



Virginia Register of Regulations

VOL. 24 ISS. 7

PUBLISHED EVERY OTHER WEEK BY THE VIRGINIA CODE COMMISSION

DECEMBER 10, 2007

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THE VIRGINIA REGISTER INFORMATION PAGE

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.

PUBLICATION SCHEDULE AND DEADLINES

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

December 2007 through September 2008

<u>Volume: Issue</u>	<u>Material Submitted By Noon*</u>	<u>Will Be Published On</u>
24:7	November 20, 2007 (Tuesday)	December 10, 2007
INDEX 1 Volume 24		January 2008
24:8	December 5, 2007	December 24, 2007
24:9	December 18, 2007 (Tuesday)	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
INDEX 2 Volume 24		April 2008
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
INDEX 3 Volume 24		July 2008
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 Fall 2007 VAC Supplement includes final regulations published through *Virginia Register* Volume 23, Issue 21, dated June 25, 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
Title 1. Administration			
1 VAC 55-30-10 through 1 VAC 55-30-90	Added	23:26 VA.R. 4413-4416	10/3/07
Title 2. Agriculture			
2 VAC 5-110 (Forms)	Amended	23:26 VA.R. 4452	--
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
Title 3. Alcoholic Beverages			
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	*
3 VAC 5-50-130	Amended	23:25 VA.R. 4109	*
3 VAC 5-50-140	Amended	23:25 VA.R. 4110	*
Title 4. Conservation and Natural Resources			
4 VAC 5-36-50	Amended	24:6 VA.R. 638	1/1/08
4 VAC 5-36-60	Amended	24:6 VA.R. 644	1/1/08
4 VAC 5-36-70	Amended	24:6 VA.R. 645	1/1/08
4 VAC 5-36-90	Amended	24:6 VA.R. 647	1/1/08
4 VAC 5-36-100	Amended	24:6 VA.R. 649	1/1/08
4 VAC 5-36-110	Amended	24:6 VA.R. 654	1/1/08
4 VAC 5-36-120	Amended	24:6 VA.R. 655	1/1/08
4 VAC 5-36-130	Amended	24:6 VA.R. 656	1/1/08
4 VAC 5-36-140	Amended	24:6 VA.R. 657	1/1/08
4 VAC 5-36-150	Amended	24:6 VA.R. 659	1/1/08
4 VAC 5-36-200	Amended	24:6 VA.R. 662	1/1/08
4 VAC 5-36-210	Amended	24:6 VA.R. 670	1/1/08
4 VAC 5-36-220	Amended	24:6 VA.R. 675	1/1/08
4 VAC 15-200-10	Amended	24:6 VA.R. 676	10/26/07
4 VAC 15-270-40	Amended	24:6 VA.R. 676	7/1/08
4 VAC 15-270-80	Added	24:6 VA.R. 676	10/26/07
4 VAC 15-270-90	Added	24:6 VA.R. 677	1/1/08
4 VAC 20-20-50	Amended	24:5 VA.R. 555	11/1/07
4 VAC 20-252-90	Amended	24:4 VA.R. 471	10/1/07
4 VAC 20-252-100	Amended	24:4 VA.R. 471	10/1/07
4 VAC 20-260-10	Amended	24:4 VA.R. 472	10/1/07
4 VAC 20-260-20	Amended	24:4 VA.R. 472	10/1/07
4 VAC 20-260-30	Amended	24:4 VA.R. 473	10/1/07
4 VAC 20-260-35	Added	24:4 VA.R. 474	10/1/07

* Objection to Fast-Track Rulemaking 24:1

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
4 VAC 20-260-40	Amended	24:4 VA.R. 474	10/1/07
4 VAC 20-260-60	Amended	24:4 VA.R. 474	10/1/07
4 VAC 20-650-20	Amended	24:4 VA.R. 474	10/1/07
4 VAC 20-650-30	Amended	24:4 VA.R. 475	10/1/07
4 VAC 20-650-40	Amended	24:4 VA.R. 475	10/1/07
4 VAC 20-720-20	Amended	24:4 VA.R. 475	10/1/07
4 VAC 20-720-20	Erratum	24:5 VA.R. 621	--
4 VAC 20-720-40 through 4VAC20-720-80	Amended	24:4 VA.R. 478-480	10/1/07
4 VAC 20-720-95	Added	24:4 VA.R. 480	10/1/07
4 VAC 20-720-110	Amended	24:4 VA.R. 480	10/1/07
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 20-910-45	Amended	24:5 VA.R. 556	11/1/07
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 25-50-10 through 4 VAC 25-50-110	Repealed	23:22 VA.R. 3696	8/8/07
4 VAC 25-130-777.17	Amended	23:22 VA.R. 3696	8/8/07
Title 5. Corporations			
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
Title 6. Criminal Justice and Corrections			
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 35-180-10 through 6 VAC 35-180-170	Added	24:5 VA.R. 557-561	1/1/08
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
Title 8. Education			
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 20-190-10	Repealed	24:5 VA.R. 562	1/1/08
8 VAC 20-500-10	Repealed	24:5 VA.R. 563	1/1/08
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 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

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
Title 9. Environment			
9 VAC 5-20-203	Amended	24:5 VA.R. 564	12/12/07
9 VAC 5-20-204	Amended	24:5 VA.R. 565	12/12/07
9 VAC 5-40-20	Amended	24:5 VA.R. 566	12/12/07
9 VAC 5-50-20	Amended	24:5 VA.R. 570	12/12/07
9 VAC 5-50-400	Amended	24:5 VA.R. 573	12/12/07
9 VAC 5-50-410	Amended	24:5 VA.R. 573	12/12/07
9 VAC 5-60-60	Amended	24:5 VA.R. 579	12/12/07
9 VAC 5-60-90	Amended	24:5 VA.R. 579	12/12/07
9 VAC 5-60-92	Added	24:5 VA.R. 579	12/12/07
9 VAC 5-60-95	Amended	24:5 VA.R. 579	12/12/07
9 VAC 5-60-100	Amended	24:5 VA.R. 580	12/12/07
9 VAC 5-91-20	Amended	24:5 VA.R. 587	12/12/07
9 VAC 5-140-1061	Added	24:6 VA.R. 679	12/26/07
9 VAC 5-140-1062	Added	24:6 VA.R. 680	12/26/07
9 VAC 5-140-2061	Added	24:6 VA.R. 681	12/26/07
9 VAC 5-140-2062	Added	24:6 VA.R. 682	12/26/07
9 VAC 5-140-3061	Added	24:6 VA.R. 683	12/26/07
9 VAC 5-140-3062	Added	24:6 VA.R. 683	12/26/07
9 VAC 5-140-3400	Amended	24:5 VA.R. 594	12/12/07
9 VAC 20-130-10	Amended	24:4 VA.R. 480	11/28/07
9 VAC 20-130-40	Amended	24:4 VA.R. 484	11/28/07
9 VAC 20-130-60	Amended	24:4 VA.R. 484	11/28/07
9 VAC 20-130-70	Amended	24:4 VA.R. 484	11/28/07
9 VAC 20-130-90	Amended	24:4 VA.R. 485	11/28/07
9 VAC 20-130-110	Amended	24:4 VA.R. 485	11/28/07
9 VAC 20-130-120	Amended	24:4 VA.R. 486	11/28/07
9 VAC 20-130-120	Erratum	24:6 VA.R. 889	--
9 VAC 20-130-125	Added	24:4 VA.R. 488	11/28/07
9 VAC 20-130-125	Erratum	24:6 VA.R. 889	--
9 VAC 20-130-130	Amended	24:4 VA.R. 489	11/28/07
9 VAC 20-130-140	Repealed	24:4 VA.R. 489	11/28/07
9 VAC 20-130-150	Repealed	24:4 VA.R. 489	11/28/07
9 VAC 20-130-165	Amended	24:4 VA.R. 489	11/28/07
9 VAC 20-130-175 through 9VAC20-130-230	Amended	24:4 VA.R. 490-493	11/28/07
9 VAC 20-130-200	Erratum	24:6 VA.R. 889	--
9 VAC 25-20-10	Amended	24:6 VA.R. 701	1/1/08
9 VAC 25-20-20	Amended	24:6 VA.R. 702	1/1/08
9 VAC 25-20-30	Repealed	24:6 VA.R. 702	1/1/08
9 VAC 25-20-40	Amended	24:6 VA.R. 702	1/1/08
9 VAC 25-20-50	Amended	24:6 VA.R. 703	1/1/08
9 VAC 25-20-60	Amended	24:6 VA.R. 703	1/1/08
9 VAC 25-20-90	Amended	24:6 VA.R. 704	1/1/08
9 VAC 25-20-100	Amended	24:6 VA.R. 704	1/1/08
9 VAC 25-20-110	Amended	24:6 VA.R. 705	1/1/08
9 VAC 25-20-120	Amended	24:6 VA.R. 706	1/1/08
9 VAC 25-20-130	Amended	24:6 VA.R. 708	1/1/08
9 VAC 25-20-146	Added	24:6 VA.R. 708	1/1/08
9 VAC 25-20-147	Added	24:6 VA.R. 709	1/1/08
9 VAC 25-20-148	Added	24:6 VA.R. 709	1/1/08

