for proposing this change is threefold. First, the Virginia Chapter of the National Association of Social Workers (NASW-VA) approached the board about making this change. NASW-VA believes that by allowing students to take the examination upon graduation, more will opt to take it. Second, and closely related to the first reason, the board has heard from several students that

they would prefer to take the examination shortly after graduating while the information is still fresh in their minds. It takes roughly two years to obtain the 3,000 hours of supervision. The basic examination is primarily nonclinical in nature, therefore obtaining the 3,000 hours of supervision does not improve the candidates' chances of successfully passing the examination. Third, this change would bring Virginia in line with the surrounding jurisdictions (District of Columbia and Maryland) in terms of requirement for basic level licensure. Candidates for LSW level licensure are able to sit for the required examination in those jurisdictions upon completion of the necessary educational requirements.

Currently, an applicant for licensure as a clinical social worker must have completed a minimum of 3,000 hours of supervised postmaster's degree experience in the delivery of clinical social work services or the equivalent in part-time experience. A minimum of one hour of individual face-to-face supervision must be provided each week for a total of at least 100 hours. The regulations do not specify that group supervision is allowed, but it is already being utilized by persons obtaining the required 3,000 hours. The regulatory change will clarify that group supervision is a method for obtaining the hours, but there would be a limitation on the number of persons who could constitute a group and would require that no more than half the hours could be gained in group supervision. While supervisors are expected to be appropriately qualified by their education and experience to provide supervision, there was no specific requirement. The proposed rules will specify that a supervisor must complete a three-hour graduate course in supervision or at least 14 of the hours of continuing education required for renewal toward courses in supervision.

Issues: The primary advantage to the public would be greater specificity and guidance about the ethical and professional standards of practice to discourage a social worker from acting inappropriately or providing substandard care for a client. Those persons seeking social work services will be better protected by specific rules on informed consent, client confidentiality, continuation of care, and dual relationships.

In addition, the requirement for registration of supervision during a residency, regardless of the practice setting, will improve the oversight and accountability for person providing services during a period of gaining practical experience. There is an advantage to consumers since the hours and format for supervision are specified to ensure the service being provided by the resident is safe and effective. There are no disadvantages to consumers of mental health services.

There are no disadvantages to the agency or the Commonwealth. By specifying the professional training required for a supervisor, there will be less ambiguity in the regulation, which may encourage compliance.

## Department of Planning and Budget's Economic Impact Analysis:

Summary of the Proposed Amendments to Regulation. The Board of Social Work (Board) proposes to make changes to the regulations that include: (1) eliminating an obsolete requirement that an applicant to be a licensed clinical social worker (LCSW) or a licensed social worker (LSW) submit an application to the Board 90 days prior to the date of the written examination for licensure, (2) requiring that all supervised experience be registered with the Board in advance in order for the hours to be accepted towards licensure, (3) permitting up to, but no more than, 50 hours of the 100 required hours of face-to-face supervision for the LCSW licensure to be group supervision, (4) specifying that a supervisor for candidates for LCSW hold an active, unrestricted LCSW license and requiring that a supervisor have three years of post-licensure experience rather than the current requirement of five years post-Master's-degree experience, (5) requiring that supervisors maintain documentation of which clients were the subject of supervision for five years post supervision, (6) requiring that LCSW supervisors receive professional training within the five years immediately preceding registration of supervision, (7) allowing persons who complete the education requirement to take the LSW examination immediately after graduation but before their supervised experience, (8) allowing a person with a bachelor's degree and at least three years of post-licensure social work experience to provide supervision for an LSW candidate, (9) eliminating a section establishing committees of the Board to assist in evaluating professional qualifications and the mental or emotional competency of licensees or applicants, (10) requiring that social workers provide for a continuation of care when services must be interrupted or terminated, (11) requiring that social workers inform clients of the potential risks and benefits of services and the limitations on confidentiality and ensure that clients have provided informed written consent to treatment, (12) requiring that as treatment requires and with the written consent of the client, social workers collaborate with other health or mental health providers concurrently providing services to the client, (13) requiring that licensees maintain records securely and destroy records that are no longer useful in a way that ensures client confidentiality, (14) requiring that social workers maintain client records for a minimum of six years, and (15) expanding the actions that the Board may take if there are grounds for disciplinary action.

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. Under the current regulations, an applicant to be a licensed clinical social worker (LCSW) or a licensed social worker (LSW) must submit an application

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to the Board 90 days prior to the date of the written examination for licensure. Since the examination is now offered electronically daily, applicants are no longer in practice required to submit the application 90 days prior to the exam, so this requirement is now unnecessary and its deletion will have no economic impact.

Under the current regulations, any LSW or LCSW working for state government or for state-funded agencies (e.g., United Way or community service boards) are exempt from registering their supervised experience with the Board prior to engaging in the supervised experience. Since LSWs can only practice in exempt settings, all candidates for licensed social work are exempt from the registration of supervision. In addition, according to the Department of Health Professions (DHP), approximately 40 percent of candidates for licensed clinical social work are working/under supervision in the public sector, and therefore, are exempt. Since there are approximately 300 LSWs and LCSWs who become licensed every year<sup>1</sup>, the number of LSWs licensed (approximately 24, since the LSW to LCSW ratio is about 0.08) plus the number of exempt LCSWs licensed (approximately 110)<sup>2</sup> results in approximately 134 additional candidates for LSW or LCSW who would need to register supervision under these amendments. The fee for registration of supervision is \$25, so the total cost of these amendments to social workers statewide will be an estimated \$3350, in addition to the nominal amount of time it will take the currently exempt social workers to fill out the two-page form for registration.

The economic benefit of this amendment derives from the assurance for applicants that their supervised and other experience will be approved by the Board. According to DHP, the Board sees approximately 2-3 applicants per month who, for some reason, are not qualified for licensure as a social worker. Many candidates gain experience under the supervision of other mental health professionals, such as psychologists or counselors, whose supervision does not fulfill the supervised experience requirement for licensure as a social worker. Some candidates have the incorrect number of hours or type of work experience (for example, advocacy work experience rather than clinical work experience). Other candidates have the correct supervised experience but did not complete the correct coursework in graduate school. This means that candidates can work for two or more years under supervision without being able to use their time towards licensure. Because in the pre-registration of supervision process, the Board requires the applicant's transcripts and specifics on the upcoming supervision from both the supervisee and supervisor, and because the Board requires a signed contract that outlines the requirements in terms of hours and work experience, the Board believes that the dissemination of information that occurs during the registration process will allow candidates to be confident that their work and experience will count towards licensure. In fact, even under the current regulation, many exempt

applicants choose to register their supervision. In addition, there will be no more confusion about who should or should not register supervision, since all applicants will be required to register supervision. Since currently it is not uncommon that years of supervisor and supervisee time are lost because of the failure to require prior registration of supervision with the Board, the benefit of this amendment likely outweighs the cost. Under this amendment, should an applicant fail to register their supervision, the hours will not be counted towards licensure; however, in the end, the approval or disapproval of experience is decided on a case-by-case basis.

Under the current regulations, licensure as an LCSW requires 100 hours of face-to-face supervision with no allowance for group supervision; the proposed amendments allow up to 50 hours of the face-to-face supervision to be group supervision, provided that the group comprises no more than six supervisees. This amendment should create a net economic benefit, allowing supervisors to increase the efficiency of their supervision (and therefore spend more time on the practice of social work) and supervisees to complete their supervised experience more quickly. The requirement that groups be limited to six supervisees protects the public interest by ensuring adequate supervision and proper training.

Requiring a LCSW supervisor to have three years post-licensure experience rather than five years post-Master's experience is more stringent, since the current regulation allows candidates four years to acquire their supervised social work experience after completing the Master's degree. The major cost of this amendment is to reduce the number of supervisors in the field, making it more difficult for candidates to complete their supervisory experience and therefore complete the requirements for licensure. Although it will also reduce the supervisory work of some social workers, the cost to them should be offset by the re-allocation of their time to social work activities. According to DHP, however, this amendment will not affect many supervisors, since most social workers who go into supervision have at least five years post-Masters experience and three years post-licensure experience. Furthermore, if a licensed LCSW has five years post-Masters experience, she must have at least one year post-licensure experience (since she is required to complete the supervisory experience within four years), therefore the amendment requires at most two additional years of experience to become a supervisor. Given that this amendment will only affect a few supervisors for at most two years, it does not appear that this amendment will significantly reduce the number of supervisors in the field. Therefore, the economic benefit of ensuring that candidates have proper supervision from a qualified supervisor should outweigh the cost of this amendment.

Under the current regulations, there are no requirements for training in supervision before registering to be a supervisor. The proposed amendment that LCSW supervisors receive professional training in supervision can be fulfilled either

through a three-hour graduate course in supervision or through 14 hours of continuing education (CE) offered by a Board-approved provider. A candidate studying to be a LCSW who would like to be a supervisor can fulfill the requirement by taking a course in supervision as a part of their Master's degree curriculum. A LCSW who would like to be a supervisor can fulfill the requirement by taking 14 hours of CE as a part of their biennially-required 30 hours of CE for license renewal. According to DHP, these courses or continuing education opportunities in social work supervision are widely available. For example, supervisory courses in social work were found in the online course catalogues at Virginia Commonwealth University, George Mason University, and Norfolk State University. The reasons to require supervisory training are that in disciplinary cases, the Board has seen evidence of inadequate supervision in which a supervisor did not know or understand his role in ensuring the supervisee's knowledge and skills to practice in an ethical and competent manner, and that professional training in supervision would be consistent with other behavioral health professions.<sup>3</sup> Costs lie in how a potential supervisor might choose to allocate her courses or continuing education requirements without this amendment. This cost could be financial if the social worker could otherwise fulfill the CE requirements less expensively. The social worker would also face an opportunity cost if he cannot take a desired course in order to fulfill the new supervisory training requirements. Existing supervisors will not be required to acquire the training; the training is intended only for those who will register to become LCSW supervisors in the future.

Under current regulations, LSW candidates are required to finish both their education requirements (a bachelor's degree) and their supervised experience before taking the LSW examination. Under the proposed amendment, candidates who complete the education requirement will be allowed to take the LSW examination immediately after graduation, before the supervised experience. Because this changes the order of the requirements for licensure as a LSW, and not the actual requirements, it is not anticipated to impose any economic cost. One benefit of this change is that students will be able to take the examination shortly after graduating while the information is still fresh in their minds; because the examination is primarily non-clinical in nature, obtaining the 3,000 hours of supervision (that takes approximately two years) does not improve the candidates' chances of passing the exam.<sup>4</sup> A second benefit is that the Virginia Chapter of the National Association of Social Workers believes that by allowing students to take the examination upon graduation, more will opt to take it, thereby increasing the number of social workers in the field.<sup>5</sup>

The proposed amendments will allow someone with a bachelor's degree and at least three years of post-licensure social work experience to supervise an LSW candidate; under current regulations, that person could not provide supervision.

If the person with the bachelor's degree is a qualified supervisor, this amendment imposes no costs on social workers or to the public. The benefits lie in the increased number of supervisors available to supervise, and therefore more LSW candidates can become licensed quickly and efficiently. The proposed amendments also repeal a section of the regulation establishing committees of the Board to evaluate professional qualifications and the mental or emotional competency of licensees. These committees have not been used in years, and therefore the repeal of the regulation should impose no cost or benefit. According to DHP, "if such an evaluation is required, it would be performed by an expert, not a committee of the Board."

The proposed amendments require social workers to maintain records for six years, instead of the five years as currently required. In addition, the records of a minor child must be maintained for either six years after attaining the age of majority or ten years following service termination, whichever comes later. The reason for the change is to standardize social work with other mental health professions and to give social workers a clearer requirement for the maintenance of records (the maintenance of records requirements are more explicitly laid out under the amendments than in the current regulation). Since most records are maintained electronically<sup>6</sup> and because, according to DHP, most social workers maintain records for much longer than six years, the cost of this amendment should be minimal. The Board believes that the maintenance of records is necessary to ensure continuous, competent, and safe treatment and is critical in the evaluation of disciplinary cases or in resolving disputes.

Finally, the Board proposes a host of amendments to the Standards of Practice section of the regulation, including requiring that social workers provide for a continuation of care when services must be interrupted or terminated; requiring that social workers inform clients of the potential risks and benefits of services and the limitations on confidentiality and ensure that clients have provided informed written consent to treatment; requiring that as treatment requires and with the written consent of the client, social workers collaborate with other health or mental health providers concurrently providing services to the client; requiring that licensees maintain records securely and destroy records that are no longer useful in a way that ensures client confidentiality; and expanding the actions that the Board may take if there are grounds for disciplinary action. According to DHP, these changes are being proposed primarily to explicitly state requirements for social workers that are already in practice and to ensure consistency in requirements across mental health professions. These requirements could have a negative economic impact on the practices of social workers (finding continuation of care, providing informed written consent, collaborating with health or mental health providers, and destroying documents in a confidential manner

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could cost a social worker time). However, these practices ensure a level of professionalism among social workers that will ensure consistency, efficiency, and fairness in service provision that benefits the public and should ensure a net economic benefit. In addition, according to DHP, these practices are commonly followed among social workers and therefore are not likely to significantly change the practice of social work.

**Businesses and Entities Affected<sup>7</sup>.** The businesses and entities that will be affected by these amendments are those that employ the 4,805 LCSWs and 379 LSWs. In addition, these amendments will affect those working or studying to become a LCSW or a LSW and the approximately 300-325 LCSWs and LSWs who are licensed every year. Of the 4,805 LCSWs, approximately 60 percent are in private practice. The remaining 40 percent of LCSWs and all of the LSWs are employed by the public sector.

**Localities Particularly Affected.** The proposals do not disproportionately affect specific localities.

**Projected Impact on Employment.** The proposals have no projected impact on employment.

**Effects on the Use and Value of Private Property.** The proposals do not affect the use and value of private property.

**Small Businesses: Costs and Other Effects.** Many of the approximately 60 percent of licensed clinical social workers who are employed by the private sector are in organizations that are small businesses. However, because all of those in private business are already required to register for supervision, and because the cost of the education requirement for supervisors is relatively small, these amendments should not increase costs significantly or have other adverse effects on small businesses. If LCSW supervisors in the private sector have five years of post-Masters experience but do not have three years of post-licensure experience, and therefore will not be able to supervise LCSW candidates under the new amendments, then the workload potential of the firm could be reduced. (Assuming that there is not a one-to-one relationship between the hours of work of a LCSW candidate and hours of supervisory work for that candidate.) However, because DHP estimates that this amendment will affect only a small number of supervisors—and because an LCSW will need to gain at most two years of further experience—this amendment is not likely to have significant impact on small businesses in Virginia.

**Small Businesses: Alternative Method that Minimizes Adverse Impact.** There is no apparent alternative method that minimizes adverse impact while still accomplishing the intended positive policy goals.

**Real Estate Development Costs.** The proposed amendments do not create additional costs related to the development of real estate for commercial or residential purposes.

**Legal Mandate.** The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with §2.2-4007.04 of the Administrative Process Act and Executive Order Number 36 (06). Section 2.2-4007.04 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, §2.2-4007.04 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.

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1. Source: Department of Health Professions  
2. (300-24)\*0.4  
3. Source: Department of Health Professions  
4. Source: Department of Health Professions  
5. Source: Department of Health Professions  
6. Source: Department of Health Professions  
7. Source: Department of Health Professions

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The Board of Social Work concurs with the analysis of the Department of Planning and Budget on proposed amended regulations for 18VAC140-20, Regulations Governing the Practice of Social Work, relating to requirements for examination, supervision and practice standards.

Summary:

*The proposed amendments (i) require registration of supervision by persons preparing for licensure in social work, regardless of the practice setting, to allow for group supervision, and specify the professional training necessary for a licensee to serve as a supervisor; (ii) allow a bachelor's degree graduate to take the examination for a licensed social worker prior to completing 3,000 hours of work experience; and (iii) revise the standards of professional conduct to update the language, address conduct seen in disciplinary cases,*

*and provide consistency with other behavioral health professions.*

**18VAC140-20-10. Definitions.**

A. The following words and terms when used in this chapter shall have the meanings ascribed to them in §54.1-3700 of the Code of Virginia:

- Board
- Casework
- Casework management and supportive services
- Clinical social worker
- Practice of social work
- Social worker

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

"Accredited school of social work" means a school of social work accredited by the Council on Social Work Education.

"Clinical course of study" means graduate course work which includes specialized advanced courses in human behavior and social environment, social policy, research, clinical practice with individuals, families, groups and a clinical practicum which focuses on diagnostic, prevention and treatment services.

"Clinical social work services" include the application of social work principles and methods in performing assessments and diagnoses based on a recognized manual of mental and emotional disorders or recognized system of problem definition, preventive and early intervention services and treatment services, including but not limited to psychotherapy and counseling for mental disorders, substance abuse, marriage and family dysfunction, and problems caused by social and psychological stress or health impairment.

"Exempt practice" is that which meets the conditions of exemption from the requirements of licensure as defined in §54.1-3701 of the Code of Virginia.

"Face-to-face supervision" means the physical presence of the individuals involved in the supervisory relationship during either individual or group supervision.

"Nonexempt practice" is that which does not meet the conditions of exemption from the requirements of licensure as defined in §54.1-3701 of the Code of Virginia.

~~"Supervision" means the relationship between a supervisor and supervisee which is designed to promote the development of responsibility and skill in the provision of social work services. Supervision is the inspection, critical evaluation, and direction over the services of the supervisee. Supervision shall include, without being limited to, the review of case~~

~~presentations, audio tapes, video tapes, and direct observation a professional relationship between a supervisor and supervisee in which the supervisor directs, monitors and evaluates the supervisee's social work practice while promoting development of the supervisee's knowledge, skills and abilities to provide social work services in an ethical and competent manner.~~

**18VAC140-20-40. Requirements for licensure by examination as a licensed clinical social worker.**

Every applicant for examination for licensure ~~by the board~~ as a licensed clinical social worker shall:

1. Meet the education and experience requirements prescribed in 18VAC140-20-50 ~~or 18VAC140-20-60 for the category of practice in which licensure is sought.~~
2. Submit in one package to the board office, ~~not less than 90 days prior to the date of the written examination:~~
  - a. A completed notarized application;
  - b. Documentation, on the appropriate forms, of the successful completion of the supervised experience requirements of 18VAC140-20-50 ~~or 18VAC140-20-60~~ along with documentation of the supervisor's out-of-state license where applicable. Applicants whose former supervisor is deceased, or whose whereabouts is unknown, shall submit to the board a notarized affidavit from the present chief executive officer of the agency, corporation or partnership in which the applicant was supervised. The affidavit shall specify dates of employment, job responsibilities, supervisor's name and last known address, and the total number of hours spent by the applicant with the supervisor in face-to-face supervision;
  - c. The application fee prescribed in 18VAC140-20-30;
  - d. Official transcript or transcripts in the original sealed envelope submitted from the appropriate institutions of higher education directly to the applicant; and
  - e. Documentation of applicant's out-of-state licensure where applicable.