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
9 VAC 25-20-149	Added	24:6 VA.R. 709	1/1/08
9 VAC 25-31-100	Amended	24:3 VA.R. 313	11/14/07
9 VAC 25-31-100	Amended	24:6 VA.R. 711	1/1/08
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 25-31-220	Amended	24:6 VA.R. 731	1/1/08
9 VAC 25-31-290	Amended	24:6 VA.R. 735	1/1/08
9 VAC 25-31-460	Amended	24:6 VA.R. 738	1/1/08
9 VAC 25-31-475	Added	24:6 VA.R. 738	1/1/08
9 VAC 25-31-485	Added	24:6 VA.R. 738	1/1/08
9 VAC 25-31-505	Added	24:6 VA.R. 739	1/1/08
9 VAC 25-32-40	Amended	24:6 VA.R. 739	1/1/08
9 VAC 25-32-60	Amended	24:6 VA.R. 739	1/1/08
9 VAC 25-32-80	Amended	24:6 VA.R. 740	1/1/08
9 VAC 25-32-100	Amended	24:6 VA.R. 743	1/1/08
9 VAC 25-32-140	Amended	24:6 VA.R. 743	1/1/08
9 VAC 25-32-210	Amended	24:6 VA.R. 744	1/1/08
9 VAC 25-32-220	Amended	24:6 VA.R. 745	1/1/08
9 VAC 25-32-240	Amended	24:6 VA.R. 745	1/1/08
9 VAC 25-32-300	Amended	24:6 VA.R. 745	1/1/08
9 VAC 25-32-310 through 9 VAC 25-32-760	Added	24:6 VA.R. 746-781	1/1/08
9 VAC 25-260-5	Amended	24:4 VA.R. 536	8/14/07
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 25-260-50	Amended	24:4 VA.R. 536	8/14/07
9 VAC 25-260-187	Added	24:4 VA.R. 536	8/14/07
9 VAC 25-260-310	Amended	24:4 VA.R. 536	8/14/07
9 VAC 25-260-480	Amended	24:4 VA.R. 536	8/14/07
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 25-720-80	Amended	23:23 VA.R. 3901	10/22/07
9 VAC 25-720-90	Amended	24:2 VA.R. 147	11/15/07
9 VAC 25-790-10	Amended	24:6 VA.R. 784	1/1/08
9 VAC 25-790-50	Amended	24:6 VA.R. 787	1/1/08
9 VAC 25-790-60	Amended	24:6 VA.R. 787	1/1/08
9 VAC 25-790-120	Amended	24:6 VA.R. 788	1/1/08
9 VAC 25-790-130	Amended	24:6 VA.R. 790	1/1/08
9 VAC 25-790-150	Amended	24:6 VA.R. 790	1/1/08
9 VAC 25-790-180	Amended	24:6 VA.R. 791	1/1/08
9 VAC 25-790-200	Amended	24:6 VA.R. 791	1/1/08
9 VAC 25-790-240	Amended	24:6 VA.R. 791	1/1/08
9 VAC 25-790-540	Amended	24:6 VA.R. 792	1/1/08
9 VAC 25-790-550	Amended	24:6 VA.R. 792	1/1/08
9 VAC 25-790-570	Amended	24:6 VA.R. 795	1/1/08
9 VAC 25-790-580	Amended	24:6 VA.R. 797	1/1/08
9 VAC 25-790-590	Amended	24:6 VA.R. 797	1/1/08
9 VAC 25-790-600	Amended	24:6 VA.R. 798	1/1/08
9 VAC 25-790-660	Amended	24:6 VA.R. 799	1/1/08
9 VAC 25-790-880	Amended	24:6 VA.R. 799	1/1/08

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
Title 11. Gaming			
11 VAC 10-45-10	Amended	24:5 VA.R. 595	12/12/07
11 VAC 10-45-25	Added	24:5 VA.R. 596	12/12/07
Title 12. Health			
12 VAC 5-31-2300 through 12VAC5-31-2970	Added	24:6 VA.R. 806-818	1/1/08
12 VAC 5-40-10 through 12VAC5-40-190	Repealed	24:6 VA.R. 806	1/1/08
12 VAC 5-90-80 emer	Amended	24:5 VA.R. 597	10/24/07-10/23/08
12 VAC 5-125-10 through 12 VAC 5-125-180	Added	23:23 VA.R. 3904-3919	9/1/07
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

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
12 VAC 5-421-820	Amended	24:2 VA.R. 167	10/16/07
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

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12 VAC 5-421-1750	Amended	24:2 VA.R. 179	10/16/07
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

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12 VAC 5-421-3860	Amended	24:2 VA.R. 188	10/16/07
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 5-585-70	Amended	24:5 VA.R. 602	12/17/07
12 VAC 5-585-510	Amended	24:5 VA.R. 602	12/17/07
12 VAC 5-585-600	Amended	24:5 VA.R. 607	12/17/07
12 VAC 5-585-610	Amended	24:5 VA.R. 607	12/17/07
12 VAC 5-585-620	Amended	24:5 VA.R. 612	12/17/07
12 VAC 5-585-630	Amended	24:5 VA.R. 614	12/17/07
12 VAC 5-585-760 through 12 VAC 5-585-830	Added	23:25 VA.R. 4298-4301	10/1/07
12 VAC 30-10-820	Added	24:2 VA.R. 191	10/31/07
12 VAC 30-60-500 emer	Added	23:26 VA.R. 4427	8/8/07-8/7/08
12 VAC 30-80-40 emer	Amended	24:3 VA.R. 377	10/1/07-9/30/08
12 VAC 30-120	Erratum	23:24 VA.R. 4080	--
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	23:24 VA.R. 4032	9/1/07-8/31/08
12 VAC 30-120-1500 through 12VAC30-120-1550	Added	24:6 VA.R. 819-829	12/26/07
12 VAC 30-135-100 through 12VAC30-135-360	Added	24:2 VA.R. 196-218	12/1/07
12 VAC 35-115-10 through 12 VAC 35-115-250	Amended	23:25 VA.R. 4301-4340	9/19/07
12 VAC 35-115-90	Erratum	24:6 VA.R. 889	--
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
Title 13. Housing			
13 VAC 5-31	Erratum	23:24 VA.R. 4079	--
13 VAC 5-91	Erratum	23:24 VA.R. 4080	--
Title 14. Insurance			
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
Title 16. Labor and Employment			
16 VAC 15-21-30	Amended	23:23 VA.R. 3933	8/23/07
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 25-90-1910.302 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
Title 18. Professional and Occupational Licensing			
18 VAC 41-70-10 through 18 VAC 41-70-280	Added	23:25 VA.R. 4349-4359	9/20/07
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 50-30-90	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