**18VAC140-20-50. Education and experience requirements for licensed clinical social worker.**

A. Education. The applicant shall hold a minimum of a master's degree from an accredited school of social work. Graduates of foreign institutions shall establish the equivalency of their education to this requirement through the Foreign Equivalency Determination Service of the Council of Social Work Education.

1. The degree program shall have included a graduate clinical course of study; or

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2. The applicant shall provide documentation of having completed specialized experience, course work or training acceptable to the board as equivalent to a clinical course of study.

B. Supervised experience. ~~Supervised experience obtained prior to December 23, 1998, may be accepted towards licensure if this supervision met the requirements of the board which were in effect at the time the supervision was rendered.~~ Supervised experience in all settings obtained ~~in nonexempt settings~~ in Virginia without prior written board approval will not be accepted toward licensure. Supervision begun before November 28, 2007, that met the requirements of this section in effect prior to that date will be accepted until November 28, 2011.

1. Registration. An individual who proposes to obtain supervised post-master's degree experience in Virginia shall, prior to the onset of such supervision:

- a. Register on a form provided by the board and completed by the supervisor and the supervised individual; and
- b. Pay the registration of supervision fee set forth in 18VAC140-20-30.

2. Hours. The applicant shall have completed a minimum of 3,000 hours of supervised post-master's degree experience in the delivery of clinical social work services or the equivalent in part-time experience. A minimum of one hour of ~~individual~~ face-to-face supervision shall be provided each week for a total of at least 100 hours. No more than 50 of the 100 hours may be obtained in group supervision, nor shall there be more than six persons being supervised in a group unless approved in advance by the board. The board may consider alternatives to face-to-face supervision if the applicant can demonstrate an undue burden due to hardship, disability or geography.

- a. Experience shall be acquired in no less than two nor more than four years.
- b. Supervisees shall average no less than 15 hours per week in face-to-face client contact for a minimum of 1,380 hours in the two-year period. The remaining hours may be spent in ancillary duties and activities supporting the delivery of clinical services.

3. An individual who does not ~~become a candidate for licensure~~ complete the supervision requirement after four years of supervised experience shall submit evidence to the board showing why the training should be allowed to continue.

C. Requirements for supervisors.

1. The supervisor shall ~~be~~ hold an active, unrestricted license as a licensed clinical social worker in the jurisdiction in which the clinical services are being

rendered with at least ~~five years post Master of Social Work~~ three years of postlicensure clinical social work experience. The board may consider supervisors with commensurate qualifications if the applicant can demonstrate an undue burden due to geography or disability.

2. The supervisor shall have received professional training in supervision, consisting of a three credit-hour graduate course in supervision or at least 14 hours of continuing education offered by a provider approved under 18VAC140-20-105. The graduate course or hours of continuing education in supervision shall be obtained by a supervisor within five years immediately preceding registration of supervision.

3. The supervisor shall not provide supervision for a member of his immediate family or provide supervision for anyone with whom he has a dual relationship.

D. Responsibilities of supervisors:

~~2.~~ The supervisor shall:

~~a.~~ 1. Be responsible for the ~~casework~~ social work activities of the ~~prospective applicant~~ supervisee as set forth in this subsection once the supervisory arrangement is accepted;

~~b.~~ 2. Review and approve the diagnostic assessment and treatment plan of a representative sample of the clients assigned to the applicant during the course of supervision. The sample should be representative of the variables of gender, age, diagnosis, length of treatment and treatment method within the client population seen by the applicant. It is the applicant's responsibility to assure the representativeness of the sample that is presented to the supervisor. ~~The supervisor shall be available to the applicant on a regularly scheduled basis for supervision. The supervisor will maintain documentation, for five years post supervision, of which clients were the subject of supervision;~~

~~c.~~ 3. Provide supervision only for those ~~casework~~ social work activities for which the supervisor has determined the applicant is competent to provide to clients;

~~d.~~ 4. Provide supervision only for those activities for which the supervisor is qualified by education, training and experience; ~~and~~

~~e.~~ 5. Evaluate the supervisee's knowledge and document minimal competencies in the areas of an identified theory base, application of a differential diagnosis, establishing and monitoring a treatment plan, development and appropriate use of the professional relationship, assessing the client for risk of imminent danger, and implementing a professional and ethical relationship with clients;

6. Be available to the applicant on a regularly scheduled basis for supervision; and

~~7. Maintain documentation, for five years postsupervision, of which clients were the subject of supervision.~~

~~3. Supervision between members of the immediate family (to include spouses, parents, and siblings) will not be approved.~~

~~D. Supervision requirements for applicants in exempt practices. Individuals may obtain the required supervision and experience without registration of supervision provided such experience:~~

- ~~1. Is obtained in an exempt practice; and~~
- ~~2. Meets all other requirements for supervised experience as set forth in this section.~~

**18VAC140-20-51. Requirements for licensure by examination as a licensed social worker.**

A. In order to be approved to sit for the board-approved examination for a licensed social worker, an applicant shall:

1. Meet the education requirements prescribed in 18VAC140-20-60 A.
2. Submit in one package to the board office:
  - a. A completed notarized application;
  - b. The application fee prescribed in 18VAC140-20-30;
  - c. Official transcript or transcripts in the original sealed envelope submitted from the appropriate institutions of higher education directly to the applicant.

B. In order to be licensed by examination as a licensed social worker, an applicant shall:

1. Meet the education and experience requirements prescribed in 18VAC140-20-60;
2. Submit, in addition to the application requirements of subsection A, the following:
  - a. Documentation, on the appropriate forms, of the successful completion of the supervised experience requirements of 18VAC140-20-60 along with documentation of the supervisor's out-of-state license where applicable. An applicant whose former supervisor is deceased, or whose whereabouts is unknown, shall submit to the board a notarized affidavit from the present chief executive officer of the agency, corporation or partnership in which the applicant was supervised. The affidavit shall specify dates of employment, job responsibilities, supervisor's name and last known address, and the total number of hours spent by the applicant with the supervisor in face-to-face supervision;
  - b. Verification of a passing score on the board-approved national examination; and

c. Documentation of applicant's out-of-state licensure where applicable.

**18VAC140-20-60. Education and experience requirements for licensed social worker.**

A. Education. The applicant shall hold a bachelor's or a master's degree from an accredited school of social work. Graduates of foreign institutions must establish the equivalency of their education to this requirement through the Foreign Equivalency Determination Service of the Council on Social Work Education.

B. Master's degree applicant. An applicant who holds a master's degree may apply for licensure as a licensed social worker without documentation of supervised experience.

B. Supervised experience. Supervised experience obtained prior to December 23, 1998, may be accepted towards licensure if this supervision met the requirements of the board which were in effect at the time the supervision was rendered.

C. Bachelor's degree applicant. Supervised experience in all settings obtained in nonexempt settings in Virginia without prior written board approval will not be accepted toward licensure. Supervision begun before November 28, 2007, that met the requirements of this section in effect prior to that date will be accepted until November 28, 2011.

~~1. Registration.~~ An individual who proposes to obtain supervised post master's degree experience in Virginia shall, prior to the onset of such supervision, register a supervision contract with the board as set forth in 18VAC140-20-50 B.

~~2. 1. Hours.~~ a. Bachelor's degree applicants shall have completed a minimum of 3,000 hours of full-time post-bachelor's degree experience or the equivalent in part-time experience in casework management and supportive services under supervision satisfactory to the board. A minimum of one hour of face-to-face supervision shall be provided each week for the period of supervision for a total of at least 100 hours.

~~b. 2. Experience~~ shall be acquired in no less than two nor more than four years from the beginning of the supervised experience.

~~C. D. Requirements for supervisors.~~

1. The supervisor providing supervision shall ~~be hold an active, unrestricted license as a licensed social worker with a master's degree, or a licensed social worker with a bachelor's degree and at least three years of postlicensure social work experience~~ or a licensed clinical social worker in the jurisdiction in which the social work services are being rendered. If this requirement places an undue burden on the applicant due to geography or disability, the board may consider individuals with comparable qualifications.

2. The supervisor shall:

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a. Be responsible for the social work practice of the prospective applicant once the supervisory arrangement is accepted by the board;

b. Review and approve the assessment and service plan of a representative sample of cases assigned to the applicant during the course of supervision. The sample should be representative of the variables of gender, age, assessment, length of service and casework method within the client population seen by the applicant. It is the applicant's responsibility to assure the representativeness of the sample that is presented to the supervisor. The supervisor shall be available to the applicant on a regularly scheduled basis for supervision. The supervisor will maintain documentation, for five years post supervision, of which clients were the subject of supervision;

c. Provide supervision only for those casework management and support services activities for which the supervisor has determined the applicant is competent to provide to clients;

d. Provide supervision only for those activities for which the supervisor is qualified; and

e. Evaluate the supervisee in the areas of professional ethics and professional competency.

3. Supervision between members of the immediate family (to include spouses, parents, and siblings) will not be approved.

~~D. Supervision requirements for applicants in exempt practice. Individuals may obtain the required supervised experience without registration of supervision provided such experience:~~

~~1. Is obtained in an exempt practice; and~~

~~2. Meets all other requirements of the board for supervised experience as set forth in this section.~~

## Part III

### Examinations

#### **18VAC140-20-105. Continued competency requirements for renewal of an active license.**

A. ~~After April 25, 2003, licensed~~ Licensed social workers and licensed clinical social workers shall be required to have completed a minimum of 30 contact hours of continuing education for each biennial licensure renewal. A minimum of two of those hours must pertain to the standards of practice and laws governing the profession of social work in Virginia, or the Code of Ethics of one of the social work professional associations listed under subdivision B 1 d.

1. The board may grant an extension for good cause of up to one year for the completion of continuing education requirements upon written request from the licensee prior

to the renewal date. Such extension shall not relieve the licensee of the continuing education requirement.

2. The board may grant an exemption for all or part of the continuing education requirements due to circumstances beyond the control of the licensee such as temporary disability, mandatory military service, or officially declared disasters.

B. Hours may be obtained from a combination of board-approved activities in the following ~~three~~ two categories:

1. Category I. Formally Organized Learning Activities. A minimum of 20 hours shall be documented in this category, which shall include one or more of the following:

a. Regionally accredited university or college academic courses in a behavioral health discipline. A maximum of 15 hours will be accepted for each academic course.

b. Continuing education programs offered by universities or colleges accredited by the Council on Social Work Education.

c. Workshops, seminars, conferences, or courses in the behavioral health field offered by federal, state or local social service agencies, public school systems or licensed health facilities and licensed hospitals.

d. Workshops, seminars, conferences or courses in the behavioral health field offered by an individual or organization that has been certified or approved by one of the following:

(1) The Child Welfare League of America and its state and local affiliates.

(2) The National Association of Social Workers and its state and local affiliates.

(3) The Association of Black Social Workers and its state and local affiliates.

(4) The Family Service Association of America and its state and local affiliates.

(5) The Clinical Social Work Federation and its state and local affiliates.

(6) Individuals or organizations who have been approved as continuing education sponsors by the Association of Social Work Boards or any state social work board.

2. Category II. Individual Professional Activities. A maximum of 10 of the required 30 hours may be earned in this category, which shall include one or more of the following:

a. Participation in an Association of Social Work Boards item writing workshop. (Activity will count for a maximum of two hours.)

- b. Publication of a professional social work-related book or initial preparation/presentation of a social work-related course. (Activity will count for a maximum of 10 hours.)
- c. Publication of a professional social work-related article or chapter of a book, or initial preparation/presentation of a social work-related in-service training, seminar or workshop. (Activity will count for a maximum of five hours.)
- d. Provision of a continuing education program sponsored or approved by an organization listed under Category I. (Activity will count for a maximum of two hours and will only be accepted one time for any specific program.)
- e. Field instruction of graduate students in a Council on Social Work Education-accredited school. (Activity will count for a maximum of two hours.)
- f. Serving as an officer or committee member of one of the national professional social work associations listed under subdivision B 1 d of this section. (Activity will count for a maximum of two hours.)
- g. Attendance at formal staffings at federal, state or local social service agencies, public school systems or licensed health facilities and licensed hospitals. (Activity will count for a maximum of five hours.)
- h. Independent or group study including listening to audio tapes, viewing video tapes, reading, professional books or articles. (Activity will count for a maximum of five hours.)

**Part V**

**Committees**

**18VAC140-20-140. ~~Examining and advisory committees. (Repealed.)~~**

~~The board may establish advisory and examining committees to assist it in carrying out statutory responsibilities.~~

- ~~1. The committees may assist in evaluating the professional qualifications of applicants and candidates for licensure and renewal of licenses and in other matters the board deems necessary.~~
- ~~2. The committees may assist in the evaluation of the mental or emotional competency, or both, of any licensee or applicant for licensure when such competence is an issue before the board.~~

**Part VI**

**Standards of Practice**

**18VAC140-20-150. Professional conduct.**

A. The protection of the public health, safety, and welfare and the best interest of the public shall be the primary guide in determining the appropriate professional conduct of all persons whose activities are regulated by the board. Regardless of the delivery method, whether in person, by telephone or electronically, these standards shall apply to the practice of social work.

B. Persons licensed as social workers and clinical social workers shall:

- ~~1. Practice in a manner that is in the best interest of the public and does not endanger the public health, safety, or welfare.~~
- 1. Be able to justify all service services rendered to or on behalf of clients as necessary for diagnostic or therapeutic purposes.
- 2. Provide for continuation of care when services must be interrupted or terminated.
- 3. Practice only within the competency areas for which they are qualified by education ~~and~~ ~~or~~ experience, ~~or both.~~
- 4. Report to the board known or suspected violations of the laws and regulations governing the practice of social work.
- 5. Neither accept nor give commissions, rebates, or other forms of remuneration for referral of clients for professional services.
- 6. Ensure that clients are aware of fees and billing arrangements before rendering services.
- 7. Inform clients of potential risks and benefits of services and the limitations on confidentiality and ensure that clients have provided informed written consent to treatment.
- ~~7. 8. Keep confidential their therapeutic relationships with clients and disclose client records to others only with written consent of the client, with the following exceptions: (i) when the client is a danger to self or others; or (ii) as required by law.~~
- 8. 9. When advertising their services to the public, ensure that such advertising is neither fraudulent nor misleading.
- ~~9. Not engage in dual relationships with clients, former clients, supervisees, and supervisors that might compromise that person's well-being, impair the social worker's or supervisor's objectivity and professional judgment or increase the risk of exploitation, to include, but is not limited to, such activities as counseling close friends, sexual partners, employees or relatives, and~~

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~~engaging in business relationships with clients. Sexual contact or conduct of a sexual nature during the course of professional services and for a period of not less than two years following cessation or termination of professional services with a client or those included in the provision of collateral therapeutic services shall be prohibited. Thereafter, the licensee shall bear the burden of demonstrating that there has been no exploitation regardless of that person's consent to, initiation of or participation in the sexual contact or conduct of a sexual nature with the practitioner.~~

10. ~~Maintain clinical records on each client. The record shall include identifying information to substantiate diagnosis and treatment plan, client progress, and termination. The clinical record shall be preserved for at least five years post termination.~~ As treatment requires and with the written consent of the client, collaborate with other health or mental health providers concurrently providing services to the client.

11. ~~Ensure that clients have provided informed consent to treatment.~~ Refrain from undertaking any activity in which one's personal problems are likely to lead to inadequate or harmful services.

12. Recognize conflicts of interest and inform all parties of the nature and directions of loyalties and responsibilities involved.

C. In regard to client records, persons licensed by the board shall comply with provisions of §32.1-127.1:03 of the Code of Virginia on health records privacy and shall:

1. Maintain written or electronic clinical records for each client to include identifying information and assessment that substantiates diagnosis and treatment plans. Each record shall include a diagnosis and treatment plan, progress notes for each case activity, information received from all collaborative contacts and the treatment implications of that information, and the termination process and summary.

2. Maintain client records securely, inform all employees of the requirements of confidentiality, and provide for the destruction of records that are no longer useful in a manner that ensures client confidentiality.

3. Disclose or release records to others only with clients' expressed written consent or that of their legally authorized representative or as mandated by law.

4. Ensure confidentiality in the usage of client records and clinical materials by obtaining informed consent from clients or their legally authorized representative before (i) videotaping, (ii) audio recording, (iii) permitting third-party observation, or (iv) using identifiable client records and clinical materials in teaching, writing or public presentations.

5. Maintain client records for a minimum of six years or as otherwise required by law from the date of termination of the therapeutic relationship with the following exceptions:

a. At minimum, records of a minor child shall be maintained for six years after attaining the age of majority or 10 years following termination, whichever comes later.

b. Records that are required by contractual obligation or federal law to be maintained for a longer period of time.

c. Records that have been transferred to another mental health professional or have been given to the client or his legally authorized representative.

D. In regard to dual relationships, persons licensed by the board shall:

1. Not engage in a dual relationship with a client or a former client that could impair professional judgment or increase the risk of harm to the client. (Examples of such a relationship include, but are not limited to, familial, social, financial, business, bartering, or a close personal relationship with a client.) Social workers shall take appropriate professional precautions when a dual relationship cannot be avoided, such as informed consent, consultation, supervision, and documentation to ensure that judgment is not impaired and no exploitation occurs.

2. Not have any type of sexual intimacies with a client or those included in collateral therapeutic services, and not provide services to those persons with whom they have had a sexual relationship. Social workers shall not engage in sexual intimacies with a former client within a minimum of five years after terminating the professional relationship. Social workers who engage in such a relationship after five years following termination shall have the responsibility to examine and document thoroughly that such a relationship did not have an exploitive nature, based on factors such as duration of therapy, amount of time since therapy, termination circumstances, client's personal history and mental status, adverse impact on the client. A client's consent to, initiation of or participation in sexual behavior or involvement with a social worker does not change the nature of the conduct nor lift the regulatory prohibition.

3. Not engage in any sexual relationship or establish a therapeutic relationship with a current supervisee or student. Social workers shall avoid any nonsexual dual relationship with a supervisee or student in which there is a risk of exploitation or potential harm to the supervisee or student, or the potential for interference with the supervisor's professional judgment.

4. Recognize conflicts of interest and inform all parties of the nature and directions of loyalties and responsibilities involved.

5. Not engage in a personal relationship with a former client in which there is a risk of exploitation or potential harm or if the former client continues to relate to the social worker in his professional capacity.