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18 VAC 50-30-130	Amended	24:3 VA.R. 420	11/15/07
18 VAC 50-30-190	Amended	24:3 VA.R. 421	11/15/07
18 VAC 50-30-200	Amended	24:3 VA.R. 422	11/15/07
18 VAC 50-30-220	Amended	24:3 VA.R. 422	11/15/07
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 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 85-20-140	Amended	24:1 VA.R. 27	10/17/07
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	23:23 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 85-101-152	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 90-20-30	Amended	23:25 VA.R. 4363	10/1/07
18 VAC 90-20-225	Added	23:25 VA.R. 4364	10/1/07
18 VAC 90-30-240	Added	24:3 VA.R. 427	11/29/07
18 VAC 90-40-100	Amended	24:6 VA.R. 831	1/11/08
18 VAC 90-60-100	Amended	24:3 VA.R. 429	11/29/07
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
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 95-30-10 through 18VAC95-30-210	Added	24:6 VA.R. 832-837	1/2/08
18 VAC 105-20-10	Amended	23:22 VA.R. 3791	9/24/07
18 VAC 110-20-180	Erratum	24:3 VA.R. 444	--
18 VAC 110-40-10 through 18VAC110-40-50	Amended	24:3 VA.R. 430-431	11/14/07
18 VAC 112-20-81 emer	Added	24:4 VA.R. 497	11/1/07-10/31/08
18 VAC 112-20-90 emer	Amended	24:4 VA.R. 497	11/1/07-10/31/08
18 VAC 112-20-130 emer	Amended	24:4 VA.R. 498	11/1/07-10/31/08
18 VAC 112-20-131 emer	Amended	24:4 VA.R. 498	11/1/07-10/31/08
18 VAC 112-20-150 emer	Amended	24:4 VA.R. 499	11/1/07-10/31/08
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

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
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 130-20-10	Amended	24:6 VA.R. 838	1/1/08
18 VAC 130-20-30	Amended	24:6 VA.R. 842	1/1/08
18 VAC 130-20-60	Amended	24:6 VA.R. 843	1/1/08
18 VAC 130-20-110	Amended	24:6 VA.R. 844	1/1/08
18 VAC 130-20-170	Amended	24:6 VA.R. 844	1/1/08
18 VAC 130-20-180	Amended	24:6 VA.R. 844	1/1/08
18 VAC 130-20-210	Amended	24:6 VA.R. 846	1/1/08
18 VAC 130-20-220	Amended	24:6 VA.R. 847	1/1/08
18 VAC 130-20-230	Amended	24:6 VA.R. 847	1/1/08
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 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
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
Title 19. Public Safety			
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
Title 20. Public Utilities and Telecommunications			
20 VAC 5-417-10	Amended	24:4 VA.R. 513	10/9/07

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
20 VAC 5-417-50	Amended	24:4 VA.R. 513	10/9/07
Title 21. Securities and Retail Franchising			
21 VAC 5-10-40	Amended	23:23 VA.R. 3940	7/1/07
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	23:24 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
Title 22. Social Services			
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 40-72-55	Added	24:5 VA.R. 616	12/12/07
22 VAC 40-72-367	Added	24:5 VA.R. 616	12/12/07
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 40-375-10 through 22 VAC 40-375-60	Repealed	24:5 VA.R. 616	12/12/07
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 42-10-10 through 22VAC42-10-1000	Repealed	24:6 VA.R. 849	12/28/07
22 VAC 42-11-10 through 22VAC42-11-1090	Added	24:6 VA.R. 850-885	12/28/07
Title 23. Taxation			
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

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
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
Title 24. Transportation and Motor Vehicles			
24 VAC 20-120-10 through 24VAC20-120-180	Repealed	24:4 VA.R. 516	1/1/08
24 VAC 20-121-10 through 24 VAC 20-121-220	Adding	24:4 VA.R. 516-529	1/1/08
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
24 VAC 30-200-10	Amended	24:4 VA.R. 529	11/28/07
24 VAC 30-200-20	Amended	24:4 VA.R. 530	11/28/07
24 VAC 30-200-30	Amended	24:4 VA.R. 531	11/28/07
24 VAC 30-200-35	Added	24:4 VA.R. 532	11/28/07
24 VAC 30-200-40	Amended	24:4 VA.R. 533	11/28/07

NOTICES OF INTENDED REGULATORY ACTION

TITLE 9. ENVIRONMENT

STATE WATER CONTROL BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with §2.2-4007.01 of the Code of Virginia that the State Water Control Board intends to consider amending the following regulations: **9VAC25-151, General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Discharges of Storm Water Associated with Industrial Activity.** The purpose of the proposed action is to reissue the existing industrial activity storm water general permit, which expires on June 30, 2009. This general permit regulation governs the discharge of storm water from facilities with regulated industrial activities to surface waters.

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

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

Public comments: Public comments may be submitted until 5 p.m. on January 9, 2008.

Agency Contact: Burton R. Tuxford, Department of Environmental Quality, 629 East Main Street, P.O. Box 1105, Richmond, VA 23510, telephone 804-698-4086, FAX 804-698-4032, or email brtuxford@deq.virginia.gov.

VA.R. Doc. No. R08-1078; Filed November 14, 2007, 5:14 p.m.



REGULATIONS

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

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.

TITLE 9. ENVIRONMENT

STATE WATER CONTROL BOARD

Fast-Track Regulation

Title of Regulation: **9VAC25-260. Water Quality Standards (amending 9VAC25-260-30).**

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

Public Hearing Information: No public hearings are scheduled.

Public Comments: Public comments may be submitted until 5 p.m. on February 8, 2008.

Effective Date: Effective upon filing notice of U.S. EPA approval with Registrar.

Agency Contact: David C. Whitehurst, Department of Environmental Quality, P.O. Box 1105, 629 East Main Street, Richmond, VA 23218, telephone (804) 698-4121, FAX (804) 698-4116, or email dcwhitehurst@deq.virginia.gov.

Basis: Section 62.1-44.15(3a) of the Code of Virginia mandates and authorizes the State Water Control Board to establish water quality standards and policies for any state waters consistent with the purpose and general policy of the State Water Control Law, and to modify, amend or cancel any such standards or policies established. The federal Clean Water Act at §303(c) mandates the State Water Control Board to review and, as appropriate, modify and adopt water quality standards. The corresponding federal water quality standards regulation at 40 CFR 131.6 describes the minimum requirements for water quality standards. The minimum requirements are use designations, water quality criteria to protect the designated uses, and an antidegradation policy. All of the citations mentioned describe mandates for water quality standards.

The Environmental Protection Agency (EPA) Water Quality Standards regulation (40 CFR 131.12) is the regulatory basis for the EPA requiring the states to establish within the antidegradation policy the exceptional state waters category and the eligibility decision criteria for these waters. EPA retains approval/disapproval oversight, but delegates to the states the election and designation of specific water bodies as exceptional state waters.