**18VAC140-20-160. Grounds for disciplinary action or denial of issuance of a license.**

~~Action by the board to deny, revoke, suspend or decline to renew a license shall be in accordance with the following~~ The board may refuse to admit an applicant to an examination; refuse to issue a license to an applicant; or reprimand, impose a monetary penalty, place on probation, impose such terms as it may designate, suspend for a stated period of time or indefinitely, or revoke a license for one or more of the following grounds:

1. Conviction of a felony or of a misdemeanor involving moral turpitude;
2. Procurement of license by fraud or misrepresentation;
3. Conducting one's practice in such a manner so as to make the practice a danger to the health and welfare of one's clients or to the public. In the event a question arises concerning the continued competence of a licensee, the board will consider evidence of continuing education.
4. Being unable to practice social work with reasonable skill and safety to clients by reason of illness, excessive use of alcohol, drugs, narcotics, chemicals or any other type of material or as a result of any mental or physical condition;
5. Conducting one's practice in a manner contrary to the standards of ethics of social work or in violation of 18VAC140-20-150, standards of practice;
6. Performing functions outside the board-licensed area of competency;
7. Failure to comply with the continued competency requirements set forth in 18VAC140-20-105; and
8. Violating or aiding and abetting another to violate any statute applicable to the practice of social work or any provision of this chapter.

VA.R. Doc. No. R07-120; Filed October 10, 2007, 10:04 a.m.



**TITLE 20. PUBLIC UTILITIES AND TELECOMMUNICATIONS**

**STATE CORPORATION COMMISSION**

**Final Regulation**

**REGISTRAR'S NOTICE:** The State Corporation Commission is exempt from the Administrative Process Act in accordance with § 2.2-4002 A 2 of the Code of Virginia, which exempts courts, any agency of the Supreme Court, and any agency that by the Constitution is expressly granted any of the powers of a court of record.

**Title of Regulation:** **20VAC5-417. Rules Governing the Certification and Regulation of Competitive Local Exchange Carriers (amending 20VAC5-417-10, 20VAC5-417-50).**

**Statutory Authority:** §12.1-13 of the Code of Virginia.

**Effective Date:** October 9, 2007.

**Agency Contact:** Katie Cummings, Deputy Director, Communications Division, State Corporation Commission, P.O. Box 1197, 1300 E. Main St., Richmond, VA 23218, telephone (804) 371-9101, FAX (804) 371-9069, or email [katie.cummings@scc.virginia.gov](mailto:katie.cummings@scc.virginia.gov).

**Summary:**

*The amendments incorporate changes in the telecommunications marketplace since these sections were last approved on April 9, 2003, in Case No. PUC-2002-00115.*

*The regulations reflect incorporation of additional definitions, implementation of price ceilings for intrastate switched access rates, and a transitional period to implement the access charge ceilings as requested by the commission from the previous case. The changes also provide competitive local exchange carriers shortened tariff filing intervals; relaxation of the current price ceilings; and pricing flexibility for all but basic telephone service, associated service charges, and switched access charge rates.*

*Changes from the proposed regulation clarify that any deregulatory or detariffing treatment granted to an ILEC will be applicable to comparable services, class of customers or geographic areas of the new entrants. Also, additional clarification sets forth the timing of required access charge changes pursuant to a commission order.*

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AT RICHMOND, SEPTEMBER 27, 2007

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. PUC-2007-00033

Ex Parte: Amendment of Rules Governing  
the Certification and Regulation of  
Competitive Local Exchange Carriers

## FINAL ORDER

On April 30, 2007, the State Corporation Commission ("Commission") issued an Order that established this proceeding for the purpose of amending the Commission's Rules Governing the Certification and Regulation of Competitive Local Exchange Carriers ("CLECs"), 20 VAC 5-417-10 *et seq.* ("CLEC Rules"). The proposed rules in this case amend 20 VAC 5-417-10 (Definitions) and 20 VAC 5-417-50 (Regulation of new entrants providing local exchange telecommunications services).<sup>1</sup>

On June 20, 2007, the following interested persons submitted comments on the proposed rules: NTELOS Network Inc.; Level 3 Communications, LLC ("Level 3"); AT&T Communications of Virginia, LLC and TCG Virginia, Inc.; Cox Virginia Telcom, Inc.; Verizon Virginia Inc., Verizon South Inc., and MCImetro Access Transmission Services of Virginia, Inc.; and the Office of the Attorney General's Division of Consumer Counsel.

On July 19, 2007, the Commission's Staff ("Staff") filed comments on the proposed rules that, among other things, summarized the comments filed by interested persons and recommended changes to 20 VAC 5-417-50 C, E2, E4, and G.

On August 1, 2007, Level 3 filed a Motion for Leave to File Reply to Staff Comments ("Motion for Leave") and a Reply to Staff Comments. No objection was filed to the Motion for Leave.

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that the revisions to the CLEC Rules approved herein are just and reasonable.

The revisions to 20 VAC 5-417-10 (Definitions) provide appropriate clarification for implementing and administering the CLEC Rules and are reasonable.

The revisions to 20 VAC 5-417-50 (Regulation of new entrants providing local exchange telecommunications services), including the additional language recommended by the Staff, provide CLECs with appropriate requirements and flexibility regarding pricing, services, notice, and filings and are reasonable.

The revisions to 20 VAC 5-417-50 (Regulation of new entrants providing local exchange telecommunications services), including the additional language recommended by

the Staff, appropriately allow CLECs to request pricing structures or rates that do not conform to the rules and are reasonable. In addition, we further modify section K thereof to clarify that a CLEC may offer individual customer pricing in a competitive bid or a competitive procurement situation.

The revisions to 20 VAC 5-417-50 (Regulation of new entrants providing local exchange telecommunications services), including the additional language recommended by the Staff, appropriately addresses the disparity between Verizon's intrastate access rates and CLECs' intrastate access rates and result in just and reasonable intrastate access rates for CLECs. Furthermore, we find that it is reasonable to remove the second sentence from proposed rule 20 VAC 5-417-50 E.1.c. This particular subsection establishes a just and reasonable intrastate access rate of \$.029 per minute for a transition period from December 1, 2007 through March 30, 2008. We conclude that, as with the other parts of the rules adopted today, this transition rate should apply to all CLECs.

Also, our Order establishing this proceeding did not provide for replies to the Staff Report, and we deny Level 3's Motion for Leave.

Finally, as noted in our April 13, 2007 Order establishing this proceeding, the fact that the changes to intrastate access rates required herein are limited to CLECs does not represent a finding that no changes are warranted for ILECs' intrastate access rates. Indeed, any proposed changes to intrastate access rates for ILECs will be considered in one or more separate proceedings.

Accordingly, IT IS HEREBY ORDERED THAT:

(1) We hereby adopt the revised Rules Governing the Certification and Regulation of Competitive Local Exchange Carriers (Chapter 417), appended hereto as Attachment A, effective on and after October 9, 2007.

(2) The Commission's Division of Information Resources shall forward this Final Order and the rules adopted herein to the Registrar of Virginia for publication in the Virginia Register of Regulations.

(3) Level 3's Motion for Leave is hereby denied.

(4) This case is dismissed.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to: Mark Keffer, Esquire, AT&T Communications of Virginia, 2nd Floor, Room D-C3.201, 3033 Chain Bridge Road, Oakton, Virginia 22185; Mary McDermott, NTELOS Network Inc., Sr. V.P. Legal & Regulatory, 401 Spring Lane, Suite 300, P.O. Box 1990, Waynesboro, Virginia 22980; Ashley C. Beuttel, Assistant Attorney General, Office of Attorney General, Division of Consumer Counsel, 900 East Main Street, 2nd Floor, Richmond, Virginia 23219; Cliona M. Robb, Esquire, Christian & Barton, L.L.P., 909 East Main Street, Suite 1200, Richmond, Virginia 23219-3095; Eric M. Page, Esquire,

LeClair Ryan P.C., Riverfront Plaza East Tower, 951 Byrd Street, 8th Floor, P.O. Box 2499, Richmond, Virginia 23218-2499; Lydia R. Pulley, General Counsel, and Secretary, Verizon Virginia Inc., 600 East Main Street, 11th Floor, Richmond, Virginia 23219-2441.

<sup>1</sup> The Commission published notice of the proposed rules as classified advertising in newspapers of general circulation throughout the Commonwealth of Virginia and forwarded the proposed rules to the Registrar of Virginia for publication in the Virginia Register of Regulations.

## **20VAC5-417-10. Definitions.**

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

"Attestation" means a written statement regarding compliance with a requirement or condition contained in this chapter, signed by an officer, director, or comparable official of the applicant or new entrant.

"Basic telephone service" means the customer's dial tone line and local usage. Local usage can be purchased on a flat rate, measured, or on a per message basis, or some combination thereof.

"Bundled service" means a designated group of services or products offered to customers at a package or set price. A bundled service may consist of regulated and nonregulated services or products.

"Casual user service" means a local exchange telecommunications service of a competitive local exchange carrier or municipal local exchange carrier that does not require a customer to actively subscribe or contract with the competitive local exchange carrier or municipal local exchange carrier to use the service. For example, these services may require alternate billing arrangements such as a calling card to use the service.

"Commission" means the State Corporation Commission.

"Competitive local exchange carrier" ("CLEC") means an entity, other than a locality, certificated to provide local exchange telecommunications services in Virginia after January 1, 1996, pursuant to §56-265.4:4 of the Code of Virginia. An incumbent local exchange carrier shall be considered a CLEC in any territory that is outside the territory it was certificated to serve as of December 31, 1995, for which it obtains a certificate to provide local exchange telecommunications services on or after January 1, 1996.

"Customer" means any person, firm, partnership, corporation, or lawful entity that purchases local exchange telecommunications services.

"Incumbent local exchange carrier" or "incumbent" ("ILEC") means a public service company providing local exchange telecommunications services in Virginia on

December 31, 1995, pursuant to a certificate of public convenience and necessity, or the successors to any such company.

"Individual customer pricing" means the offering of service or services to a specific customer at rates, terms, or conditions provided through an agreement instead of pursuant to tariff.

"Interconnection" means the point of interface between local exchange carriers' networks. Interconnection can be achieved at different points of the network.

"Interexchange carrier" ("IXC") means a carrier that provides intrastate interexchange long distance telephone service.

"Interstate service" means service that originates in one state and terminates in another state.

"Intrastate service" means service that originates and terminates within a state.

"Local exchange carrier" ("LEC") means a certificated provider of local exchange telecommunications services, whether an incumbent or new entrant.

"Local exchange telecommunications services" means local exchange telephone service as defined by §56-1 of the Code of Virginia.

"Locality" means a city, town, or county that operates an electric distribution system in Virginia.

"Municipal local exchange carrier" ("MLEC") means a locality certificated to provide local exchange telecommunications services pursuant to §56-265.4:4 of the Code of Virginia.

"New entrant" means a CLEC or an MLEC.

"Promotion or promotional rates" means an offering of limited duration that reduces, waives, or otherwise modifies applicable tariffed rates, terms, or conditions.

"Service charges" means charges associated with work activities performed by the LEC in conjunction with providing service. These include, but are not limited to, charges for installation, activation, order processing, line restoration, maintenance visits, or changes in service.

"Switched access charges" means the per minute rates billed by LECs to IXCs or other LECs for the use of the LEC's network when an end user makes or receives a long distance call.

## **20VAC5-417-50. Regulation of new entrants providing local exchange telecommunications services.**

A. Unless otherwise allowed by the commission, tariffs are required for all local exchange telecommunications service offerings except those that are comparable to ~~"competitive"~~ offerings of any ILEC that does not require tariffs.

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B. A new entrant that has received certification to provide local exchange telecommunications services shall, prior to offering such services, submit its proposed initial tariffs to the Division of Communications. A new entrant shall not offer any local exchange telecommunications services until its tariffs have been accepted by the Division of Communications and are effective.

C. A new entrant may petition the commission to consider deregulation or detariffing treatment for any of its specific service offerings. [ Any deregulatory or detariffing treatment for any comparable service, class of customers, or geographic area granted to an ILEC shall be applicable to a new entrant under like conditions. ]

D. Unless otherwise allowed by the commission, prices for local exchange telecommunications services provided by a new entrant basic telephone service and associated service charges, not purchased as part of a bundled service, shall not exceed the highest of the comparable tariffed services provided by the or applicable ceiling rates, as determined by the commission, of an incumbent local exchange carrier or carriers in the same local serving areas service territory. Price ceilings shall be the highest tariffed rates as of January 1, 1996, for comparable services of any ILEC serving the local service area of the new entrant. Price ceilings for a new entrant shall be increased if the highest tariffed rate of an incumbent is raised through applicable regulatory procedures. Unless otherwise determined by the commission, price decreases for an incumbent's service, whether initiated by the carrier or adopted by the commission, shall not require a corresponding decrease in the price ceilings applicable to the new entrant. Tariff changes pursuant to this price ceiling plan shall be implemented as follows:

1. Price decreases shall become effective on a minimum of one day's written notice to the Division of Communications.

2. Price increases below ceiling rates shall become effective after 30 days' written notice is provided to the Division of Communications and affected customers.

a. Written notice to affected customers shall be provided through bill inserts, bill messages, or direct mail.

b. Notice for price increases for a casual user or nonsubscriber service shall be provided through publication once as display advertising in newspapers having general circulation in the areas served by the new entrant. Display advertising shall only be used for notice for casual user or nonsubscriber services unless otherwise authorized by the commission.

e. A copy of the customer notice, the date or dates of such notification, and proof of publication, if applicable, shall be included with the notice to the Division of Communications.

d. A proposed rate increase below ceiling rates, if there are no current customers, shall not require customer notice. The notice to the Division of Communications shall include an attestation by the new entrant that it has no customers.

E. A new entrant may petition the commission for approval of pricing structures or rates that do not conform with the price ceilings. The new entrant shall provide appropriate documentation and rationale to support any request. The commission may permit such alternative pricing structures and rates unless there is a showing the public interest will be harmed. 1. Beginning December 1, 2007, unless otherwise allowed by the commission, prices for a new entrant's intrastate access services shall not exceed the highest of the following:

a. The new entrant's comparable interstate switched access charge rates.

b. The aggregate intrastate switched access charge rates of the ILEC in whose service territory the new entrant is providing service. A new entrant may utilize a blended or composite rate to reflect applicable price ceilings of more than one ILEC or to reflect an alternative rate structure to the ILEC.

c. An intrastate switched access charge benchmark rate of \$.029 per minute for a transition period from December 1, 2007, through March 30, 2008. [ Under subdivision E 1 c, a new entrant may not exceed its intrastate switched access rates in effect on May 1, 2007. ] Effective April 1, 2008, [ this ] subdivision [ E 1 e ] no longer applies.

2. A new entrant may be required to submit supporting documentation to justify its [ switched access ] rates [ and ] structure [ , and appropriate functions ] to the Division of Communications.

3. Unless otherwise ordered by the commission, if an ILEC lowers its switched access charges on its own, such reductions shall not be reflected in applicable price ceilings and a new entrant is not required to adjust its rates in such circumstances.

4. If an ILEC lowers switched access charges pursuant to a commission order, a new entrant shall have 90 days to adjust [ and implement ] its switched access rates to correspond to the new applicable price ceiling. [ Applicable access tariffs shall be filed with the Division of Communications at least 10 days prior to the effective date. ] The commission may approve an alternative implementation schedule for a new entrant or new entrants to adjust their switched access rates.

F. The price ceiling requirements shall not apply to a new entrant's services: (i) that are comparable to services classified as competitive Tariff changes for the incumbent; or

(ii) that have been provided regulatory treatment different than that specified by this chapter. Local exchange telecommunications services of new entrants shall be implemented as follows:

1. Price decreases shall be noticed to the Division of Communications no later than three days after the effective date.

2. Price increases shall become effective after at least 30 days' written notice is provided to affected customers and at least seven business days' written notice to the Division of Communications.

a. Written notice to affected customers shall be provided through bill inserts, bill messages, or direct mail.

b. Notice for price increases for a casual user or nonsubscriber service shall be provided through publication once as display advertising in newspapers having general circulation in the areas served by the new entrant. Display advertising shall only be used for notice for casual user or nonsubscriber services unless otherwise authorized by the commission.

c. A copy of the customer notice, the date or dates of such notification, and proof of publication, if applicable, shall be included with the notice to the Division of Communications.

d. An allowable rate increase, if there are no current customers, shall not require customer notice. The notice to the Division of Communications shall include an attestation by the new entrant that it has no customers.

3. New service offerings shall become effective after at least three business days' written notice to the Division of Communications.

4. Administrative or nonprice changes shall become effective after at least three business days' written notice to the Division of Communications.

5. A new entrant, subject to prior approval of the Division of Communications, may seek to file tariff changes in less than the prescribed timeframe stated above.

G. Tariff filings and revisions shall be submitted to A new entrant may petition the Director commission for approval of the Division of Communications and shall include an original and two copies pricing structures or rates that do not conform with price ceiling requirements in subsections D and E. The new entrant shall provide appropriate documentation and rationale to support any request. The commission may permit such alternative pricing structures and rates [ unless there is a showing that if ] the public interest will [ not ] be harmed.

H. Tariffs for new services offered Unless otherwise ordered by a new entrant that are the commission, price ceiling requirements shall not comparable apply to services classified

as competitive for the incumbent or for which the commission has not provided regulatory treatment different a new entrant's services other than that those specified by this chapter shall be filed with 30 days' prior notice to the commission in subsections D and E of this section. Price decreases for these services shall become effective on a minimum of one day's notice to the commission. Price increases shall become effective after 30 days' prior notice to the Division of Communications and affected customers in the manner prescribed by subdivision D 2 of this section.

I. A new entrant may, pursuant to §56-481.2 of Tariff filings and revisions shall be submitted to the Code Director of Virginia, submit an alternative regulatory plan for the commission's consideration in the applicant's certification proceeding or at a later date if it desires regulation different from that specified in this section [ the ] Division of Communications and shall include an original and two copies.

J. A new entrant providing may, for a specified period of time, offer promotional rates, terms, or conditions for its local exchange telecommunications services shall not abandon or discontinue such services except as prescribed offerings that differ from the rates, terms, or conditions in 20VAC5-423, Rules Governing the Discontinuance of Local Exchange Telecommunications Services Provided by Competitive Local Exchange Carriers its tariffs. Promotions may be submitted by letter and become effective after at least three business days' written notice to the Director of the Division of Communications.

K. An MLEC A new entrant may petition the commission offer individual customer pricing for authority to include a subsidy in any of its local exchange telecommunications services to a customer that may differ from those in its tariffs in a competitive bid [ or procurement ] situation. The commission may approve such a subsidy if it is deemed new entrant shall retain records of any such agreements and make same available to be in the public interest the Division of Communications upon request. Any commission approved subsidy may not result in a price for the service lower than the price for the same service charged by the ILEC provider in the area.

L. A new entrant requesting authority to expand its geographic service territory not covered by its existing certificate shall file a petition with the commission may, pursuant to §56-481.2 of the Code of Virginia, submit an alternative regulatory plan for the commission's consideration in the applicant's certification proceeding or at a later date if it desires regulation different from that specified in this section.

M. A new entrant providing local exchange telecommunications services shall not abandon or discontinue such services except as prescribed in 20VAC5-423, Rules Governing the Discontinuance of Local Exchange

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## Telecommunications Services Provided by Competitive Local Exchange Carriers.

N. An MLEC may petition the commission for authority to include a subsidy in any of its local exchange services. The commission may approve such a subsidy if it is deemed to be in the public interest. Any [ commission approved ] subsidy [ approved by the commission ] may not result in a price for the service lower than the price for the same service charged by the ILEC provider in the area.