Purpose: The department has concluded that the proposed amendments to the regulation are essential to protecting the

health, safety and welfare of the citizens of the Commonwealth by protecting the water quality and living resources of these particular water bodies for human consumption of fish, recreational uses and conservation. The State Water Control Board views exceptional state waters nominations as citizen petitions under §2.2-4007 of the Code of Virginia. Therefore, the board took action on this petition for proposed designation because department staff had concluded, based on the information available at the time of the preliminary evaluation, that the proposed designation met the eligibility requirements that a water body must meet before it can be afforded the extra point source protection provided by such a designation. The exceptional state waters category of the Antidegradation Policy allows the board to designate waters that display exceptional environmental settings and either exceptional aquatic communities or exceptional recreational opportunities for added protection. The section of the river under consideration within the Shenandoah National Park within Rappahannock County meets all three criteria: Exceptional Environmental Setting, Exceptional Aquatic Community and Exceptional Recreational Opportunities. State classification of these waters as exceptional state waters will afford an additional layer of protection over that provided by the Antidegradation Policy (9VAC25-260-30 A 3 b) in that no water quality degradation at all would be allowed in exceptional waters. The only exception would be temporary, limited impact activities. These are waters that are of a very high quality and possess ecological attributes or exceptional recreational usage that need the special protection and maintenance provided by not lowering water quality. By ensuring that no water quality degradation is allowed to occur in exceptional state waters, the board is protecting these special waters at their present quality for use and enjoyment by future generations of Virginians.

Because of the potential impact of an exceptional state waters designation on permitted discharges to the water body, §62.1-44.15:4 B of the Code of Virginia requires notification and opportunity for comment from potentially impacted localities and riparian property owners, so the decision by the board to initiate a rulemaking to amend the water quality standards to designate these waters as exceptional state waters was made after providing an opportunity to comment and giving due consideration to their comments.

Rationale for Using Fast-Track Process: The proposed amendment is expected to be noncontroversial, and therefore justifies using the fast-track process. The segment of Hazel River intended for exceptional state waters designation is

entirely on public lands (Shenandoah National Park) and impacts are not expected for individual riparian landowners or businesses.

Substance: The proposed amendments to the Antidegradation Policy (9VAC25-260-30), part of the State's Water Quality Standards, designates a portion of the Hazel River for special protection as exceptional state waters (9VAC25-260-30 A 3 c).

Issues: Upon permanent regulatory designation of a water body as an exceptional state water, the quality of that water body will be maintained and protected by not allowing any degradation except on a very short-term basis. No new, additional or increased point source discharge of sewage, industrial wastes or other pollution would be allowed into waters designated. In addition, no new mixing zones would be allowed in the Exceptional State Water and mixing zones from upstream or tributary waters could not extend into the Exceptional State Water section.

A potential disadvantage to the public may be the prohibition of new or expanded permanent point source discharges imposed within the segment once the regulatory designation is effective that would cause riparian landowners within the designated segment to seek alternatives to discharging to the designated segment and, therefore, to have additional financial expenditures associated with wastewater or storm water treatment. The segment of the water body under consideration for designation does not currently contain any permitted point source discharges.

The primary advantage to the public is that the waters will be protected at their present high level of quality for the use and enjoyment of current and future generations of Virginians.

The factors to be considered in determining whether a nominated water body meets the eligibility decision criteria of exceptional environmental settings and possessing outstanding recreational opportunities and/or exceptional aquatic communities are described in the department's November 15, 2004 "04-2021, Guidance for Exceptional State Waters Designations in Antidegradation Policy Section of Virginia Water Quality Standards Regulation (9VAC25-260-30 A 3)." Although the water body proposed for designation is located on public (federal) land, the locality and businesses located near the designated water may experience financial benefits through an increase in eco-tourism to the area because of the exceptional nature of the water body that led to its designation.

There is no disadvantage to the agency or the Commonwealth that will result from the adoption of this amendment.

Department of Planning and Budget's Economic Impact Analysis:

Summary of the Proposed Amendments to Regulation. The State Water Control Board (Board) proposes to amend the

Antidegradation Policy section of the State's Water Quality Standards regulation to designate the Hazel River within the Shenandoah National Park an Exceptional State Water, and therefore entitle it to special protection.

Result of Analysis. The benefits likely exceed the costs for all proposed changes.

Estimated Economic Impact. The Board is proposing to designate the Hazel River within the Shenandoah National Park an Exceptional State Water and therefore entitle it to the special protection afforded by the designation.

According to the Department of Environmental Quality (Department), the Exceptional State Waters category of the Antidegradation Policy (9VAC25-260-30) allows the Board to offer waters which display exceptional environmental settings and either exceptional aquatic communities or exceptional recreational opportunities added protection. These are waters that are of a very high quality and possess ecological attributes or exceptional recreational usage that need the special protection and maintenance provided by not lowering water quality. State classification as an Exceptional State Water affords an additional layer of protection over that provided by the Antidegradation Policy in that no water quality degradation at all is allowed in Exceptional Waters, with the only exception being temporary, limited impact activities. No new, additional, or increased point source discharge of sewage, industrial wastes, or other pollution is allowed. In addition, no new mixing zones are allowed in Exceptional State Waters and mixing zones from upstream or tributary waters cannot extend into the Exceptional State Water section. This amendment started as a citizen petition and the Board took action because Department staff concluded that the Hazel River within the Shenandoah National Park met the eligibility requirements to afford it the extra point source protection.

One potential cost to the amendment is that new or expanded permanent point source discharges imposed within the designated segment of the Hazel River may be prohibited. The segment of the Hazel River under consideration does not currently contain any point source discharges. In fact, because this particular Exceptional State Waters designation—which extends to the headwaters of the river—is located in a national park, the United States Park Service is the only riparian landowner. Therefore, the proposed amendment is not anticipated to impact any business or locality.

The primary benefit of the proposed amendment, according to the Department, is that the waters will be protected at their present high level of quality for the use and enjoyment of current and future generations of Virginians. The section of the river under consideration meets all three eligibility decision criteria as described in the Department's November 15, 2004 "04-2021, Guidance for Exceptional State Waters Designations in Antidegradation Policy Section of Virginia

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Water Quality Standards Regulation (9VAC25-260-30 A 3)". These criteria are: Exceptional Environmental Setting, Exceptional Aquatic Community and Exceptional Recreational Opportunities. Although the proposed water body is located on public (federal) land, the Department believes that another benefit of the proposed amendments is to increase eco-tourism to the area because of the exceptional nature of the water. An increase in tourism would offer financial benefits to local business and government.

Businesses and Entities Affected. Because the United States Park Service is the only riparian landowner adjacent to the designated water body, only one entity—the federal government—will be impacted directly by the proposed amendments. Indirectly, businesses local to the area could be positively affected by an increase in tourism.

Localities Particularly Affected. Rappahannock County is the only county affected, but because the segment of water in question is located on federal lands, the proposed amendments are not expected to impose a cost on the County or localities within the County.

Projected Impact on Employment. The proposed change is not anticipated to have any impact on employment.

Effects on the Use and Value of Private Property. The proposed amendment is not anticipated to have any negative effect on the use and value of private property, although if this designation increases eco-tourism in the area, businesses, housing values, and other private property in could be positively impacted.

Small Businesses: Costs and Other Effects. The proposed change is not anticipated to add cost or otherwise affect small businesses.

Small Businesses: Alternative Method that Minimizes Adverse Impact. The proposal does not add cost or otherwise affect small businesses.

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.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The department has reviewed the economic impact analysis prepared by the Department of Planning and Budget and has no comment.

Summary:

The proposed amendment designates the Hazel River within Shenandoah National Park for special protection as an exceptional state water.

9VAC25-260-30. Antidegradation policy.

A. All surface waters of the Commonwealth shall be provided one of the following three levels, or tiers, of antidegradation protection. This antidegradation policy shall be applied whenever any activity is proposed that has the potential to affect existing surface water quality.