O. A new entrant requesting authority to expand its geographic service territory not covered by its existing certificate shall file a petition with the commission.

VA.R. Doc. No. R08-756; Filed September 28, 2007, 2:42 p.m.

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## TITLE 24. TRANSPORTATION AND MOTOR VEHICLES

### DEPARTMENT OF MOTOR VEHICLES

#### Final Regulation

Titles of Regulations: 24VAC20-120. Commercial Driver Training School Regulations (repealing 24VAC20-120-10 through 24VAC20-120-180).

24VAC20-121. Virginia Driver Training Schools Regulations (adding 24VAC20-121-10 through 24VAC20-121-220).

Statutory Authority: §§46.2-203 and 46.2-1703 of the Code of Virginia.

Effective Date: January 1, 2008.

Agency Contact: Marc Copeland, Senior Policy Analyst, Department of Motor Vehicles, Post Office Box 27412, Richmond, VA 23269-0001, telephone 804-367-1875, FAX 804-367-6631, TTY 800-272-9268, or email marc.copeland@dmv.virginia.gov.

#### Summary:

*The Department of Motor Vehicles is repealing its existing driver training school regulations and promulgating new regulations to address the needs of novice drivers of passenger vehicles and commercial motor vehicles, and the driving public in general.*

*The regulations set forth licensing requirements for general driving instructors, and Class A (commercial motor vehicle training) and Class B (passenger vehicle training) driver training schools; establish business office and classroom requirements and business practices; specify recordkeeping requirements, including availability of records, and inspection and compliance reviews; establish school licensing requirements, including school*

*license renewal and transfer provisions; set forth school contract requirements; establish a driver training school fee schedule; and provide for sanctions for violations of statutes or regulations. Notable changes to the existing regulations include requiring national criminal records checks and mandatory continuing education for driving instructors.*

*Changes made to the proposed regulations require schools to provide written agreements associated with the use of classrooms, driving simulators and other facilities they utilize; allow DMV to prescribe the manner in which completion certificates may be provided to students by the schools; require schools that have filed for bankruptcy to notify DMV within 15 days of the filing, and to provide, among other things, information about the financial status of the company and how the filing might affect past, present and future students; require each school owner to be responsible for the acts of any instructor performing within the scope of his duties as an instructor; require Class A schools to provide written agreements associated with the use of driving ranges; and allow DMV, pursuant to §46.2-1702 of the Code of Virginia, to establish curriculum requirements other than the current Department of Education curriculum for Class B courses.*

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 121

#### VIRGINIA DRIVER TRAINING SCHOOLS REGULATIONS

#### Part I

#### General Provisions

#### 24VAC20-121-10. Definitions.

The terms "Class A licensee," "Class B licensee," "driver training school" or "school," and "instructor" are defined in §46.2-1700 of the Code of Virginia. In addition to those definitions, the following words and terms when used in this regulation shall have the following meanings unless the context clearly indicates otherwise:

"Class A license" means a license issued by the Department of Motor Vehicles to a driver training school that provides training in the operation of any type of commercial motor vehicle as defined in §46.2-341.4 of the Code of Virginia.

"Class B license" means a license issued by the Department of Motor Vehicles to a driver training school that provides training in the operation of any type of motor vehicle other than motorcycles and commercial motor vehicles as defined in §46.2-341.4 of the Code of Virginia.

"Commissioner" means the Commissioner of the Virginia Department of Motor Vehicles.

"Curriculum" means the courses of instruction and other relevant materials related to driver training offered by driver training schools.

"Department" means the Virginia Department of Motor Vehicles. For notification and document submission purposes, department shall specifically mean the Commercial Licensing Division at the headquarters office of the Virginia Department of Motor Vehicles in Richmond.

"General compliance review" means a formal review by the department of a driver training school's operations, facilities and records to determine compliance with statutory and regulatory requirements.

"In-vehicle instruction" means the delivery of information and experience by an instructor to a student who is in or driving a motor vehicle, and where observing the driving skills and actual driving experiences of other students is a major component.

"National criminal records check" means a criminal background check performed by the Department of State Police that includes all participating states and jurisdictions.

"Normal business hours" shall mean the normal business hours of the department, which are Monday through Friday, 8 a.m. to 5 p.m., and Saturdays, 8 a.m. to noon.

"Owner" means a person or persons, including a partnership, corporation or other business entities, that have a vested interest in and control over a school.

"Period of instruction" means 50 minutes of in-vehicle or classroom instruction.

"Revoke" or "revocation" means that school or instructor licenses revoked are not subject to renewal or restoration except through reapplication after (i) the expiration of the revocation period and (ii) any outstanding compliance requirements have been met.

"Safe mechanical condition" means the continual compliance with safety requirements of vehicles that are used to train school students, and have passed either a Virginia state safety inspection or a federal Motor Carrier Safety Administration inspection, and for vehicles used to train the disabled, be certified by the National Mobility Equipment Vendors Association, whichever is applicable based on the type of training provided by the school.

"Suspend" or "suspension" means that the school or instructor licenses suspended have been temporarily withdrawn, but may be reinstated after (i) the expiration of the suspension period and (ii) the licensee has met all outstanding compliance requirements.

## 24VAC20-121-20. Business office and classroom requirements.

A. No school license shall be issued unless the school has an established place of business in the Commonwealth that is owned, rented or leased by the school. Such established place of business shall:

1. Be the premises of the licensed location of the school;
2. Satisfy all local business licensing and zoning regulations;
3. Have office space devoted exclusively to the driver training school;
4. Contain all records that are required to be maintained under the provisions of these regulations unless the school has been permitted to maintain them elsewhere pursuant to 24VAC20-121-40;
5. Be equipped with a desk, chairs, filing space, working utilities and a working telephone listed in the name of the school;
6. Comply with federal, state and local health, fire and building code requirements, including the Americans with Disabilities Act (42 USC §12101 et seq.);
7. Be open to the general public a minimum of eight hours per week during normal business hours; and
8. Not share space with a school classroom.

The school shall also provide to the department the street address and physical address of any other business offices maintained by the school in addition to the licensed location office.

In addition to business office addresses, all addresses [ ~~and,~~ ] physical locations of classrooms, [ ~~driving ranges,~~ ] driving simulators or any other facilities used by the school shall be provided to the department in writing. [ If any such classroom, driving simulator or other facility is not owned by the school, then a copy of all agreements associated with the use of such property by the school shall be provided to the department. ] Schools shall not use classrooms, [ ~~driving ranges,~~ ] driving simulators or other driver training facilities prior to receiving approval for their use from the department.

A school owner's residence may [ ~~in part,~~ ] be used as the licensed location of a school if it qualifies for a federal tax deduction of expenses related to the business use of part of the residence and meets the established place of business requirements set forth in these regulations.

B. Any school that engages in classroom instruction shall provide a classroom with the following:

1. Seating arrangements and writing surfaces for each student and a minimum of 10 square feet per student attending at any given time;

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2. Blackboards or other visual aids that shall be visible from all seating positions;

3. Driver education reference books, including [ , when applicable, ] current curriculum guides [ , student work books ] and appropriate textbooks for each student;

4. Appropriate audio/video equipment and screen in good working order; and

5. Restroom facilities that are clean, accessible and in good working order.

C. Office and instruction hours shall be posted in a conspicuous location outside the licensed location and any other business office [ ~~and shall be~~ in a manner that is visible and ] easily accessible to the public [ from outside of the licensed location and business ].

D. The school license and any notice of the department that limits or restricts training shall be prominently posted at the licensed location office. A copy of the school license and notice, if applicable, also shall be prominently posted in each school classroom and any other business office maintained by the school.

In addition, schools shall display, in a conspicuous location in all their classrooms and their business offices, signs provided by the department that notify students and the public about the department's toll-free hotline.

E. Any school licensed by the department shall notify the department, in writing, 30 days prior to a change of address for the licensed location, any other business office or classroom or other instructional facility. The department will issue a revised license reflecting such changes. The school shall return the current license to the department upon receipt of a revised school license. All school-related business, classroom and instructional locations are subject to approval by the department, as required in these regulations.

F. The location of a school's licensed location, other business offices, classrooms or practice driver training areas shall be a distance of at least 1,500 feet from any property owned, leased or maintained by the department for examining motor vehicle operators. Such distance shall be measured in a straight line from the nearest point of the primary building of the department's property to the nearest point of the school licensed location, business office, classroom or practice driver training area, whichever is closest. This distance requirement may be waived by the department if the licensed location, other business office, classroom or practice driver training area has been previously allowed to be within the 1,500 foot limit as a result of an action or omission on the part of the department. All school-related business, classroom or instructional locations must be approved by the department prior to use.

## **24VAC20-121-30. Business practices.**

A. A school shall not use any name other than that shown on its school license. Schools using the same or similar name of another current or former school or similar business, or using names considered to be offensive in nature, as determined by the department, shall not be licensed by the department.

B. A school that utilizes "Department of Motor Vehicles" or "DMV" in any form of advertising including, but not limited to, telephone directories and websites shall use only the words "Licensed by the Department of Motor Vehicles (DMV) of the Commonwealth of Virginia." A school shall not refer to any other state agency or board in any documentation or advertisement. Schools with web sites shall notify the department of their web addresses when applying for or renewing their license or when the site becomes operational, whichever is sooner.

C. A school shall not use false, deceptive or misleading information in any advertisement or provide this type of information to prospective students.

D. A school, instructor, owner or any other person employed by or otherwise associated with a school shall not:

1. Assert or imply that it will guarantee that any student will pass the state driver's license examination;

2. Assert or imply that the student can secure a driver's license;

3. Assert or imply that the student will be guaranteed employment upon completion of any course of instruction;

4. Transact or solicit driver training school business on property owned, leased or maintained by the department;

5. Provide translation services for any individual who is taking the department's driver's license knowledge examination;

6. Falsify forms, certificates or other documents for use by students or other individuals in order to obtain a driver's license;

7. Possess, use, provide, sell or give the department's driver licensing test questions to students or other individuals;

8. Assist or facilitate the creation of false identification documents of any kind or false residency certification for any individual;

9. Provide instruction at a site not formally approved by the department;

10. Contract or subcontract, without written approval of the parents or legal guardians, with other driver training schools or driver training organizations to provide classroom or in-vehicle instruction for students under 18 years of age who are not married or emancipated;

11. Have, use, keep or be under the influence of alcohol, illegal drugs or [ ~~other~~ ] substances, [ or otherwise ] legal [ drugs ] or [ ~~illegal~~, substances that would affect a person's ability to drive or provide or receive instruction while such person is ] on the premises of or in vehicles used by the school [ ~~that would affect a person's ability to drive a vehicle or provide or receive instruction~~ ]; or

12. Conduct themselves in a manner not suitable or compatible with school-related activities. Such prohibited conduct includes, but is not limited to:

a. Touching in a manner that would be considered inappropriate by a reasonable person;

b. Telling jokes or making statements or comments that a reasonable person would consider (i) to be hateful or demeaning to a particular race or ethnicity, or (ii) to have sexual or otherwise vulgar content or connotation;

c. Displaying objects or materials that a reasonable person would consider unpleasant, distasteful, nasty, disgusting, hateful or otherwise unsuitable;

d. Berating or otherwise harassing students or other persons;

e. Running errands;

f. Except for emergency situations, using telecommunications or any other audio or video equipment during periods of in-vehicle or classroom instruction that are not part of the course of instruction. If an emergency situation occurs during in-vehicle instruction, such use should, whenever possible, be made once the vehicle is safely off the road and stopped;

g. Eating during periods of instruction;

h. Use of tobacco products during periods of instruction;

i. Creating a training environment considered hostile or otherwise intimidating to a reasonable person; or

j. Allowing any student to engage in such prohibited conduct outlined above.

E. Except when full tuition has not been satisfied, a school shall provide, within five business days of the successful completion of program requirements [ and in a manner prescribed by the department ], an original certificate of completion needed by the student (i) to obtain a driver's license, (ii) for insurance verification purposes, or (iii) for employment purposes. No fee shall be charged by the school for the original certificate.

F. Schools shall operate in accordance with the driver training school operations manual as provided and updated by the department.

G. No school vehicles shall park on the department's owned, leased or maintained property except for the purposes of

conducting official business with the department during normal business hours. At no time whatsoever shall a school provide training to a student on the department's owned, leased or maintained property [ ~~or over its test routes~~ ].

## **24VAC20-121-40. Records to be maintained.**

Except as otherwise provided in this section, all records shall be maintained at the licensed location of the school. The commissioner may, on written request from a school, permit records to be maintained at a location other than the licensed location for good cause shown.

Schools shall maintain accurate, complete, legible and up-to-date records, as required under §§46.2-1701.2 and 46.2-1701.3 of the Code of Virginia. Such records shall include:

1. All student records;

2. All business records;

3. All records relating to:

a. Compliance with or proof of exemption from local business licensing and zoning regulations;

b. Federal, state and local health, fire and building code requirements; and

c. Size and space requirements for places of business and classrooms; and

4. Any other records required by the department in a manner prescribed by the department.

All records shall be retained by the school for a minimum of three years after their creation. Copies of such records shall be provided to the department upon request.

## **24VAC20-121-50. Availability of records; inspections and compliance reviews.**

A. All records shall be open and available for inspection by any employee of the department during normal business hours or at a reasonable time agreeable to the department employee. Schools shall have someone, who is employed by or otherwise associated with the school and who can access all records, available to assist the department employee, as necessary. If copies of such records are not readily available, the department employee may secure and remove these records in order to review, photocopy them or use them in a hearing. The department shall return those records it removes after the review or photocopying is completed, or at the conclusion of the hearing process, including any related court action, when used for that purpose.

B. Each applicant for licensing as a driver training school shall permit the department to inspect its operations, facilities and records as they relate to its driver training program for the purpose of determining whether the applicant is qualified for licensing.

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The department shall perform its inspections during normal business hours with or without prior notice to the driver training schools. The department shall prepare a written report on the results of each inspection, and provide a copy of the report to and review it with the applicant. At the conclusion of the review of the report, the applicant shall provide signed written documentation to the representative of the department conducting the inspection that indicates the school has received and reviewed the report.

C. Each school shall permit the department, from time to time, to inspect and conduct a general compliance review of its business offices, classrooms, vehicles and any other records or properties associated with the operation of the school to determine whether the school remains in compliance with licensing requirements.

D. The department shall perform its inspections and general compliance reviews during normal business hours with or without prior notice to the driver training schools. The department shall prepare a written report on the results of each inspection and general compliance review, and provide a copy of the report to and review it with the owner or business manager of the school. At the conclusion of the review of the report, the owner or business manager of the school shall provide signed written documentation to the representative of the department conducting the inspection or general compliance review that indicates the school has received and reviewed the report.

E. Any school owner, employee or instructor who meets with department employees for the purposes of inspecting or otherwise obtaining records is subject to the conduct requirements set forth in these regulations. Any school owner, employee or instructor who violates the conduct requirements set forth in these regulations during such meetings shall be subject to the sanctions set forth in these regulations.

F. Each student's record shall be open and available for inspection by the respective current or former student 18 years of age or older and by the parents and legal guardians of current or former students under 18 years of age during normal business hours or at a reasonable time agreeable to both the school and the student or parents or legal guardians of students under 18 years of age.

Under no circumstances shall a school owner, employee or instructor meet, for the purposes of inspecting records, or for any other purpose, with current or former students under 18 years of age at the time of the meeting without a parent or legal guardian being present unless the student is married or emancipated. Any school owner, employee or instructor who meets with students, parents or legal guardians for the purposes of inspecting records is subject to the conduct requirements set forth in these regulations. Any school owner, employee or instructor who violates the conduct requirements set forth in these regulations during such meetings with

students, parents or legal guardians shall be subject to the sanctions set forth in these regulations.

## **24VAC20-121-60. School licensing requirements.**

A. Schools seeking a license shall file with the department, as required by these regulations, a completed application for a driver training school license along with any associated fees and other documentation required by the department. In addition, each school shall collect and submit to the department, as required by these regulations, the instructor applications for those instructors that they employ along with any associated fees and other documentation required by the department.

B. The following shall accompany the school licensing application and shall be in addition to any other application requirements of the department:

1. An application fee;
2. A certificate of insurance;
3. A surety bond;
4. Instructor applications;
5. A local business license or zoning document, or a letter from local authorities indicating none is required; and
6. A national criminal records check completed within 60 days of the application deadline for each individual providing instruction or otherwise employed by or managing the school.

In addition, each owner or principal of the owner of a driver training school shall submit a national criminal records check with the school license application package.

C. The application package shall be submitted to the department at the address shown on the application. All proper applications will be either approved or denied within 30 business days of receipt by the department.

D. School licenses shall be valid for a period of 12 months and shall display the validity period on the face of the license. The school license shall expire on the last day of the last valid month of the license period.

E. Schools seeking a license shall file with the department evidence of insurance, with a company authorized to do business in the Commonwealth of Virginia, on all vehicles used by schools to provide instruction, [ at least ] in the minimum amounts as required by §46.2-472 of the Code of Virginia.

The school shall provide and maintain evidence of insurance coverage on a certificate of insurance form provided by the department. The certificate shall be filed upon application and at other times of the licensure period as requested by the department. The certificate shall stipulate the make, model, year, vehicle identification number, vehicle color and license

plate number for all vehicles and shall also stipulate that the department will be notified by the insurance carrier (i) 10 calendar days before the school's insurance policy expires or (ii) on the same day that the policy is canceled or not maintained in full force.

Schools shall provide to the department written verification from their insurance company that the insurance company is aware the vehicles are used for driver training instruction and are operated by student drivers. Schools shall notify the department in writing of any change in liability insurance coverage not later than the effective date of the change.

Each school shall provide written notice to the department's driver training school section in the event that any motor vehicle is added to or deleted from the insurance policy during the coverage period. The notice shall include the make, model, year, vehicle identification number, vehicle color and the license plate number. The notice shall be received by the department prior to using any added motor vehicle for driver education instruction. Failure to maintain required liability insurance for school vehicles or failure to comply with insurance certification requirements shall result in the suspension or revocation of the school's license or the imposition of other sanctions, or both, as set forth in these regulations.

F. All licensed schools shall file with the department a surety bond in the sum set by statute for Class A and Class B schools, payable to the Commonwealth of Virginia, issued by a corporation licensed to transact surety business in the Commonwealth. The surety bond shall be filed with each application and must provide coverage for the entire licensure period.