1. As a minimum, existing instream water uses and the level of water quality necessary to protect the existing uses shall be maintained and protected.
2. Where the quality of the waters exceed water quality standards, that quality shall be maintained and protected unless the board finds, after full satisfaction of the intergovernmental coordination and public participation provisions of the Commonwealth's continuing planning process, that allowing lower water quality is necessary to accommodate important economic or social development in the area in which the waters are located. In allowing such degradation or lower water quality, the board shall assure water quality adequate to protect existing uses fully. Further, the board shall assure that there shall be achieved the highest statutory and regulatory requirements applicable to all new or existing point source discharges of effluent and all cost-effective and reasonable best management practices for nonpoint source control.
3. Surface waters, or portions of these, which provide exceptional environmental settings and exceptional aquatic communities or exceptional recreational opportunities may be designated and protected as described in subdivisions 3 a, b and c of this subsection.

- a. Designation procedures.

(1) Designations shall be adopted in accordance with the provisions of the Administrative Process Act (§2.2-4000 et seq. of the Code of Virginia) and the board's public participation guidelines.

(2) Upon receiving a nomination of a waterway or segment of a waterway for designation as an exceptional state water pursuant to the board's antidegradation policy, as required by 40 CFR 131.12, the board shall notify each locality in which the waterway or segment lies and shall make a good faith effort to provide notice to impacted riparian property owners. The written notice shall include, at a minimum: (i) a description of the location of the waterway or segment; (ii) the procedures and criteria for designation as well as the impact of the designation; (iii) the name of the person making the nomination; and (iv) the name of a contact person at the Department of Environmental Quality who is knowledgeable about the nomination and the waterway or segment. Notice to property owners shall be based on names and addresses taken from local tax rolls. Such names and addresses shall be provided by the Commissioners of the Revenue or the tax assessor's office of the affected jurisdiction upon request by the board. After receipt of the notice of the nomination, localities shall be provided 60 days to comment on the consistency of the nomination with the locality's comprehensive plan. The comment period established by subdivision 3 a (2) of this subsection shall in no way impact a locality's ability to comment during any additional comment periods established by the board.

b. Implementation procedures.

(1) The quality of waters designated in subdivision 3 c of this subsection shall be maintained and protected to prevent permanent or long-term degradation or impairment.

(2) No new, additional, or increased discharge of sewage, industrial wastes or other pollution into waters designated in subdivision 3 c of this subsection shall be allowed.

(3) Activities causing temporary sources of pollution may be allowed in waters designated in subdivision 3 c of this subsection even if degradation may be expected to temporarily occur provided that after a minimal period of time the waters are returned or restored to conditions equal to or better than those existing just prior to the temporary source of pollution.

c. Surface waters designated under this subdivision are as follows:

(1) Little Stony Creek in Giles County from the first footbridge above the Cascades picnic area, upstream to the 3,300-foot elevation.

(2) Bottom Creek in Montgomery County and Roanoke County from Route 669 (Patterson Drive) downstream to the last property boundary of the Nature Conservancy on the southern side of the creek.

(3) Lake Drummond, located on U.S. Fish and Wildlife Service property, is nominated in its entirety within the cities of Chesapeake and Suffolk excluding any ditches and/or tributaries.

(4) North Creek in Botetourt County from the first bridge above the United States Forest Service North Creek Camping Area to its headwaters.

(5) Brown Mountain Creek, located on U.S. Forest Service land in Amherst County, from the City of Lynchburg property boundary upstream to the first crossing with the national forest property boundary.

(6) Laurel Fork, located on U.S. Forest Service land in Highland County, from the national forest property boundary below Route 642 downstream to the Virginia/West Virginia state line.

(7) North Fork of the Buffalo River, located on U.S. Forest Service land in Amherst County, from its confluence with Rocky Branch upstream to its headwaters.

(8) Pedlar River, located on U.S. Forest Service land in Amherst County, from where the river crosses FR 39 upstream to the first crossing with the national forest property boundary.

(9) Ramseys Draft, located on U.S. Forest Service land in Augusta County, from its headwaters (which includes Right and Left Prong Ramseys Draft) downstream to the Wilderness Area boundary.

(10) Whitetop Laurel Creek, located on U.S. Forest Service land in Washington County, from the national forest boundary immediately upstream from the second railroad trestle crossing the creek above Taylors Valley upstream to the confluence of Green Cove Creek.

(11) Ragged Island Creek in Isle of Wight County from its confluence with the James River at a line drawn across the creek mouth at N36°56.306'/W76°29.136' to N36°55.469'/W76°29.802' upstream to a line drawn across the main stem of the creek at N36°57.094'/W76°30.473' to N36°57.113'/W76°30.434', excluding wetlands and impounded areas and including only those tributaries completely contained within the Ragged Island Creek Wildlife Management Area on the northeastern side of the creek.

(12) Big Run in Rockingham County from its headwaters downstream to the first crossing with the Shenandoah National Park boundary and all tributaries to this segment

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of Big Run within the confines of Shenandoah National Park.

(13) Doyles River in Albemarle County from its headwaters to the first crossing with the Shenandoah National Park boundary and Jones Falls Run from its headwaters to its confluence with Doyles River and all tributaries to these segments of Doyles River and Jones Fall Run within the confines of Shenandoah National Park.

(14) East Hawksbill Creek in Page County from its headwaters downstream to the first crossing with the Shenandoah National Park boundary and all tributaries to this segment of East Hawksbill Creek within the confines of Shenandoah National Park.

(15) Jeremys Run in Page County from its headwaters downstream to the first crossing with the Shenandoah National Park boundary and all tributaries to this segment of Jeremys Run within the confines of Shenandoah National Park.

(16) East Branch Naked Creek in Page County from its headwaters downstream to the first crossing with the Shenandoah National Park boundary and all tributaries to this segment of East Branch Naked Creek within the confines of Shenandoah National Park.

(17) Piney River in Rappahannock County from its headwaters downstream to the first crossing with the Shenandoah National Park boundary and all tributaries to this segment of the Piney River within the confines of Shenandoah National Park.

(18) North Fork Thornton River in Rappahannock County from its headwaters downstream to the first crossing with the Shenandoah National Park boundary and all tributaries to this segment of the North Fork Thornton River within the confines of Shenandoah National Park.

(19) Blue Suck Branch from its headwaters downstream to the first crossing with the George Washington National Forest boundary.

(20) Downy Branch from its headwaters downstream to the first crossing with the George Washington National Forest boundary.

(21) North Branch Simpson Creek (Brushy Run) from its headwaters downstream to its confluence with Simpson Creek.

(22) Roberts Creek from its confluence with the Pedlar River upstream to its first crossing with the National Forest boundary.

(23) Shady Mountain Creek from its headwaters downstream to its confluence with the Pedlar River.

(24) Cove Creek from its headwaters downstream to the National Forest boundary.

(25) Little Cove Creek and its tributaries from the headwaters downstream to the National Forest boundary.

(26) Rocky Branch from its headwaters downstream to its confluence with the North Fork of the Buffalo River.

(27) North Fork of the Buffalo River from its confluence with Rocky Branch downstream to the National Forest Boundary.

(28) The Hazel River in Rappahannock County from its headwaters to the first downstream crossing with the Shenandoah National Park boundary and all tributaries within this segment within the confines of Shenandoah National Park.

B. Any determinations concerning thermal discharge limitations made under §316(a) of the Clean Water Act will be considered to be in compliance with the antidegradation policy.

VA.R. Doc. No. R08-642; Filed November 15, 2007, 12:34 p.m.