G. The department may refuse to approve any application, including originals or renewals, in which the owner or any principal of the owner, or any of the school's employees or instructors (i) have previously been or would be subject to any sanctions prescribed by these regulations or (ii) has been convicted of a felony, including but not limited to bribery, forgery, fraud or embezzlement under the laws of the Commonwealth or any other jurisdiction, or a conviction of any offense included in Article 7 (§18.2-61 et seq.) of Chapter 4 of Title 18.2 of the Code of Virginia (Criminal Sexual Assault) or of any similar laws of any other jurisdiction, or any misdemeanor or felony involving:

1. Sexual assault as established in Article 7 (§18.2-61 et seq.) of Chapter 4 of Title 18.2 of the Code of Virginia;
2. Obscenity and related offenses as established in Article 5 (§18.2-372 et seq.) of Chapter 8 of Title 18.2 of the Code of Virginia;
3. Drugs as established in Article 1 (§18.2-247 et seq.) of Chapter 7 of Title 18.2 of the Code of Virginia;
4. Crimes of moral turpitude;

5. Contributing to the delinquency of a minor;

6. Taking indecent liberties with a minor;

7. The physical or sexual abuse or neglect of a child;

8. Similar offenses in other jurisdictions; or

9. Other offenses, as determined by the department, which would impact ownership, operation or instruction by a school.

Any school license issued may be suspended or revoked if such a conviction occurs during any licensure period.

H. To avoid any conflict of interest, the department will not approve any Class A school license for any applicant that is certified by DMV as a Third Party Tester for the commercial driver's license (CDL) skills testing.

I. Requests to change (i) the name or address of a school or (ii) a school license to add to or eliminate a licensed location, or any other business offices, classrooms or other instructional facilities during the licensure period shall be made to the department at least 30 days prior to such change. Such changes shall be subject to a processing fee, as set forth in these regulations, and the issuance of a modified license, as requested. The expiration on any modified license issued shall be the same as the current license.

#### **24VAC20-121-70. School license renewal required.**

A. Every licensed school applying for renewal shall return the following to the department at the address shown on the application on or before the 15th day of the month in which the current license expires:

1. A renewal application;

2. A certificate of insurance, as required under these regulations;

3. A photocopy of a current business license, if required by the locality, or a letter from the locality that indicates no business license is required;

4. National criminal records checks completed within 60 days of the application deadline for each individual providing instruction or otherwise employed by or managing the school, as required by these regulations; and

5. A fee for each license renewal application, as set forth in these regulations.

If the original surety bond is no longer in force, a new surety bond must also accompany the renewal application.

B. The department will make every effort to mail a renewal notice to the licensee outlining the procedures for renewal at least 90 days prior to the expiration of their license and to mail a follow-up reminder notice 45 days prior to the expiration of their license. Failure to receive these notices

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shall not relieve the licensee of the obligation to apply if a continuation of the license is desired.

## **24VAC20-121-80. Transferability of school licenses.**

A. A change in ownership shall require an application for an original license along with the documents and fees required under these regulations, which shall be submitted to the department at least 30 days in advance of the effective date of the change. The school shall not operate under the change in ownership until an original license has been issued by the department reflecting the new ownership.

B. School licenses are not transferable; they shall not be sold, loaned, bartered or given by a licensee or an agent of a licensee to another school, individual, association, partnership or corporation.

## **24VAC20-121-90. School contracts.**

A. All contracts between any school and any individual or group attending the school shall be in a standard format approved by the department. A school shall not make any changes to the format without review and approval by the department. A copy of the signed contract must be provided to each student who signs the contract for those students 18 years of age or older and those students under 18 years of age who are either married or emancipated. For students under 18 years of age who are not married or emancipated, a copy of the signed contract must be provided to the parents or legal guardians who sign the contract.

Excluding transcripts and certificates of completion, all written correspondence from schools to current or former students and their parents or legal guardians related in any way to course work or the contract between the school and the student shall include standard information about the department's toll-free telephone hotline. The department shall specify to the schools, as part of the school license application package, the content and the font requirements for this hotline information.

Schools may not include any statements in their contracts that place the financial responsibility for accidents occurring in school-owned vehicles during periods of instruction on the student or on the parents or legal guardians of students operating the vehicles.

B. The required elements for all contracts between schools and their independent contractors shall be provided by the department as part of the school license application package.

C. Addenda to any contracts between a school and its students or a school and its independent contractors shall be approved by the department.

D. Licensed driver training schools may conduct training courses at [ public or ] private schools, subject to existing statutory and regulatory requirements. Driver training schools offering such training shall provide the department with a

copy of the written contract between the driver training school and the [ public or ] private school [ ~~that includes the dates and times for the courses~~ ] along with written confirmation [ ~~that the classroom~~ as to which ] portion of the training [ , if any, ] is being conducted at the [ public or ] private school.

## **24VAC20-121-100. General instructor licensing requirements.**

A. Individuals seeking an instructor's license shall submit, as required by these regulations, a completed application along with any associated fees and other appropriate documentation to the school with which they are employed. Schools shall be responsible for submitting the instructor applications, along with any associated fees and other appropriate documentation, to the department, as required by these regulations. Applicants seeking an original or a renewal of an instructor's license shall submit with their application a national criminal records check completed within 60 days of the submission date of the application.

B. Applicants must be at least 21 years of age and must be able to document with driving records at least five years of licensed driving experience, two years of which shall be experience in the United States or a territory thereof. These driving records must exhibit the individual's name, the driver's license number, the date of issue, the issuing jurisdiction, the date of expiration and notations of any convictions, license withdrawals, suspensions, revocations, cancellations, disqualifications or restrictions. In the event an applicant uses driving records from a foreign country to substantiate licensed driving experience, such records must be translated into English by an appropriate authority, as approved by the department, at the applicant's expense.

C. Individuals seeking an instructor's license must be employed by a licensed school. No instructor shall be employed by more than one school unless all the schools are owned by the same person. Instructors employed by more than one school shall have an application and other appropriate documentation and fees submitted to the department by each school that employs them.

D. Individuals licensed as instructors or seeking an instructor's license must be able to effectively communicate in English in an easily understood and comprehensible manner to their students and the department, as determined by the department.

E. Individuals seeking an instructor's license to teach in-vehicle instruction shall hold a valid driver's license from their state of domicile at the time of licensing and throughout the entire licensure period. If such driver's licenses are from another state or jurisdiction, the applicant must provide to the department a copy of their driving record from that jurisdiction with their application and every three months thereafter if they receive an instructor's license. Such driving

record must be produced within 30 days of its submission to the department.

All applicants for a license to teach in-vehicle instruction and those persons who are currently licensed to teach in-vehicle instruction must also provide written notice to the department of any traffic accidents, convictions of traffic infractions, misdemeanors, or felonies, as well as any administrative actions relating to driving or any driver's license revocation, suspension, cancellation, disqualification or other loss of driving privileges within 15 calendar days of the conviction or administrative action, or within 15 calendar days of the imposition of the revocation, suspension, cancellation, disqualification or other loss of driving privileges.

Applicants for a license to teach in-vehicle instruction shall not be approved if their current driving privileges are expired, suspended, revoked, cancelled or disqualified. Persons required to submit to periodic medical reviews may also be denied an in-vehicle instructor's license if, as determined by the department, their conditions are considered to pose a threat to the safety, health or welfare of driver training students or the public while these persons operate a motor vehicle.

F. Individuals who obtain an instructor's license shall at the time of licensing have a driving record with no more than six demerit points. After licensing, instructors shall maintain a driving record with no more than six demerit points. If during the licensure period the driving record of such individual accumulates more than six demerit points based on violations occurring in a 12-month period, the department shall suspend the person's instructor license and shall notify the instructor and the driver training school where the instructor is employed of such suspension. Safe driving points shall not be used to reduce the accumulated demerit points. In the event that the driving record is from another state, the department will apply Virginia's equivalent demerit points to convictions noted on such record.

Whenever the driver's license of such individual is suspended or revoked, or such person is convicted in any court of reckless driving, driving under the influence or driving while intoxicated, the department shall suspend the person's instructor license and shall notify the person and the driver training school where the instructor is employed of the suspension.

G. The department may refuse to approve any application, including originals or renewals, in which the applicant has been convicted of a felony, including but not limited to bribery, forgery, fraud or embezzlement under the laws of the Commonwealth or any other jurisdiction, or a conviction of any offense included in Article 7 (§18.2-61 et seq.) of Chapter 4 of Title 18.2 of the Code of Virginia (Criminal Sexual Assault) or of any similar laws of any other

jurisdiction, or any misdemeanor or felony conviction involving:

1. Sexual assault as established in Article 7 (§18.2-61 et seq.) of Chapter 4 of Title 18.2 of the Code of Virginia;
2. Obscenity and related offenses as established in Article 5 (§18.2-372 et seq.) of Chapter 8 of Title 18.2 of the Code of Virginia;
3. Drugs as established in Article 1 (§18.2-247 et seq.) of Chapter 7 of Title 18.2 of the Code of Virginia;
4. Crimes of moral turpitude;
5. Contributing to the delinquency of a minor;
6. Taking indecent liberties with a minor;
7. The physical or sexual abuse or neglect of a child;
8. Similar offenses in other jurisdictions; or
9. Other offenses, as determined by the department, which would indicate that the applicant may present a danger to the safety of students or the public.

Instructor licenses may be suspended or revoked if a conviction for any of the offenses outlined in this subsection occurs during any licensure period.

H. Instructor applicants shall not be issued a license if they have a conviction of driving under the influence, reckless driving, refusal to submit to a breath or blood test under §18.2-268.2 of the Code of Virginia, or vehicular or involuntary manslaughter, or of any similar offense from any other jurisdiction within a period of five years prior to the date of the application. If the applicant's driving privileges were revoked for any such conviction, then the five-year period shall be measured from the license restoration date rather than the conviction date. Instructor licenses issued shall be revoked if a conviction, as outlined in this subsection, occurs during the licensure period.

I. Except as otherwise provided in these regulations, an individual seeking an instructor's license shall have at least a high school diploma or equivalent. After initial licensure or renewal, instructors shall attend annual training sessions provided by the department. These one-day training sessions shall be held in each of the department's regional districts every year, as deemed necessary by the department.

These sessions shall include, as appropriate and necessary, updates on department forms, audit processes and other procedural changes, and new legislation that has implications for driver training. They also shall include discussions about any issues or concerns raised by either the department or the licensees.

When available, these sessions shall also offer information about the latest in driver training instructional techniques as

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well as other new developments in driver training in order to enhance overall professional training skills and abilities.

The schedule for such training sessions shall be developed by the department and provided to each instructor through the school that employs them at least 30 days in advance of the scheduled sessions. The schedule also shall include provisions for a make-up training session for those licensees who could not attend the training session in their region. Attendance shall be mandatory and shall be at no cost to licensed instructors, other than those costs associated with ~~[(+)]~~ travel to and from the training session, including lodging and meals ~~[, and (ii) any materials provided by the department during the training session, as deemed necessary by the department ]~~.

Each licensed instructor who, without valid excuse, fails to attend and complete a scheduled training session or a scheduled make-up training session shall be subject to a minimum 30-day license suspension, which shall not be lifted until the instructor has completed a special make-up training session. Special make-up training sessions shall be provided only when necessary, and instructors attending such sessions will be required to pay the department's cost for providing the special make-up training session.

J. All instructors shall complete training on the current curriculum and other course work, as required and approved by the department, prior to instructing students. Evidence of such training shall be maintained by the school employing the instructor and provided to the department upon request.

K. The fee for an instructor license shall be set pursuant to these regulations. The instructor's license period shall expire when the respective school license expires. At the discretion of the department, instructor licensing fees may be prorated on a monthly basis.

L. The instructor license application package shall be submitted by the school employing the instructor to the department at the address shown on the application. All proper applications will be either approved or denied by the department within 30 business days of receipt from the school employing the instructor.

M. All licensed instructors shall have their instructor's license in their possession at all times while providing instruction.

N. Each instructor licensed by the department shall notify the department in writing within 30 days of establishing a new residential address.

O. In the event that a school licensed by the department changes its name or address, the school shall, no later than 30 days prior to such change (i) notify the department of the school's name or address change, (ii) request revised instructor's licenses for the instructors it employs reflecting the change and (iii) submit to the department the processing

fees set forth in these regulations for revising and reissuing an instructor's license for each of its instructors.

After receiving the processing fees, the department will revise and reissue the instructor's licenses, as requested, and will cancel the previously issued licenses. Once it receives the revised licenses from the department, the school shall return the cancelled instructor's licenses to the department.

## **24VAC20-121-110. Instructor license renewal.**

A. Each school employing a licensed instructor applying for renewal shall return to the department for each of its instructors a renewal application, a current national criminal records check completed within 60 days of the application and the instructor license fee to the department at the address shown on the application, on or before the 15th day of the month in which the current license expires. Each instructor's license shall expire when the respective school license expires. Thirty days prior to the end of the 12 months of the licensure period, each instructor's license renewal applicant shall provide to the school employing them, for submission to the department, a national criminal records check completed within 60 days of the application deadline.

B. No instructor shall be permitted to continue instructing students upon the expiration of the instructor's license. The department shall not renew the instructor's license if the school license of the school employing an instructor is not renewed.

C. The department will make every effort to mail a renewal notice outlining the procedures for renewal at least 45 days prior to the expiration of an instructor's license to the licensee at the school's licensed location. Failure to receive this notice shall not relieve the licensee of the obligation to apply for renewal of the license through the school if continuation is desired.

## **24VAC20-121-120. Change in instructor employment.**

Instructor licenses shall not be transferred from one licensed school to another licensed school. If an instructor changes schools, a new license application and the appropriate fee, as set forth in these regulations, shall be submitted to the department.

## **24VAC20-121-130. Notice required to the department.**

A. Each school shall notify the department in writing no later than 15 calendar days after the termination of employment of any licensed instructor. The school shall make every reasonable attempt to return to the department the instructor's license.

B. In the event of cessation of business, the school shall submit to the department, within 15 calendar days of such date, a written statement indicating the business is closing, and forward to the department within 30 calendar days after cessation of business the school license, all instructors'

licenses, all student records and any materials furnished to the school by the department. The department will retain such records for a period of three years from the date they are received to ensure such records are available to students and other persons or entities who may want or need access to them.

C. All schools shall notify the department of any proposed structural or other modifications to an existing school, classroom or driving range 30 days prior to initiating such modifications.

[ D. In the event a school files for bankruptcy, the school shall submit to the department, within 15 calendar days of such filing and in a manner prescribed by the department, a written statement indicating among other things (i) the financial status of the business, and (ii) the anticipated impact of the bankruptcy on the Commonwealth and the school's former, current and future students, if any. ]

**24VAC20-121-140. Fees.**

All fees related to school and instructor licensing under the driver training program shall be, as determined by the department, set at levels that will provide reasonable fiscal support for the operations and activities of the Commercial Licensing Division of the department. Such licensing fees shall be based, in part, on the number of business office, classroom and instructional locations that are part of the license or license application at a given time.

A schedule of such fees, as follows, shall be provided to (i) all school license applicants at time of initial application and (ii) all licensed schools at least 30 days prior to their license renewal date.

<u>School license for one year, original and renewal</u>	<u>\$100</u>
<u>Instructor license for one year, original and renewal</u>	<u>\$50</u>
<u>[ Upgrade school license during licensure period to teach students under age 19</u>	<u>\$25</u>
<u>Transfer instructor license from one school to another</u>	<u>\$25 ]</u>
<u>Penalty for failure to renew school license prior to expiration date</u>	<u>\$100</u>
<u>Penalty for failure to renew instructor license prior to expiration date</u>	<u>\$50</u>
<u>Processing fee for change of address</u>	<u>\$3/change</u>

All such fees shall be nonrefundable. All check payments for fees shall be made on an active account containing sufficient funds for the amount of the payment.

**24VAC20-121-150. General equipment requirements.**

A. Each school shall provide all necessary equipment and materials required for classroom and in-vehicle instruction, including motor vehicles that are in safe mechanical condition and that are properly registered and insured. [ Except as otherwise provided in 22VAC20-121-220, no motor vehicle may be used for driver training purposes unless it is owned or leased in the name of the licensed school or the school owner as indicated on the application for the school license. ]

B. Each vehicle shall also carry minimum safety equipment as determined by the department, [ including, while they are used for training students. Such equipment shall be readily available and maintained in a safe, workable and organized manner, and shall include, ] but not [ be ] limited to reflective triangles [ and, ] flares, first aid kit, flashlight, [ secured ] fire extinguisher, jumper cables or a battery charger, towel, blanket, [ and a ] safety vest [ , while used for training students ].

**24VAC20-121-160. Sanctions for violations of statutes and regulations.**

A. The department may cancel, suspend, revoke or deny renewal for any license issued pursuant to these regulations, refuse to license a school or instructor or may limit the type of driver training instruction provided and impose a civil penalty up to \$1,000, as outlined in Chapter 17 (§46.2-1700 et seq.) of Title 46.2 of the Code of Virginia, for any licensee who violates any provisions of such statutes or these regulations.

The department may take action to cancel, suspend, revoke or deny renewal for any license without first offering the licensee the opportunity for a hearing if the Commissioner has made a determination pursuant to §46.2-1705 E or G of the Code of Virginia that the violation poses a danger to the safety of students or to public safety or indicates that an instructor is no longer qualified to act as an instructor. The department may also limit the privileges of a school or an instructor pursuant to §46.2-1705 F of the Code of Virginia.

B. For the purposes of this section, if a school licensee is an association, partnership, corporation or other business entity, it shall be sufficient cause for the suspension, cancellation, revocation or refusal to renew a school license in the event that any officer, director, [ instructor, employee, ] or any trustee [ or member of, partner or majority or controlling shareholder of ] a partnership or corporation [ , or member of an association or controlling person in any other business entity ] has committed any act or omitted any duty that would be cause for suspending, canceling, revoking, or refusing to renew a license issued to him as an individual under the laws and regulations pertaining to driver training schools.

In addition, each school owner shall be responsible for the acts of any instructor while [ acting as the owner's agent

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~~when (i) the owner approved of those acts, or had knowledge of those acts or other similar acts, and (ii) after such knowledge retained the benefit, proceeds, profits or advantages accruing from those acts or otherwise ratified those acts performing within the scope of his duties as an instructor ];~~

C. Upon revocation or refusal to renew a school license, all school and instructor licenses, forms, documents and all records relating to the school operation, including all student records, and any materials furnished to the school by the department shall be forwarded to the department by the school within 30 calendar days of the action.

## Part II

### Specific Requirements Related to Class A Licensure

#### **24VAC20-121-170. Curriculum requirements for Class A licensed schools.**

Course curriculum requirements will be established and made available by the department to Class A licensed schools, Class A license applicants and the public. A course curriculum meeting the established requirements must be submitted to the department at the time of Class A license application or renewal application, and must be approved by the department prior to the beginning of course instruction.

The department shall provide and update the list of course curriculum requirements from time to time, as deemed appropriate and necessary by the department, in consultation with all affected schools that are licensed by the department at the time of the update and other interested parties as identified by the department.

The department shall notify the affected schools when and if new relevant topics are added to the course curriculum. Schools shall have 45 calendar days after such notice is issued to update their course curriculum and to certify to the department in writing that the school has added the new topics to the course curriculum.

#### **24VAC20-121-180. Class A instructor license requirements.**

A. Applicants for a Class A instructor's license shall possess a valid Virginia nonrestricted interstate commercial driver's license, with the appropriate vehicle classes and endorsements for the type of instruction they intend to provide, and that has been held by the applicant for at least three years.