TITLE 13. HOUSING

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

Final Regulation

REGISTRAR'S NOTICE: The Virginia Housing Development Authority is exempt from the Administrative Process Act (§2.2-4000 et seq. of the Code of Virginia) pursuant to §2.2-4002 A 4; however, under the provisions of §2.2-4031, it is required to publish all proposed and final regulations.

Title of Regulation: 13VAC10-40. Rules and Regulations for Single Family Mortgage Loans to Persons and Families of Low and Moderate Income (amending 13VAC10-40-20, 13VAC10-40-60, 13VAC10-40-80, 13VAC10-40-100, 13VAC10-40-110, 13VAC10-40-120, 13VAC10-40-130, 13VAC10-40-170, 13VAC10-40-190, 13VAC10-40-210, 13VAC10-40-230).

Statutory Authority: §36-55.30:3 of the Code of Virginia.

Effective Date: November 13, 2007.

Agency Contact: J. Judson McKellar, Jr., General Counsel, Virginia Housing Development Authority, 601 S. Belvidere Street, Richmond, VA 23220, telephone (804) 343-5540, FAX (804) 783-6701, or email judson.mckellar@vhda.com.

Summary:

The amendments make several changes to the authority's rules and regulations for single family mortgage loans to persons and families of low and moderate income including (i) the approval requirements for originating and service agents, (ii) establishment of maximum sales prices and maximum gross income levels, (iii) administration of the authority's convention and Flexible Alternative loan programs, and (iv) the standards used by the authority in underwriting loans. In addition, the amendments make other miscellaneous administrative clarification changes.

13VAC10-40-20. Origination and servicing of mortgage loans.

A. The originating of mortgage loans and the processing of applications for the making or financing thereof in accordance herewith shall, except as noted in subsection G of this section, be performed through commercial banks, savings and loan associations, private mortgage bankers, redevelopment and housing authorities, and agencies of local government approved as originating agents ("originating agents") of the authority. The servicing of mortgage loans shall, except as noted in subsection H of this section, be performed through commercial banks, savings and loan associations and private mortgage bankers approved as servicing agents ("servicing agents") of the authority.

To be initially approved as an originating agent or as a servicing agent and to continue to be so approved, the applicant must meet the following qualifications:

1. Be authorized to do business in the Commonwealth of Virginia; and be licensed as a mortgage lender or broker, as applicable, under the Virginia Mortgage Lender and Broker Act as set forth in Chapter 16 (§6.1-408 et seq.) of Title 6.1 of the Code of Virginia (including nonprofit corporations that may be exempt from licensing when making mortgage loans on their own behalf under subdivision 4 of §6.1-411 of the Code of Virginia); provided, however, that such licensing requirement shall not apply to persons exempt from licensure under:

a. Subdivision 2 of §6.1-411 of the Code of Virginia (any person subject to the general supervision of or subject to examination by the Commissioner of the Bureau of Financial Institutions of the Virginia State Corporation Commission) [;]

b. Subdivision 3 of §6.1-411 of the Code of Virginia (any lender authorized to engage in business as a bank, savings institution or credit union under the laws of the United States, any state or territory of the United States, or the District of Columbia, and subsidiaries and affiliates of such entities, which lender, subsidiary or affiliate is subject to the general supervision or regulation of or subject to audit or examination by a regulatory body

or agency of the United States, any state or territory of the United States, or the District of Columbia) [;] or

c. Subdivision 5 of §6.1-411 of the Code of Virginia (agencies of the federal government, or any state or municipal government, or any quasi-governmental agency making or brokering mortgage loans under the specific authority of the laws of any state or the United States).

2. Have a net worth equal to or in excess of \$250,000 \$500,000 or such other amount as the executive director shall from time to time deem appropriate, except that this qualification requirement shall not apply to redevelopment and housing authorities and agencies of local government;

3. Have a staff with demonstrated ability and experience in mortgage loan origination and, underwriting, processing and closing (in the case of an originating agent applicant) or servicing (in the case of a servicing agent applicant); and

4. To be approved as an originating agent, have a physical office located in Virginia that is open to the general public during commercially reasonable business hours, staffed with individuals qualified to take mortgage loan applications, and to which the general public may physically go to make an application for a mortgage loan;

5. To be approved as an originating agent, be eligible to, and have a staff qualified to (as set forth in subdivision 3 of this subsection), originate mortgage loans under all of the authority's single-family mortgage loan programs (not including the Rural Development loan program);

6. Have a fidelity bond and mortgage errors and omissions coverage in an amount at least equal to \$500,000 and provide the authority a certificate from the insurance carrier naming the authority as a party in interest to the bond, or the policies or bonds shall name the authority as one of the parties insured. The policy's deductible clause may be for any amount up to the greater of \$100,000 or 5.0% of the face amount of the policy;

7. Have a past history of satisfactory performance in the authority's and other mortgage lenders', insurers', guarantors' and investors' mortgage programs that, in the determination of the executive director, demonstrates that the applicant will be capable of meeting its obligations under the authority's programs, and provided further that, any applicant that has been previously terminated as an originating by the authority shall not be eligible to reapply for 24 months after the effective date of such termination; and

4. ~~Such~~ 8. Meet such other qualifications as the executive director shall deem to be related to the performance of its duties and responsibilities.

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Notwithstanding the foregoing, any applicant that has been approved and has entered into a servicing or origination agreement as of November 13, 2007, but that does not meet the above requirements, shall have until March 31, 2009, to comply with such requirements.

Notwithstanding the foregoing, in the event that the executive director determines that it is reasonable or necessary (after taking into consideration the number of existing origination and servicing agents, the current and expected level of loan production and demand for mortgage loans, and the current and expected resources available to the authority to make mortgage loans) to cease approving additional originating and servicing agents, the authority may at any time decline to accept further applications and to approve applications previously submitted.

Each originating agent approved by the authority shall enter into an originating agreement ("originating agreement"), with the authority containing such terms and conditions as the executive director shall require with respect to the origination and processing of mortgage loans hereunder. Each servicing agent approved by the authority shall enter into a servicing agreement with the authority containing such terms and conditions as the executive director shall require with respect to the servicing of mortgage loans.

An applicant may be approved as both an originating agent and a servicing agent ("originating and servicing agent"). Each originating and servicing agent shall enter into both an originating agreement and a servicing agreement.

Once such agreements are executed, continued participation in the authority's programs shall be subject to the terms and conditions in such agreements.

For the purposes of this chapter, the term "originating agent" shall hereinafter be deemed to include the term "originating and servicing agent," unless otherwise noted or the context indicates otherwise. The term "servicing agent" shall continue to mean an agent authorized only to service mortgage loans.

Originating agents and servicing agents shall maintain adequate books and records with respect to mortgage loans which they originate and process or service, as applicable, shall permit the authority to examine such books and records, and shall submit to the authority such reports (including annual financial statements) and information as the authority may require. The fees payable to the originating agents and servicing agents for originating and processing or for servicing mortgage loans hereunder shall be established from time to time by the executive director and shall be set forth in the originating agreements and servicing agreements applicable to such originating agents and servicing agents.

B. The executive director shall allocate funds for the making or financing of mortgage loans hereunder in such manner, to such persons and entities, in such amounts, for such period, and subject to such terms and conditions as he shall deem

appropriate to best accomplish the purposes and goals of the authority. Without limiting the foregoing, the executive director may allocate funds (i) to mortgage loan applicants on a first-come, first-serve or other basis, (ii) to originating agents and state and local government agencies and instrumentalities for the origination of mortgage loans to qualified applicants and/or (iii) to builders for the permanent financing of residences constructed or rehabilitated or to be constructed or rehabilitated by them and to be sold to qualified applicants. In determining how to so allocate the funds, the executive director may consider such factors as he deems relevant, including any of the following:

1. The need for the expeditious commitment and disbursement of such funds for mortgage loans;
2. The need and demand for the financing of mortgage loans with such funds in the various geographical areas of the Commonwealth;
3. The cost and difficulty of administration of the allocation of funds;
4. The capability, history and experience of any originating agents, state and local governmental agencies and instrumentalities, builders, or other persons and entities (other than mortgage loan applicants) who are to receive an allocation; and
5. Housing conditions in the Commonwealth.