Applicants for a Class A instructor's license who do not have a high school diploma may nevertheless be licensed if they provide written evidence that they (i) have at least one year of previous Class A instructing experience or (ii) have successfully completed a Class A driver training course and a minimum of 160 hours of Class A instructor training provided by the hiring school.

Instructor applicants shall provide with their applications certifications that they meet the physical requirements, and any alcohol and drug screening requirements for commercial drivers as specified in the federal motor carrier safety regulations. A copy of such certification shall be kept in the instructor's file maintained by the driver training school employing the instructor.

If applicants for a Class A instructor's license hold a valid commercial driver's license [ (CDL) ] from a state other than Virginia at the time of licensing, they shall maintain [ its validity a valid CDL ] throughout the entire licensure period and shall provide to the department a copy of their driving record from that other state [ or states ] upon application and, if licensed as a Class A instructor by the department, on a quarterly basis thereafter.

Those applicants for and holders of a Class A instructor's license shall also provide written notice to the department of any conviction of traffic infractions, misdemeanors, or felonies, any administrative actions relating to driving or any driver's license revocation, suspension, cancellation, disqualification or other loss of driving privilege within 15 calendar days of the conviction or administrative action, or within 15 calendar days of the imposition of the revocation, suspension, cancellation, disqualification or other loss of driving privilege.

B. Instructors shall complete in-service instructor training provided by the school prior to offering student instruction. The requirements of such in-service instructor training shall be established and made available to licensed Class A schools by the department and shall include, but not be limited to, the following topic areas:

1. Basic instructional skills;
2. Student teaching with a mentor;
3. Background in federal, state and local laws and ordinances;
4. Basic skills for operating commercial motor vehicles;
5. Safe operating practices;
6. Maintenance of commercial motor vehicles; and
7. Safe trip planning.

#### **24VAC20-121-190. Equipment requirements for Class A licensed schools [ ; use of driving ranges ].**

A. All vehicles used for driver education or testing purposes shall be marked by signs affixed to the sides and the rear of the vehicle, in bold letters not less than four inches in height, clearly visible from 100 feet, stating one of the following: "Student Driver," "Learner," "New Driver," "Driver Education" or "Caution-Student."

All vehicles used by a school shall display the name of the school, as shown on the school license, on the outside of the

vehicle when engaged in driver education or when the vehicle is being used for testing purposes. The name of the school shall be included on the signs affixed to the sides of the vehicle.

B. The cabs of such vehicles shall be designed to have safety belts for each individual. [ No more than four students and one instructor shall occupy the cab during periods of instruction. ]

C. No motor vehicle may be used for driver education unless it displays a valid safety inspection sticker or federal Motor Carrier Safety Administration inspection sticker. [ In addition to other equipment required by law, each vehicle used for driver education shall have dual-braking capability.

D. Any and all agreements associated with driving ranges used by the school shall be provided to the department in writing. Schools shall not use driving ranges prior to receiving approval for their use from the department. ]

### Part III

#### Specific Requirements Related to Class B Licensure

#### **24VAC20-121-200. Curriculum requirements for Class B licensed schools.**

A. [ ~~Course~~ Except as otherwise provided in this subsection, course ] curriculum shall comply with the provisions of the "Curriculum and Administrative Guide for Driver Education in Virginia" (2001) [ published by the Virginia Department of Education (or any successor publication so published) ] and these regulations. A copy of the current guide may be obtained from the Virginia Department of Education at the following Internet link: [http://www.doe.virginia.gov/VDOE/Instruction/PE/ca\\_guide.html](http://www.doe.virginia.gov/VDOE/Instruction/PE/ca_guide.html)

[ ~~Course~~ curriculum requirements other than those set forth in the "Curriculum and Administrative Guide for Driver Education in Virginia" (2001) may be established by the department. Once established, such requirements shall be made available by the department to Class B licensed schools, Class B license applicants and the public. A course curriculum meeting the established requirements must be submitted to the department at the time of Class B license application or renewal application, and must be approved by the department prior to the beginning of course instruction as provided in and in accordance with §46.2-1702 of the Code of Virginia. ]

B. The department shall provide and update the list of course curriculum requirements from time to time, as deemed appropriate and necessary by the department, in consultation with all affected schools that are licensed by the department at the time of the update and other interested parties as identified by the department.

The department shall notify the affected schools when and if new relevant topics are added to the course curriculum. Schools shall have 45 calendar days after such notice is issued to update their course curriculum and to certify to the department in writing that the school has added the new topics to the course curriculum.

C. The length of daily instruction shall comply with the provisions of the [ ~~current~~ ] "Curriculum and Administrative Guide for Driver Education in Virginia" (2001) [ ~~and~~ or as otherwise provided by ] these regulations.

D. The number of students in a driver training vehicle during in-vehicle instruction shall be no more than three and no less than two students. [ ~~The only exception to the two-student minimum is to have the student's parents or legal guardians for students under 18 years of age who are not married or emancipated~~ Students 18 years of age or older may receive one-on-one driver training with an instructor if such training is agreed to in the contract with the school. Students under 18 years of age who are not married or emancipated must have their parents or legal guardians ] sign a written release, an original to be maintained with the student's record, [ ~~allowing for~~ in order to receive ] one-on-one driver training with an instructor.

E. Except when one-on-one driver training is being provided [ ~~with the consent of the student's parents or legal guardians as outlined in subsection D of this section~~ ] , a student under 19 years of age riding alone with the instructor shall ride in the back seat of the driver training vehicle until other students are present in the vehicle.

F. Except when a student is driving the vehicle, the time during which a student is being transported in a driver training vehicle for the purposes of picking up a student or other students prior to the beginning of a period of instruction or dropping that student or other students off after the end of a period of instruction shall not count as observation time. Any student involved in one-on-one training with an instructor as permitted under subsection [ ~~E~~ D ] of this section shall meet the observation requirements with at least one other student in the vehicle during in-vehicle training.

G. Students under 19 years of age shall only receive in-vehicle instruction with other students under 19 years of age.

#### **24VAC20-121-210. Class B instructor requirements.**

Any instructor relying on a valid Virginia teaching license with a driver's education endorsement shall submit either the original license or a certified copy of the original license and an unexpired endorsement upon original application and renewal of the license. If submitted, the original license shall be returned to the instructor after review by the department.

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## 24VAC20-121-220. Equipment requirements for Class B licensed schools.

A. All vehicles used for driver education or used for testing purposes shall be marked by a rooftop sign, in bold letters not less than two and one-half inches in height, clearly visible 100 feet from the front and rear, stating one of the following: "Student Driver," "Learner," "New Driver," "Driver Education" or "Caution-Student."

All vehicles used by a school shall display the name of the school, as shown on the school license, on the outside of the vehicle when engaged in driver education or when the vehicle is being used for testing purposes. The name of the school shall be included either on the rooftop sign or affixed to both sides of the vehicle.

B. No motor vehicle may be used for driver education unless it is in safe mechanical condition as defined in these regulations. Each vehicle used for driver education in a school shall have dual controls consisting of dual brakes, dual inside rearview mirror and right-hand and left-hand outside mirrors. Any training vehicle or vehicles used for instruction shall not be more than nine model years old. This model year requirement may be waived or altered on a case-by-case basis for vehicles specially equipped to accommodate disabled individuals. The driver training vehicle shall be equipped with a minimum of four safety belts.

C. The department may exempt any school teaching disabled individuals from the requirement to provide motor vehicles, on a case-by-case basis. The school may use a vehicle provided by the disabled student for their in-vehicle instruction in the event that it is cost prohibitive for the school to maintain certain specialized equipment or if such equipment is not readily installed and removed or if it provides necessary practical experience for the student in their own vehicle. When using a student's vehicle, the school shall require that the disabled student provide written verification from the company insuring the vehicle that it is aware that the vehicle will be used for driver training instruction and the insurance is in full force during such use.

The school shall also require the disabled student to provide a copy of the current liability insurance policy for the vehicle. The school shall maintain a copy of the current liability insurance policy covering such vehicle in the student's file. The school shall also send prior to beginning instruction a written notice to the department stipulating the reasons for using the student's vehicle and the anticipated dates of instruction as well as a copy of the current liability insurance policy on the vehicle.

Any school that uses a disabled student's motor vehicle must ensure that such vehicle is in safe mechanical condition as defined in these regulations, and displays signage as specified under these regulations.

[ ~~D. Except as otherwise provided in this section, no motor vehicle may be used for driver training purposes unless it is owned or leased in the name of the licensed school or the school owner as indicated on the application for the school license.~~

D. ] All motor vehicles used by a licensed school for in-vehicle instruction shall be inspected and approved by the department based on the criteria outlined in these regulations before being used for student instruction. All motor vehicles used by a licensed school for the purpose of taking the driving examination shall have a valid registration in the vehicle and be in safe mechanical condition, as defined in these regulations.

### FORMS

[ ~~Virginia Commercial Driver Education Certificate, CDT-B (rev. 7/04).~~

Application for Driver Training School License, DTS-001 (rev. 4/05).

Virginia Driver Training Commercial Certificate, DTS-A (rev. 09/07).

Virginia Commercial Driver - Driver Training Certificate (DTS-A) Instructions, DTS-A I (rev. 09/07).

Virginia Driver Training Certificate, DTS-B (rev. 09/07).

Virginia Driver Training Certificate (DTS-B) Instructions, DTS-B I (rev. 09/07).

Application for Driver Training School License, DTS-001 (rev. 05/06). ]

Application for Driver Training Instructor License, DTS-002 (rev. 04/05).

[ ~~Commercial~~ ] Driver Training School License, [ ~~CDT-003 DTS-003~~ ] (rev. [ ~~5/03~~ 01/07 ]).

[ Virginia Driver Training School ] Vehicle Insurance Certification, DTS-005 (rev. 03/05).

Virginia Driver Training School Licensing [ ~~Audit~~ Review ], DTS-9 (rev. [ ~~4/05~~ 05/06 ]).

Virginia Driver Training School [ ~~Licensing~~ Review Audit ], DTS-10 (rev. [ ~~5/06~~ 05/05 ]).

Driver Training School [ Class B ] Student Records [ ~~Review (class B)~~ Audit, ] DTS-11 (rev. [ ~~5/06~~ 01/05 ]).

Virginia Driver Training School Close-out Audit Report, DTS-12 (rev. 01/05).

Virginia Driver Training School Vehicle Inspection Checklist [ (Class A and Class B) ], DTS-13 (rev. [ ~~4/05~~ 07/07 ]).

Driver Training School Student In-Car [ ~~Instruction~~ Instruction/Observation ] Record, DTS-14 (rev. [ ~~1/05~~ 06/07 ]).

Final Road Skills Test Score Sheet, [ ~~DTS-15~~ CSMA-09 ] (rev. [ ~~1/05~~ 04/07 ]).

[ Virginia Driver Training School Immediate Action Request Fax Form, DTS-16 (rev. 04/05). ]

[ Instructions for Completing the ] Classroom Instruction Attendance Roster, DTS-17 (rev. 01/05).

Virginia Driver Training School Parent/Student Questionnaire, DTS-18 (rev. 01/05).

Surety Bond Affidavit and Acknowledgement of Surety, DTS-22 (rev. [ ~~5/06~~ 08/07 ]).

[ ~~40 Hour Parent/Teen Driving Guide Confirmation of Receipt, DTS-40 (rev. 7/06).~~ ]

Virginia Driver Training School Review Report, DTS-51 (rev. 05/06).

Driver Training School [ ~~Instructor Monthly~~ ] Training [ Completion ] Report, DTS-100 (rev. [ ~~5/06~~ 06/07 ]).

Home-Schooled In-Car Driver Education Parental Authorization Application, HS-1 (rev. 05/04).

Virginia [ Driver Training Certificate ] Home-Schooled [ ~~In-Car Driver Education Certificate~~ ], HS-2 (rev. [ ~~7/04~~ 07/07 ]).

Home-Schooled In-Car Driver Education Information Sheet, HS-3 (rev. [ ~~7/04~~ 09/07 ]).

[ ~~Class A Driver Training Schools Contract Checklist (rev. 2/05).~~ ]

[ ~~Class B Driver Training Schools Contract Checklist (rev. 2/05).~~ ]

Driver Training School Contract Requirements (rev. 09/07).

Class A Driver Training School Curriculum Requirements, DTS-30 (rev. 09/07).

Class A Driver Training School Program Summary (rev. 09/07).

Class B Driver Training School Program Summary (rev. 9/07). ]

Driver Training School Application Checklist (rev. [ ~~7/06~~ 9/07 ]).

[ Driver Training School Manual (rev. 3/05). ]

DOCUMENTS INCORPORATED BY REFERENCE

Curriculum and Administrative Guide for Driver Education in Virginia, 2001, Virginia Department of Education in cooperation with the Virginia Department of Motor Vehicles.

[http://www.doe.virginia.gov/VDOE/Instruction/PE/ca\\_guide.html](http://www.doe.virginia.gov/VDOE/Instruction/PE/ca_guide.html).

VA.R. Doc. No. R05-19; Filed October 4, 2007, 10:08 a.m.

COMMONWEALTH TRANSPORTATION BOARD

Final Regulation

**REGISTRAR'S NOTICE:** The Commonwealth Transportation 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 Commonwealth Transportation Board will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

**Title of Regulation:** **24VAC30-200. Vegetation Control Regulations on State Rights-of-Way (amending 24VAC30-200-10, 24VAC30-200-20, 24VAC30-200-30, 24VAC30-200-40; adding 24VAC30-200-35).**

**Statutory Authority:** §§33.1-12 and 33.1-351 of the Code of Virginia.

**Effective Date:** November 28, 2007.

**Agency Contact:** James R. Barrett, Regulatory and Compliance Manager, Department of Transportation, Asset Management Division, 1401 E. Broad St., Richmond, VA 23219, telephone 804-662-9389, FAX 804-662-9426, or email james.barrett@vdot.virginia.gov.

**Summary:**

*The changes essentially grant a role to localities in the permitting process where the application affected right-of-way not under the control of the Commonwealth Transportation Commissioner, and provide for an appeals process to the Commonwealth Transportation Commissioner where a locality rejected an application. New provisions also include a fee of \$400 to be filed with each appeal. Furthermore, revisions were needed to revise the current effective date of the Road and Bridge Specifications from 1997 to 2002, to move existing text elsewhere in the regulation for clarity, or to correct a typographical error.*

**24VAC30-200-10. Definitions.**

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

"Agent" means the person, firm, or corporation representing the permittee.

"Board" means the Commonwealth Transportation Board as defined in §33.1-1 of the Code of Virginia.

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~~"Boundary of any locality" means the limits of the jurisdiction of any local board of supervisors, town council, or city council.~~

"Certified arborist" means an individual who has taken and passed the certification examination sponsored by the International Society of Arboriculture and who maintains a valid certification status.

"Cutting" means to completely remove at ground level.

"Daylighting" means to prune or remove vegetation to improve the motorists' view of an outdoor advertising structure or business.

"Department" means the Virginia Department of Transportation (VDOT) and its employees.

~~"Desirable vegetation" means vegetation to be preserved at VDOT's discretion.~~

~~"Environmental manager field" means the chief environmental manager in each transportation construction district.~~

"Federal-aid primary highway" means any highway as defined in §33.1-351 of the Code of Virginia.

~~"Inspector" means any employee designated by the environmental manager field Commonwealth Transportation Commissioner or local government official, to review and approve or deny the permit application and landscape plan, inspect the work performed under authority of this chapter, and make a final approval concerning the work performed.~~

"Interstate system" means any highway as defined in §33.1-48 of the Code of Virginia.

"Land Use Permit Manual" means the manual (24VAC30-150-40 et seq.) maintained by the board for the purpose of authorizing activities within the limits of state rights-of-way.

"Limited access highway" means any highway as defined in §33.1-57 of the Code of Virginia.

"Local beautification project" means any project in a locality that includes installation of plant materials, using public or other funds, in any public right-of-way within a city or town, or on a highway or street in a county with the county manager form of government.

"Local government official" means an employee of a local government delegated authority by the city or town council or county board of supervisors where the public right-of-way is within the jurisdictional limits of a city or town on a highway or street not within the jurisdiction of the Commonwealth Transportation Commissioner under §33.1-353 of the Code of Virginia, or on a highway or street in a county with the county manager form of government.

"Permittee" means the person, firm, or corporation owning the outdoor advertising sign, advertisement, or advertising

structure or the business for whom the vegetation control work is being performed.

"Pruning" means to remove branches from healthy vegetation in a manner that is acceptable using the natural method under the standards and guidelines listed in 24VAC30-200-40 published by the American National Standards Institute, the American Association of Nurserymen, and the International Society of Arboriculture.

~~"Resident engineer" means the chief executive officer of any transportation residency within the Commonwealth of Virginia.~~

"Specifications" means the current Virginia Department of Transportation's Road and Bridge Specifications (effective January 1997 2002).

"Unightly" means vegetation to be selectively removed at VDOT's or the local government official's discretion.

## **24VAC30-200-20. General provisions.**

A. Permits will be issued by the department to control vegetation in front of a sign/structure that is not exempt from the provisions of §33.1-355 of the Code of Virginia or business that is visible from any highway as defined in §33.1-351 of the Code of Virginia and regulated by the territorial limitations as defined in §33.1-353 of the Code of Virginia provided the vegetation control work meets the criteria set forth in §33.1-371.1 and this chapter. An application may be filed with the Commonwealth Transportation Commissioner by an agent, including but not limited to companies ~~which~~ that trim trees. In all other areas the local government official shall issue the permits.

B. All cutting to make an outdoor advertising structure more visible from the roadway shall be limited to vegetation with trunk base diameters of less than six inches. All cutting to make a business more visible from the roadway shall be limited to vegetation with trunk base diameters of less than two inches. All stumps shall be treated with a cut-stump pesticide applied by a licensed pesticide applicator with a license issued by the Virginia Department of Agriculture and Consumer Services in Category 6. All pesticides shall be approved by the department or local government official prior to use. Selective thinning in accordance with specifications or removal of unsightly vegetation will be allowed on an individual basis to enhance the health and growth of the best trees or to eliminate roadway hazards if recommended by the certified arborist supervising the work and agreed to by the department or local government official. Trees that are diseased, damaged by insects, unsightly, or that pose a safety hazard may be removed when recommended by the certified arborist supervising the work and approved by the department or local government official. When tree removal is recommended by the certified arborist and approved by this permit, the permittee shall provide a list of suitable trees and shrubs and a landscape plan to replace vegetation removed to

the ~~environmental manager field inspector or local government official~~ for review and approval prior to issuance of the permit. The certified arborist and the department or local government official shall agree on size and species of replacement vegetation. The permittee shall plant, at his expense, all replacement vegetation at the locations shown on the landscape plan in accordance with the specifications. The establishment period for replacement vegetation shall be in accordance with §605.05 of the specifications. No pruning of vegetation to make an outdoor advertising sign more visible from the roadway will be permitted if the cut at the point of pruning will exceed four inches in diameter. No pruning of vegetation to make a business more visible from the roadway will be permitted if the cut at the point of pruning will exceed two inches in diameter. No leader branches shall be cut off in such a manner as to retard the normal upright growth of the tree unless recommended by the certified arborist and approved by the department or local government official. All trees and brush removed shall be cut at ground level. Dogwood or other small flowering trees on the site shall not be removed. The use of climbing irons or spurs is positively forbidden in any tree.

C. When daylighting signs, every effort shall be made to form a picture frame around the sign with remaining vegetation so as to accent the beauty of the surrounding roadside. A picture frame effect shall be achieved by leaving vegetation in place that will cover the sign structure supports below the face as seen from the main-traveled way.

D. A permit must be obtained from the department or local government official prior to any vegetation control work on the state's rights-of-way. All work shall be performed by the permittee at his expense, including permit and inspection fees.

E. A violation of this chapter shall, in addition to penalties provided in §33.1-377 of the Code of Virginia, result in a permittee or its agent or both losing its vegetation control permit privilege for five years. Additionally, the bond amount used to secure the permit will be used for any reparations to the site. Inadvertent violations of this permit will require replacement on a four-to-one basis with other suitable small trees approved by the department or local government official to enhance the roadside beauty. The department or local government official shall have full authority to determine specie and size of all replacement vegetation if inadvertent cutting occurs.

### **24VAC30-200-30. Special provisions.**

A. The permittee shall attach two each 8" x 10" color glossy photographs (a closeup and a distant view) with the permit application showing the vegetation to be controlled, the highway, and the sign or business.

The permit for selective pruning or tree cutting, or both, will be inspected by the department or local government official and approval or denial given.

A permit may be denied any applicant, and all permits issued by the ~~Commonwealth Transportation Board board or local government official~~ may be revoked whenever, in the opinion of the ~~Commonwealth Transportation Commissioner or his authorized representative inspector~~, the safety, use, or maintenance of the highway so requires or the integrity of the permit system so dictates.

If, during or before work begins, it is deemed necessary by the department or local government official to assign inspectors to the work, the permittee shall pay the department or local government issuing the permit an additional inspection fee in an amount that will cover the salary, expense and mileage allowance, equipment rental, etc., of the ~~inspector(s) inspector or inspectors~~ assigned by the department or local government for handling work covered by this chapter. Said inspection fee to be paid promptly each month on bills rendered by the department or local government.

The absence of a state or local government inspector does not in any way relieve the permittee of his responsibility to perform the work in accordance with provisions of §33.1-371.1 of the Code of Virginia, this chapter, or permit.

B. The ~~environmental manager field inspector or local government official~~ shall be notified at least ~~three~~ seven days in advance of the date any work is to be performed and when completed, in order than an inspection may be made.

C. No trees, shrubs, vines, or plant material, except as covered by this chapter, shall be cut or disturbed. Stubs and dead wood in trees covered by this chapter must be removed, whether occasioned by present requirements or not.

Pruning of trees shall only be performed by qualified tree workers who, through related training or experience or both, are familiar with the techniques and hazards of arboricultural work including trimming, maintaining, repairing or removing trees, and the equipment used in such operations. The supervisor, a certified arborist, and tree workers shall be approved by the ~~environmental manager field inspector or local government official~~, prior to issuance of a permit to perform work under this chapter. The certified arborist supervising the work shall remain on-site whenever work is underway.

All brush, wood, etc., shall be chipped and beneficially used or removed immediately and disposed of in accordance with the Solid Waste Management Regulations (9VAC20-80-10 et seq.) of the Virginia Waste Management Board.

~~The use of climbing irons or spurs is positively forbidden in any tree.~~

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# Regulations

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D. All access and work shall be accomplished from the abutting property side of rights-of-way on interstate and other limited access highways, except where a local beautification project has allowed landscape plant material to be planted within a median area. Plant material in median areas may be relocated to other areas within the local beautification project limits in accordance with an approved landscape plan. All work performed on VDOT rights-of-way shall comply with the Virginia Work Area Protection Manual (part of 24VAC30-310-10 et seq.). Any damage caused to property owned by the Commonwealth shall be repaired or replaced in kind when work is complete.

All work done under this chapter on the right-of-way shall in all respects be subject to department or local government official directions and shall be completed to the satisfaction of the ~~environmental manager field~~ inspector or local government official, or his representative.

E. The department or local government official reserves the right to stop the work at any time the terms of this chapter are not satisfactorily complied with, and the department or local government official may, at its discretion, complete any of the work covered in the permit at the expense of the permittee. If it is in the best interest of traffic safety, the department or local government official may complete or have completed at the expense of the permittee any of the work that must be done to properly protect the traveling public.

F. The permittee shall immediately have corrected any condition ~~which that~~ may arise as a result of this work that the department or local government official deems hazardous to the traveling public or state maintenance forces even though such conditions may not be specifically covered in this chapter or in the Land Use Permit Manual (24VAC30-150-10 et seq.).

G. Permittees and their agents to whom permits are issued shall at all times indemnify and save harmless the Commonwealth Transportation Board, local city or town councils, local boards of supervisors, and the Commonwealth of Virginia and its employees, agents, and officers from responsibility, damage, or liability arising from the exercise of the privilege granted in such permit except if political subdivisions are the applicants. Then special arrangements will be made whereby the agent of the political subdivision performing the work will indemnify and save harmless the board and others. All work shall be performed by the permittee at his expense. All permit and inspection fees shall be paid to the department or local government official by the permittee.

~~All trees and brush removed shall be cut at ground level.~~

~~Dogwood or other small flowering trees on the site shall not be removed.~~

H. The permittee agrees that if the work authorized by this chapter including any work necessary to restore shoulders,

ditches, and drainage structures to their original condition, is not completed by the permittee to the satisfaction of the department or local government official, the department or local government official will do whatever is required to restore the area within the right-of-way to department standards, and the permittee will pay to the Commonwealth or local government official the actual cost of completing the work. When the permittee is a political subdivision, this requirement will be satisfied by a sum certain ~~which that~~ will appear in the permit.

I. Road and street connections and private and commercial entrances are to be kept in a satisfactory condition. Entrances shall not be blocked. Ample provisions must be made for safe ingress and egress to adjacent property at all times. Where entrances are disturbed, they shall be restored to the satisfaction of the department or local government official.

J. Road drainage shall not be blocked. The pavement, shoulders, ditches, roadside and drainage facilities, shall be kept in an operable condition satisfactory to the department or local government official. Necessary precautions shall be taken by the permittee to ensure against siltation of adjacent properties, streams, etc., in accordance with the Virginia Erosion and Sediment Control Law (§10.1-560 et seq. of the Code of Virginia) and Virginia Erosion and Sediment Regulations (4VAC50-30-10 et seq.).

K. Any conflicts with existing utility facilities shall be resolved between the permittee and the utility owners involved. The permittee shall notify and receive clearance from the utility ~~owner(s)~~ owner or owners and comply with the Overhead High Voltage Line Safety Act (§59.1-406 et seq. of the Code of Virginia) before proceeding with work in the vicinity of utilities.

L. Where landscape is disturbed on state rights-of-way or local street and roads not under the jurisdiction of the Commonwealth Transportation Commissioner in accordance with §33.1-353 of the Code of Virginia, it shall be replaced with a minimum of two inches of topsoil and reseeded according to department specifications.

## **24VAC30-200-35. Appeal to the Commonwealth Transportation Commissioner.**

### A. Appeals by the local government official.

1. The local government official appeal of a landscape plan shall be in writing within 60 days of the permittee submitting a permit application and accompanied by a \$400 fee.

2. The appeal shall specify reasons why the local government official is dissatisfied with the landscape plan and why it does not meet the intent of §33.1-371.1 of the Code of Virginia. It shall include any motorist or worker safety concerns, selection of plant material, placement of plant material, method or time-of-year for planting or

relocating plant material, and any other pertinent information.

**B. Appeals by the permittee.**

1. The permittee appeal of a landscape plan shall be in writing within 10 days after final action of the local government official and shall be accompanied by a \$400 fee.

2. The appeal shall specify reasons why the permittee is dissatisfied with the action or stipulations placed on the permittee by the local government official including all pertinent information to help the Commonwealth Transportation Commissioner make a final determination.

**C. Commonwealth Transportation Commissioner's determination of appeal.**

The Commonwealth Transportation Commissioner shall consult department personnel with expertise in horticulture and landscape architecture in making a final determination on the merits of the landscape plan presented by the permittee, weigh objections by both the local government official and the permittee, and shall provide a final determination within 30 days of receipt of the appeal request.

**24VAC30-200-40. Listing of documents incorporated by reference.**

Information pertaining to the availability and cost of any of these publications should be directed to the division indicated by writing to the Virginia Department of Transportation, 1401 East Broad Street, Richmond, Virginia 23219, or to the agency address indicated.

1. ~~24VAC30-150-10 et seq.~~, Land Use Permit Manual (1983), ~~Maintenance~~ Asset Management Division, VDOT
2. VDOT Road and Bridge Specifications (effective January ~~1997~~ 2002), ~~Construction~~ Scheduling and Contract Division, VDOT
3. 24VAC30-310-10, Virginia Supplement to the Manual on Uniform Traffic Control Devices (Virginia Work Area Protection Manual), Traffic Engineering Division, VDOT
4. ~~4VAC50-30-10 et seq.~~, Virginia Erosion and Sediment Control Regulations, Division of Soil and Water Conservation, Department of Conservation and Recreation, 203 Governor St., Richmond, Va. 23219
5. ~~9VAC20-80-10 et seq.~~, Solid Waste Management Regulations, Waste Division, Department of Environmental Quality, 629 E. Main St., Richmond, Va. 23240
6. American National Standards Institute (ANSI) Standard for Tree Care Operations, Tree, Shrub and Other Woody Plant Maintenance-Standard Practices - ANSI A300-1995

(effective June 1, 1995), Pruning, Trimming, Repairing, Maintaining, and Removing Trees, and Cutting Brush-Safety Requirements - ANSI Z133.1-1994 (effective August 1, 1994), American National Standards Institute, 11 West 42nd Street, New York, New York 10036

7. American National Standards Institute (ANSI) American Standard for Nursery Stock - ANSI Z60.1-1996 (effective November 6, 1996), American Association of ~~Nurseriesmen~~ Nurserymen, 1250 I Street, N.W., Suite 500, Washington, DC 20005

8. Tree Pruning Guidelines (effective 1995), International Society of Arboriculture, P.O. Box GG, Savoy, Illinois 61874

**FORMS**

Vegetation Control Application, Form TTB, rev. ~~8/25/97~~ 10/15/98.

VA.R. Doc. No. R08-974; Filed October 1, 2007, 9:12 a.m.

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# GENERAL NOTICES/ERRATA

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## BOARD OF AGRICULTURE AND CONSUMER SERVICES

### Public Hearing on Regulation for Scrapie Eradication

The public hearing on 2VAC5-206, Regulation for Scrapie Eradication, will be held on December 6, 2007, at 11 a.m. in conjunction with the regularly scheduled board meeting. The hearing will be held to receive comments on a new proposed regulation for the eradication of scrapie in Virginia sheep and goats.

Agency Contact: Roy Seward, Department of Agriculture and Consumer Services, 102 Governor Street, 2nd Floor, Richmond, VA 23219, telephone (804) 786-3535, or email roy.seward@vdacs.virginia.gov.

## DEPARTMENT OF CONSERVATION AND RECREATION

### Proposed Consent Special Order - RJ Smith, Inc.

Purpose of notice: To seek public comment on the terms of a proposed consent special order issued to RJ Smith, Inc., regarding a construction project in Essex County, Virginia.

Public comment period: October 29, 2007, through November 27, 2007.

Summary of proposal: The proposed consent special order describes a settlement with RJ Smith Construction, Inc., to resolve alleged past violations of the Virginia Stormwater Management Act and Regulations at a construction project in Essex County, Virginia. The order requires payment of a \$39,739 civil charge.

How to comment: The Virginia Department of Conservation and Recreation accepts written comments from the public by mail, email, or facsimile. All comments must include the name, address, and telephone number of the person commenting. Comments must be received during the comment period. A copy of the proposed consent special order is available on request from the agency contact.

Contact for public documents, documents, and additional information: Elizabeth Anne Crosier, Department of Conservation and Recreation, 203 Governor Street, Suite 206, Richmond, VA 23219, telephone (804) 225-2449, FAX (804) 786-1798, or email anne.crosier@dcr.virginia.gov.

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

## DEPARTMENT OF ENVIRONMENTAL QUALITY

### Tidal Freshwater Rappahannock River TMDL Study

Announcement of a total maximum daily load (TMDL) study to restore water quality in part of the tidal freshwater Rappahannock River that is contaminated with bacteria.

Purpose of notice: The Department of Environmental Quality (DEQ) and the Department of Conservation and Recreation (DCR) announce the third technical advisory committee (TAC) meeting for the Tidal Freshwater Rappahannock River TMDL study.

Technical advisory committee meeting: Tuesday, November 13, 2007, 10 a.m. - Noon, Jepson Alumni Center, Minor Board Room, Fredericksburg Campus of the University of Mary Washington.

Meeting description: This is the third TAC meeting for this project. The purpose of this meeting is to present draft reduction scenarios and allocations to the TAC, and solicit comments and feedback on materials presented at the meeting.

Description of study: Virginia agencies are working to identify sources of bacteria contamination in a 3.8 square mile segment of the tidal freshwater Rappahannock River. The impaired river segment is located in portions of Caroline, King George, Spotsylvania, and Stafford counties, and the City of Fredericksburg. Below is a description of the impaired portion of the Rappahannock River that will be addressed in this TMDL study.

Stream Name	Locality	Impairment	Area (mi <sup>2</sup> )	Upstream Limit	Downstream Limit
Rappahannock River	Fredericksburg Caroline King George Spotsylvania Stafford	Bacteria	3.8	Fall Line at the Route 1 Bridge in Fredericksburg	Confluence with Mill Creek, below the Route 301 Bridge

During the study, DEQ will develop a total maximum daily load, or a TMDL, for the impaired river segment. A TMDL is the total amount of a pollutant a water body can receive and still meet water quality standards. To restore water quality, contamination levels have to be reduced to the TMDL allocated amount.

How to comment: The public comment period on the materials presented at the TAC meeting will extend from November 13, 2007, to December 13, 2007. DEQ accepts written comments by email, 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. Please send all comments to the contact listed below.

Contact for additional information: Katie Conaway, Department of Environmental Quality, 13901 Crown Court, Woodbridge, VA 22193, email [mkconaway@deq.virginia.gov](mailto:mkconaway@deq.virginia.gov).

## STATE BOARD OF HEALTH

### Notice of Periodic Review

Pursuant to Executive Order (EO) 36 (2006), the Virginia Department of Health, on behalf of the State Board of Health, will review the regulations listed below. The purpose of the review is to determine whether the regulations should be terminated, amended or retained in their current form. The review of the regulations will be guided by the principles set out in EO 36. The purpose of the regulations is to protect public health and welfare with the least possible costs and intrusiveness to the citizens and businesses of the Commonwealth.

The department and the board are seeking public comment in the review of any issue relating to these regulations, and in particular, whether they comport appropriately with the policies contained in EO 36. EO 36 encourages consideration of whether (i) the regulations protect public health, safety and welfare with the least possible intrusion in the lives of citizens, (ii) alternatives in lieu of regulation may achieve the goals of the regulation, (iii) the regulations are based on the best reasonably available scientific, economic and other information, (iv) the regulations are designed to achieve their intended objective in the most efficient, cost-effective manner, (v) the regulations are clearly written and easily understandable by the individuals and entities affected, and (vi) the regulations have been developed in accordance with laws relating to the impact of regulations on small businesses.

Comments should be addressed to the persons identified below as the contact person for the regulation. The deadline for receipt of comments is November 19, 2007.

12VAC5-80, Virginia Hearing Impairment Identification and Monitoring System - Contact Dr. David Suttle

12VAC5-160, Regulations for the Sanitary Control of the Picking, Packing and Marketing of Crab Meat for Human Consumption - Contact Dr. Robert Croonenberghs

12VAC5-165, Regulations for the Repacking of Crabmeat - Contact Dr. Robert Croonenberghs

12VAC5-408, Certificate of Quality Assurance of Managed Care Health Insurance Plan Licensees - Contact Carrie Eddy

12VAC5-410, Regulations for the Licensure of Hospitals in Virginia - Contact Carrie Eddy

12VAC5-440, Regulations for Summer Camps - Contact Gary Hagy

12VAC5-450, Rules and Regulations Governing Campgrounds - Contact Gary Hagy

12VAC5-460, Regulations Governing Tourist Establishment Swimming Pools and Other Public Pools - Contact Gary Hagy

12VAC5-462, Swimming Pool Regulations Governing the Posting of Water Quality Results - Contact Gary Hagy

12VAC5-475, Regulations Implementing the Virginia Organ and Tissue Donor Registry - Contact Dr. David Suttle

12VAC5-570, Commonwealth of Virginia Sanitary Regulations for Marinas and Boat Moorings - Contact Preston Smith

12VAC 5-610, Sewage Handling and Disposal Regulations - Contact Donald Alexander

12VAC 5-615, Authorized Onsite Soil Evaluator Regulations - Donald Alexander

12VAC5-640, Alternative Discharging Sewage Treatment Regulations for Individual Single Family Dwellings - Contact Donald Alexander

### AGENCY CONTACTS

Donald Alexander, Department of Health, 109 Governor Street, Richmond, VA 23219, (804) 864-7452, [don.alexander@vdh.virginia.gov](mailto:don.alexander@vdh.virginia.gov)

Dr. Robert Croonenberghs, Department of Health, 109 Governor Street, Richmond, VA 23219, (804) 864-7477, [bob.croonenberghs@vdh.virginia.gov](mailto:bob.croonenberghs@vdh.virginia.gov)

Carrie Eddy, Department of Health, 9960 Mayland Drive, Richmond, VA 23233, (804) 367-2157, [carrie.eddy@vdh.virginia.gov](mailto:carrie.eddy@vdh.virginia.gov)

Gary Hagy, Department of Health, 109 Governor Street, Richmond, VA 23219, (804) 864-7455, [gary.hagy@vdh.virginia.gov](mailto:gary.hagy@vdh.virginia.gov)

Preston Smith, Department of Health, 109 Governor Street, Richmond, VA 23219, (804) 864-7468, [preston.smith@vdh.virginia.gov](mailto:preston.smith@vdh.virginia.gov)

Dr. David Suttle, Department of Health, 109 Governor Street, Richmond, VA 23219, (804) 864-7650, [david.suttle@vdh.virginia.gov](mailto:david.suttle@vdh.virginia.gov)

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# General Notices/Errata

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## STATE LOTTERY DEPARTMENT

### Director's Orders

The following Director's Orders of the State Lottery Department were filed with the Virginia Registrar of Regulations on October 1, 2007, and October 5, 2007. 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 Forty-Six (07)

Virginia's Instant Game Lottery 1000; "A Wreath of Franklins" (effective 9/23/07)

Director's Order Number Forty-Seven (07)

Virginia's Instant Game Lottery 1001; "Candy Cane Cash" (effective 9/23/07)

Director's Order Number Forty-Eight (07)

Virginia's Instant Game Lottery 1002; "Season's Greetings" (effective 10/02/07)

Director's Order Number Forty-Nine (07)

Virginia's Instant Game Lottery 1004; "\$1,000,000 Holiday Greenery" (effective 10/02/07)

Director's Order Number Fifty (07)

Virginia's Instant Game Lottery 820; "Lightning 7's" (effective 10/02/07)

Director's Order Number Fifty-One (07)

Virginia's Instant Game Lottery 1003; "Money Tree" (effective 10/02/07)

Director's Order Number Fifty-Two (07)

Virginia's Instant Game Lottery 1005; "Cash Flurries Doubler" (effective 10/02/07)

Director's Order Number Fifty-Three (07)

Virginia's Instant Game Lottery 1006; "Cool 7's" (effective 10/02/07)

Director's Order Number Fifty-Four (07)

Virginia's Instant Game Lottery 1007; "Snowflakes & 7's" (effective 10/02/07)

Director's Order Number Fifty-Five (07)

Virginia's Instant Game Lottery 1012; "Pink Panther" (effective 9/27/07)

Director's Order Number Fifty-Six (07)

Virginia's Instant Game Lottery 1013; "\$100,000 Mega Multiplier" (effective 9/27/07)

## STATE WATER CONTROL BOARD

EDITOR'S NOTE: This notice was filed with the Registrar of Regulations on August 14, 2007, and was inadvertently left out of Volume 23 Issue 26 of the Virginia Register published September 3, 2007.
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### Notice of Effective Date

Title of Regulation: **9VAC25-260. Water Quality Standards (amended 9VAC 25-260-5, 9VAC 25-260-50, 9VAC 25-260-310, 9VAC 25-260-480 and added 9VAC 25-260-187).**

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

Effective Date: August 14, 2007.