In the event that the executive director shall determine to make allocations of funds to builders as described above, the following requirements must be satisfied by each such builder:

1. The builder must have a valid contractor's license in the Commonwealth;
2. The builder must have at least three years' experience of a scope and nature similar to the proposed construction or rehabilitation; and
3. The builder must submit to the authority plans and specifications for the proposed construction or rehabilitation which are acceptable to the authority.

The executive director may from time to time take such action as he may deem necessary or proper in order to solicit applications for allocation of funds hereunder. Such actions may include advertising in newspapers and other media, mailing of information to prospective applicants and other members of the public, and any other methods of public announcement which the executive director may select as appropriate under the circumstances. The executive director may impose requirements, limitations and conditions with respect to the submission of applications as he shall consider necessary or appropriate. The executive director may cause market studies and other research and analyses to be performed in order to determine the manner and conditions

under which funds of the authority are to be allocated and such other matters as he shall deem appropriate relating thereto. The authority may also consider and approve applications for allocations of funds submitted from time to time to the authority without any solicitation therefor on the part of the authority.

C. This chapter constitutes a portion of the originating guide of the authority. The processing guide and all exhibits and other documents referenced herein are not included in, and shall not be deemed to be a part of this chapter. The executive director is authorized to prepare and from time to time revise a processing guide and a servicing guide which shall set forth the accounting and other procedures to be followed by all originating agents and servicing agents responsible for the origination, closing and servicing of mortgage loans under the applicable originating agreements and servicing agreements. Copies of the processing guide and the servicing guide shall be available upon request. The executive director shall be responsible for the implementation and interpretation of the provisions of the originating guide (including the processing guide) and the servicing guide.

D. The authority may from time to time (i) make mortgage loans directly to mortgagors with the assistance and services of its originating agents and (ii) agree to purchase individual mortgage loans from its originating agents or servicing agents upon the consummation of the closing thereof. The review and processing of applications for such mortgage loans, the issuance of mortgage loan commitments therefor, the closing and servicing (and, if applicable, the purchase) of such mortgage loans, and the terms and conditions relating to such mortgage loans shall be governed by and shall comply with the provisions of the applicable originating agreement or servicing agreement, the originating guide, the servicing guide, the Act and this chapter.

If the applicant and the application for a mortgage loan meet the requirements of the Act and this chapter, the executive director may issue on behalf of the authority a mortgage loan commitment to the applicant for the financing of the single family dwelling unit. Such mortgage loan commitment shall be issued only upon the determination of the authority that such a mortgage loan is not otherwise available from private lenders upon reasonably equivalent terms and conditions, and such determination shall be set forth in the mortgage loan commitment. The original principal amount and term of such mortgage loan, the amortization period, the terms and conditions relating to the prepayment thereof, and such other terms, conditions and requirements as the executive director deems necessary or appropriate shall be set forth or incorporated in the mortgage loan commitment issued on behalf of the authority with respect to such mortgage loan.

E. The authority may purchase from time to time existing mortgage loans with funds held or received in connection with bonds issued by the authority prior to January 1, 1981,

or with other funds legally available therefor. With respect to any such purchase, the executive director may request and solicit bids or proposals from the authority's originating agents and servicing agents for the sale and purchase of such mortgage loans, in such manner, within such time period and subject to such terms and conditions as he shall deem appropriate under the circumstances. The sales prices of the single family housing units financed by such mortgage loans, the gross family incomes of the mortgagors thereof, and the original principal amounts of such mortgage loans shall not exceed such limits as the executive director shall establish, subject to approval or ratification by resolution of the board. The executive director may take such action as he deems necessary or appropriate to solicit offers to sell mortgage loans, including mailing of the request to originating agents and servicing agents, advertising in newspapers or other publications and any other method of public announcement which he may select as appropriate under the circumstances. After review and evaluation by the executive director of the bids or proposals, he shall select those bids or proposals that offer the highest yield to the authority on the mortgage loans (subject to any limitations imposed by law on the authority) and that best conform to the terms and conditions established by him with respect to the bids or proposals. Upon selection of such bids or proposals, the executive director shall issue commitments to the selected originating agents and servicing agents to purchase the mortgage loans, subject to such terms and conditions as he shall deem necessary or appropriate. Upon satisfaction of the terms of the commitments, the executive director shall execute such agreements and documents and take such other action as may be necessary or appropriate in order to consummate the purchase and sale of the mortgage loans. The mortgage loans so purchased shall be serviced in accordance with the applicable originating agreement or servicing agreement and the servicing guide. Such mortgage loans and the purchase thereof shall in all respects comply with the Act and the authority's rules and regulations.

F. The executive director may, in his discretion, delegate to one or more originating agents all or some of the responsibility for underwriting, issuing commitments for mortgage loans and disbursing the proceeds hereof without prior review and approval by the authority. The executive director may delegate to one or more servicing agents all or some of the responsibility for underwriting and issuing commitments for the assumption of existing authority mortgage loans without prior review and approval by the authority. If the executive director determines to make any such delegation, he shall establish criteria under which originating agents may qualify for such delegation. If such delegation has been made, the originating agents shall submit all required documentation to the authority at such time as the authority may require. If the executive director determines that a mortgage loan does not comply with any requirement

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under the originating guide, the applicable originating agreement, the Act or this chapter for which the originating agent was delegated responsibility, he may require the originating agents to purchase such mortgage loan, subject to such terms and conditions as he may prescribe.

G. The authority may utilize financial institutions, mortgage brokers and other private firms and individuals and governmental entities ("field originators") approved by the authority for the purpose of receiving applications for mortgage loans. To be approved as a field originator, the applicant must meet the following qualifications:

1. Be authorized to do business in the Commonwealth of Virginia;
2. Have made any necessary filings or registrations and have received any and all necessary approvals or licenses in order to receive applications for mortgage loans in the Commonwealth of Virginia;
3. Have the demonstrated ability and experience in the receipt and processing of mortgage loan applications; and
4. Have such other qualifications as the executive director shall deem to be related to the performance of its duties and responsibilities.

Each field originator approved by the authority shall enter into such agreement as the executive director shall require with respect to the receipt of applications for mortgage loans. Field originators shall perform such of the duties and responsibilities of originating agents under this chapter as the authority may require in such agreement.

Field originators shall maintain adequate books and records with respect to mortgage loans for which they accept applications, shall permit the authority to examine such books and records, and shall submit to the authority such reports and information as the authority may require. The fees to the field originators for accepting applications shall be payable in such amount and at such time as the executive director shall determine.

In the case of mortgage loans for which applications are received by field originators, the authority may process and originate the mortgage loans; accordingly, unless otherwise expressly provided, the provisions of this chapter requiring the performance of any action by originating agents shall not be applicable to the origination and processing by the authority of such mortgage loans, and any or all of such actions may be performed by the authority on its own behalf.

H. The authority may service mortgage loans for which the applications were received by field originators or any mortgage loan which, in the determination of the authority, originating agents and servicing agents will not service on terms and conditions acceptable to the authority or for which the originating agent or servicing agent has agreed to terminate the servicing thereof.

Part II Program Requirements

13VAC10-40-60. Eligible dwellings.