On June 1, 2006, the State Water Control Board adopted revisions to the Water Quality Standards in 9VAC25-260-5, 9VAC 25-260-50, 9VAC 25-260-310, 9VAC 25-260-480, and added 9VAC 25-260-187. These revisions relate to water quality criteria to protect the designated uses of lakes and reservoirs from the impacts of nutrients. The amendments were published in the Virginia Register of Regulations as final in 23:1 VA.R. 40-46 September 10, 2006, with an effective date upon filing the notice of EPA approval with the Registrar of Regulations.

The State Water Control Board hereby notices EPA approval of these revisions to the water quality standards via a letter dated July 27, 2007, from Jon M. Capacasa, Director of the Water Protection Division, EPA Region 3 to David K. Paylor, Director of the Virginia Department of Environmental Quality. The effective date of these amendments is August 14, 2007. Copies are available online at <http://www.deq.state.va.us/wgs> or call toll free at 1-800-592-5482 ext. 4113, local 698-4113, written request to Jean Gregory at P.O. Box 1105, Richmond, VA 23218 or email request to [jwgregory@deq.virginia.gov](mailto:jwgregory@deq.virginia.gov).

### Extension of Public Comment Deadline Concerning Shellfish Aquaculture Enhancement Zones

Notice of intended action: The State Water Control Board intends to consider drafting a proposal for amendments to regulations on water quality. A regulation is a general rule governing people's rights or conduct that is upheld by a state agency.

Regulation name: Shellfish Aquaculture Enhancement Zones

Purpose of notice: The board is seeking comments through the Department of Environmental Quality on the intended regulatory action, including but not limited to (i) ideas to

assist the board in the development of a proposal, (ii) the costs and benefits of the alternatives stated in this notice or other alternatives, (iii) effects of the regulation on farm forest land preservation, and (iv) whether the board should use an advisory committee. The board is also seeking information on impacts on small businesses.

Public comment period: September 17, 2007, to November 30, 2007.

Public meeting: Eastern Shore Agricultural Research and Extension Center (AREC), 33446 Research Drive in Painter, Virginia, on October 17, 2007, at 2 p.m. Unlike a public hearing, which is intended only to receive testimony, this meeting is being held to discuss and exchange ideas and information relative to the development of a proposal.

Public comment stage: Notice of Intended Regulatory Action

Subject matter and intent of proposal: The intent and subject matter of the rulemaking is to consider a new designation of "Aquaculture Enhancement Zones" on the Eastern Shore of Virginia and narrative criteria to provide additional protection to these waters that are used or could reasonably be used for shellfish aquaculture or to support aquaculture by requiring applicants to demonstrate that practicable alternatives to discharging pollutants to the listed waters have been evaluated and that the proposed discharge is the alternative that produces the least environmental impact. The rulemaking will also consider how the shellfish policy in 9VAC25-370 and the water quality standards (e.g. shellfish public hearing requirements in 9VAC25-260-270) should be amended in order to consolidate water quality protection efforts for shellfish for the purposes of improving the clarity and efficiency of implementation of these related activities.

Advisory committee: The board is using an advisory committee to develop a proposal. Persons interested in assisting in the development of a proposal should notify the DEQ contact person by the end of the comment period and provide their name, address, phone number, email address and affiliated organization (if any). Persons who want to be on the advisory committee are encouraged to attend the public meeting. The primary function of the advisory committee is to develop recommended regulation amendments for DEQ consideration through the collaborative approach of regulatory negotiation and consensus. Multi-applications from a single company, organization, group or other entity count as one for purposes of making a decision through the collaborative approach. Notification of the composition of the advisory committee will be sent to all applicants.

How to comment: DEQ accepts written comments by email, 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. Both oral and written comments are accepted at the public meeting. DEQ prefers the submittal

of written comments, including a copy of supporting documents or exhibits. All testimony, exhibits and documents received are part of the public record.

How a decision is made: After comments have been considered, the board will decide whether to take action on a proposal. If the board decides to consider the regulation, there will be another public comment opportunity, including a public hearing. After these comments have been considered, the board will make the final decision.

To review regulation documents: The agency background document (including purpose, statutory authority, need, substance of planned regulatory changes, alternatives and the family impact statement) is available on the Town Hall website at [www.townhall.virginia.gov](http://www.townhall.virginia.gov) and by contacting the DEQ representative named below. There are no regulation amendments available for public comment at this time.

Agency Contact: Elleanore M. Daub, Department of Environmental Quality, 629 East Main Street, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4111, FAX (804) 698-4032, or email [emdaub@deq.virginia.gov](mailto:emdaub@deq.virginia.gov).

### **Proposed Consent Special Order - Evergreen Country Club, Inc.**

Purpose of notice: To invite citizens to comment on a proposed consent order for sewage treatment plant in Prince William County, Virginia.

Public comment period: October 30, 2007, through November 29, 2007.

Consent order description: The State Water Control Board proposes to issue a consent order to Evergreen Country Club, Inc. to address alleged violations of Virginia's State Water Control Law and regulations. Evergreen Country Club, Inc. is a country club and golf course located in Prince William County, Virginia, with a sewage treatment plant on site. The consent order describes a settlement to resolve wastewater violations.

How to comment: DEQ accepts comments from the public by email, fax, or postal mail. All comments must include the name, address, and telephone number of the person commenting and be received by DEQ within the comment period. The public may review the proposed consent order at the DEQ office named below or on the DEQ website at [www.deq.virginia.gov](http://www.deq.virginia.gov).

Contact for public comments, document requests, and additional information: Trisha Eyler, Department of Environmental Quality, Northern Virginia Regional Office, 13901 Crown Court, Woodbridge, VA 22193, telephone (703) 583-3829, FAX (703) 583-3871, or email [treyley@deq.virginia.gov](mailto:treyley@deq.virginia.gov).

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## General Notices/Errata

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### **Proposed Consent Special Order - City of Fredericksburg**

Purpose of notice: To invite citizens to comment on a proposed consent order for a facility in the City of Fredericksburg.

Public comment period: October 30, 2007, through November 29, 2007.

Consent order description: The State Water Control Board proposes to issue a consent order to the City of Fredericksburg to address alleged violations of the Virginia Pollutant Discharge Elimination System Permit No. VA0025127. The location of the facility where the alleged violations occurred is 700 Beulah-Salisbury Road. The consent order describes a settlement to resolve permit effluent limit violations and failure to meet Reliability Class I requirements.

How to comment: DEQ accepts comments from the public by email, fax or postal mail. All comments must include the name, address and telephone number of the person commenting and be received by DEQ within the comment period. The public may review the proposed consent order at the DEQ office named below or on the DEQ website at [www.deq.virginia.gov](http://www.deq.virginia.gov).

Contact for public comments, document requests and additional information: Sarah Baker, Department of Environmental Quality, Northern Virginia Regional Office, 13901 Crown Court, Woodbridge, VA 22193, telephone (703) 583-3850, FAX (703) 583-3871, or email [sbaker@deq.virginia.gov](mailto:sbaker@deq.virginia.gov).

### **Proposed Consent Special Order - Hercules, Incorporated**

Purpose of notice: To seek public comment on a proposed consent order from the Department of Environmental Quality for a facility in Southampton County, Virginia.

Public comment period: October 29, 2007, to November 28, 2007.

Consent order description: The State Water Control Board proposes to issue a consent order to Hercules, Incorporated, to address alleged violations of Virginia State Water Control Law. The location of the facility where the alleged violations occurred is 27123 Shady Brook Trail, Courtland. The consent order describes a settlement to resolve alleged violations of the facility Virginia Pollutant Discharge Elimination System Permit.

How to comment: DEQ accepts comments from the public by email, fax or postal mail. All comments must include the name, address and telephone number of the person commenting and be received by DEQ within the comment period. The public may review the proposed consent order at

the DEQ office named below or on the DEQ website at [www.deq.virginia.gov](http://www.deq.virginia.gov).

Contact for public comments, document requests and additional information: Paul R. Smith, Department of Environmental Quality, Tidewater Regional Office, 5636 Southern Blvd, Virginia Beach, VA 23462, telephone (757) 518-2020, FAX (757) 518-2003, or email [prsmith@deq.virginia.gov](mailto:prsmith@deq.virginia.gov).

### **Proposed Consent Special Order - Hy-Mark Cylinders, Inc.**

Purpose of notice: To seek public comment on a proposed consent order from the Department of Environmental Quality for a location in Hampton, Virginia.

Public comment period: October 29, 2007, to November 28, 2007.

Consent order description: The State Water Control Board proposes to issue a consent order to Hy-Mark Cylinders, Inc., to address alleged violations of Virginia State Water Control Law. The location where the alleged violations occurred is 305 Hy-Mark Drive, Hampton. The consent order describes a settlement to resolve alleged violations of the facility Virginia Pollutant Discharge Elimination System General Permit VAR05.

How to comment: DEQ accepts comments from the public by email, fax or postal mail. All comments must include the name, address and telephone number of the person commenting and be received by DEQ within the comment period. The public may review the proposed consent order at the DEQ office named below or on the DEQ website at [www.deq.virginia.gov](http://www.deq.virginia.gov).

Contact for public comments, document requests and additional information: Paul R. Smith, Department of Environmental Quality, Tidewater Regional Office, 5636 Southern Blvd, Virginia Beach, VA 23462, telephone (757) 518-2020, FAX (757) 518-2003, or email [prsmith@deq.virginia.gov](mailto:prsmith@deq.virginia.gov).

### **Proposed Consent Special Order - I.A.S. of VA, 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 the BP#1 located in Richmond, Virginia.

Public comment period: October 29, 2007, to November 28, 2007.

Consent Order description: The State Water Control Board proposes to issue a consent order to I.A.S. of VA, Inc., to address alleged violations of the UST regulations. The location of the property where the violation occurred is BP#1, 1301 N. Laburnum Ave in Richmond, 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 email, fax or postal mail. All comments must include the name, address and telephone number of the person commenting and be received by DEQ within the comment period. The public may review the proposed consent order at the DEQ office named below or on the DEQ website at [www.deq.virginia.gov](http://www.deq.virginia.gov).

Contact for public comments, document requests and additional information: Lisa Dewey, Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, VA 23060, telephone (804) 527-5014, FAX (804) 527-5106, or email [lcdewey@deq.virginia.gov](mailto:lcdewey@deq.virginia.gov).

### **Proposed Consent Special Order - Mr. Lewis Kennett**

Citizens may comment on a proposed consent order for a site located in Franklin County, Virginia.

Public comment period: October 29, 2007, to November 28, 2007.

Purpose of notice: To invite the public to comment on a proposed consent order.

A consent order is issued to a business owner or other responsible party to perform specific actions that will bring the entity into compliance with the relevant law and regulations. It is developed cooperatively with the facility and entered into by mutual agreement.

Consent order description: The State Water Control Board proposes to issue a consent order to Mr. Lewis Kennett to address alleged violations of the Virginia Regulations. The location of the site where the alleged violations occurred is in Franklin County, Virginia. The consent order describes a settlement to resolve violations associated with impounding a stream without the required permits. It requires the signatory to pay a civil penalty, institute a plan for removal of the impoundment and impoundment structure, restore the impacted stream, and comply with the Virginia Regulations.

How a decision is made: After public comments have been considered, the DEQ director will make a final decision.

How to comment: DEQ accepts comments from the public by email, 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 in Roanoke, Virginia every work day by appointment or on the DEQ website at [www.deq.virginia.gov](http://www.deq.virginia.gov).

Contact for public comments, document requests and additional information: Jerry Ford, Jr., Department of Environmental Quality, West Central Regional Office, 3019 Peters Creek Road VA 24019, telephone (540) 562-6700, FAX (540) 562-6725, or email [jrford@deq.virginia.gov](mailto:jrford@deq.virginia.gov).

### **Proposed Consent Special Order - Nelson County Service Authority**

Purpose of notice: To invite citizens to comment on a proposed consent order for a facility in Shenandoah County, Virginia.

Public comment period: October 29, 2007, to November 29, 2007.

Consent order description: The State Water Control Board proposes to issue a consent order to Nelson County Service Authority to address alleged violations of the Nelson County Regional STP and Wintergreen Mountain STP Permits and regulations. The locations of the Nelson County Regional STP and the Wintergreen Mountain STP where the alleged violations occurred are located near the Town of Colleen and Wintergreen respectively, Nelson County, Virginia. The consent order describes a settlement to resolve these violations.

How to comment: DEQ accepts comments from the public by email, fax or postal mail. All comments must include the name, address and telephone number of the person commenting and be received by DEQ within the comment period. The public may review the proposed consent order at the DEQ office named below or on the DEQ website at [www.deq.virginia.gov](http://www.deq.virginia.gov).

Contact for public comments, document requests and additional information: Steven W. Hetrick, Department of Environmental Quality, Valley Regional Office, Post Office Box 3000, VA 22801-9519, telephone (540) 574-7833, FAX (540) 574-7844, or email [swhetrick@deq.virginia.gov](mailto:swhetrick@deq.virginia.gov).

### **Proposed Consent Special Order - Oak Grove Mennonite Church**

Purpose of notice: To invite citizens to comment on a proposed amended consent order for a facility in Aroda, Virginia.

Public comment period: October 30, 2007, to November 29, 2007.

Consent order description: The State Water Control Board proposes to issue a consent order to Oak Grove Mennonite Church to address alleged violations of the Virginia Pollutant Discharge Elimination System Permit No. VA0063347. The location of the facility where the alleged violations occurred is at 1776 Elly Road. The consent order describes a settlement to resolve permit effluent limit violations.

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## General Notices/Errata

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How to comment: DEQ accepts comments from the public by email, 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 amended consent order at the DEQ office named below or on the DEQ website at [www.deq.virginia.gov](http://www.deq.virginia.gov).

Contact for public comments, document requests and additional information: Sarah Baker; Department of Environmental Quality, Northern Virginia Regional Office, 13901 Crown Court, Woodbridge, VA 22193, telephone (703) 583-3850, FAX (703) 583-3871, or email [sbaker@deq.virginia.gov](mailto:sbaker@deq.virginia.gov).

### **Proposed Consent Special Order - VA Timberline, LLC**

Purpose of notice: To seek public comment on a proposed consent order from the Department of Environmental Quality for a location in Isle of Wight County, Virginia.

Public comment period: October 29, 2007, to November 28, 2007.

Consent order description: The State Water Control Board proposes to issue a consent order to VA Timberline, LLC to address alleged violations of Virginia State Water Control Law. The location where the alleged violations occurred is Lawnes Point subdivision, Isle of Wight County. The consent order describes a settlement to resolve alleged violations of the facility Virginia Water Protection General Permit WP4.

How to comment: DEQ accepts comments from the public by email, fax or postal mail. All comments must include the name, address and telephone number of the person commenting and be received by DEQ within the comment period. The public may review the proposed consent order at the DEQ office named below or on the DEQ website at [www.deq.virginia.gov](http://www.deq.virginia.gov).

Contact for public comments, document requests and additional information: John M. Brandt, Department of Environmental Quality, Tidewater Regional Office, 5636 Southern Blvd, Virginia Beach, VA 23462, telephone (757) 518-2010, FAX (757) 518-2003, or email [jmbrandt@deq.virginia.gov](mailto:jmbrandt@deq.virginia.gov).

## **VIRGINIA CODE COMMISSION**

### **Elimination of the Calendar of Events Section**

Effective July 1, 2007, the Calendar of Events section will no longer be published in the Virginia Register of Regulations. Chapter 300 of the 2007 Acts of Assembly amended the Administrative Process Act by eliminating the requirement that all state agency meeting notices be published in the Virginia Register. In lieu of publication in the Virginia Register, the Virginia Freedom of Information Act was amended to require that agencies post meeting notices on the agency's website and on the Commonwealth Calendar maintained by the Virginia Information Technologies Agency. To access the Commonwealth Calendar, please visit the Commonwealth of Virginia's homepage at [www.virginia.gov](http://www.virginia.gov) and click on the calendar on the right side of the screen. Public hearing information will still be published in the Register and can be found with the corresponding proposed regulation.

### **Notice to State Agencies**

**Mailing Address:** Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219.

### **Filing Material for Publication in the Virginia Register of Regulations**

Agencies are required to use the Regulation Information System (RIS) when filing regulations for publication in the Virginia Register of Regulations. The Office of the Virginia Register of Regulations implemented a web-based application called RIS for filing regulations and related items for publication in the Virginia Register. The Registrar's office has worked closely with the Department of Planning and Budget (DPB) to coordinate the system with the Virginia Regulatory Town Hall. RIS and Town Hall complement and enhance one another by sharing pertinent regulatory information.

The Office of the Virginia Register is working toward the eventual elimination of the requirement that agencies file print copies of regulatory packages. Until that time, agencies may file petitions for rulemaking, notices of intended regulatory actions and general notices in electronic form only; however, until further notice, agencies must continue to file print copies of proposed, final, fast-track and emergency regulatory packages.