A. In order to qualify as an eligible dwelling for which an authority loan may be made, the residence must:

1. Be located in the Commonwealth;
2. Be a one-family detached residence, a townhouse or one unit of an authority approved condominium; ~~and~~
3. Satisfy the acquisition cost requirements set forth below; and
4. Be owned or to be owned by the applicant in the form of fee simple interest.

The authority may decline to finance more than 25% of the units in any one condominium project, planned unit development (PUD) or subdivision if the executive director determines that financing additional units would be detrimental to the authority's financial interests after taking into consideration the then current and expected demand and supply of housing in the applicable geographic region.

B. The acquisition cost of an eligible dwelling may not exceed certain limits established by the U.S. Department of the Treasury in effect at the time of the application. Note: In all cases for new loans such federal limits equal or exceed the authority's sales price limits shown in 13VAC10-40-80. Therefore, for new loans the residence is an eligible dwelling if the acquisition cost is not greater than the authority's sales price limit. In the event that the acquisition cost exceeds the authority's sales price limit, the originating agent must contact the authority to determine if the residence is an eligible dwelling.

1. To determine if the acquisition cost is at or below the federal limits for assumptions, the originating agent or, if applicable, the servicing agent must in all cases contact the authority (see 13VAC10-40-140 ~~below~~).

2. Acquisition cost means the cost of acquiring the eligible dwelling from the seller as a completed residence.

a. Acquisition cost includes:

(1) All amounts paid, either in cash or in kind, by the eligible borrower (or a related party or for the benefit of an eligible borrower) to the seller (or a related party or for the benefit of the seller) as consideration for the eligible dwelling. Such amounts include amounts paid for items constituting fixtures under state law, but not for items of personal property not constituting fixtures under state law. (See Exhibit R for examples of fixtures and items of personal property.)

(2) The reasonable costs of completing or rehabilitating the residence (whether or not the cost of completing construction or rehabilitation is to be financed with the

mortgage loan) if the eligible dwelling is incomplete or is to be rehabilitated. As an example of reasonable completion cost, costs of completing the eligible dwelling so as to permit occupancy under local law would be included in the acquisition cost. A residence which includes unfinished areas (i.e. an area designed or intended to be completed or refurbished and used as living space, such as the lower level of a tri-level residence or the upstairs of a Cape Cod) shall be deemed incomplete, and the costs of finishing such areas must be included in the acquisition cost.

(3) The cost of land on which the eligible dwelling is located and which has been owned by an eligible borrower for a period no longer than two years prior to the construction of the structure comprising the eligible dwelling.

b. Acquisition cost does not include:

(1) Usual and reasonable settlement or financing costs. Such excluded settlement costs include title and transfer costs, title insurance, survey fees and other similar costs. Such excluded financing costs include credit reference fees, legal fees, appraisal expenses, points which are paid by an eligible borrower, or other costs of financing the residence. Such amounts must not exceed the usual and reasonable costs which otherwise would be paid. Where the buyer pays more than a pro rata share of property taxes, for example, the excess is to be treated as part of the acquisition cost.

(2) The imputed value of services performed by an eligible borrower or members of his family (brothers and sisters, spouse, ancestors and lineal descendants) in constructing or completing the residence.

3. The originating agent is required to obtain from each eligible borrower a completed affidavit of borrower which shall include a calculation of the acquisition cost of the eligible dwelling in accordance with this subsection B. The originating agent shall assist each eligible borrower in the correct calculation of such acquisition cost. The affidavit of seller shall also certify as to the acquisition cost of the eligible dwelling.

4. The originating agent shall for each new loan determine whether the acquisition cost of the eligible dwelling exceeds the authority's applicable sales price limit shown in 13VAC10-40-80. If the acquisition cost exceeds such limit, the originating agent must contact the authority to determine if the residence is an eligible dwelling for a new loan. (For an assumption, the originating agent or, if applicable, the servicing agent must contact the authority for this determination in all cases, see 13VAC10-40-140). Also, as part of its review, the originating agent must review the affidavit of borrower submitted by each mortgage loan applicant and must make a determination

that the acquisition cost of the eligible dwelling has been calculated in accordance with this subsection B. In addition, the originating agent must compare the information contained in the affidavit of borrower with the information contained in the affidavit of seller and other sources and documents such as the contract of sale for consistency of representation as to acquisition cost.

5. The authority reserves the right to obtain an independent appraisal in order to establish fair market value and to determine whether a dwelling is eligible for the mortgage loan requested.

13VAC10-40-80. Sales price limits.

The ~~authority's~~ executive director shall, from time to time, establish the applicable maximum allowable sales ~~price~~ prices. Each such maximum allowable sales price shall be ~~95%~~ expressed as a percentage of the applicable maximum purchase prices (except that the maximum allowable sales price for targeted area residences shall be the same as are established for nontargeted residences) price permitted or approved by the U.S. Department of the Treasury pursuant to the federal tax code ~~or as a dollar amount, which percentage or dollar amount may vary by loan program and geographic region as determined by the executive director, after taking into consideration such factors as he deems appropriate, including, without limitation, the following factors:~~

1. The current and anticipated financial resources available to the authority to make mortgage loans;
2. The current and anticipated financial resources available to potential applicants from sources other than the authority to finance mortgage loans;
3. The current and anticipated demand for mortgage loans;
4. The prevailing mortgage loan terms available to potential applicants; and
5. The current and anticipated need for targeted or subsidized lending in each region based upon financial conditions and the housing market in such region.

The executive director shall apply the foregoing factors to establish the maximum allowable sales prices that enable the authority to effectively and efficiently allocate its current and anticipated financial resources so as to best meet the current and future housing needs of the citizens throughout the Commonwealth.

The authority shall from time to time inform its originating agents and servicing agents by written notification thereto of the ~~dollar amounts of the~~ foregoing maximum allowable sales prices under this section expressed in dollar amounts for each area of the state, as established by the executive director. Any changes ~~in~~ to the dollar amounts of such maximum allowable sales prices shall be effective as of such date as the executive director shall determine (subject to any exceptions for

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pending loan reservations or applications as the executive director may determine), and authority is reserved to the executive director to implement any such changes on such date or dates as he shall deem necessary or appropriate to best accomplish the purposes of the program.

13VAC10-40-100. Maximum gross income.

A. As provided in 13VAC10-40-50 A 6, the gross income of the applicant or applicants for an authority mortgage loan may not exceed the applicable income limitation imposed by the U.S. Department of the Treasury. Because the income limits of the authority imposed by this section apply to all loans to which such federal limits apply and are in all cases below such federal limits, the requirements of 13VAC10-40-50 A 6 are automatically met if the applicant's or applicants' gross income does not exceed the applicable limits set forth in this section.

For the purposes hereof, the term "gross income" means the combined annualized gross income of all persons residing or intending to reside in a dwelling unit, from whatever source derived and before taxes or withholdings. For the purpose of this definition, annualized gross income means gross monthly income multiplied by 12. "Gross monthly income" is, in turn, the sum of monthly gross pay plus any additional income from overtime, part-time employment, bonuses, dividends, interest, royalties, pensions, Veterans Administration compensation, net rental income plus other income (such as alimony, child support, public assistance, sick pay, social security benefits, unemployment compensation, income received from trusts, and income received from business activities or investments).

B. ~~For all loans, except loans to be guaranteed by the Rural Development, the~~ The executive director shall, from time to time, establish the applicable maximum gross incomes. Each such maximum gross income shall be expressed as a percentage (which may be based on the number of persons expected to occupy the dwelling upon financing of the mortgage loan) of the applicable median family income (as defined in Section 143(f)(4) of the Internal Revenue Code of 1986, as amended) (the "median family income") as follows: and referred to herein as the "median family income") or as a dollar amount, which percentage or dollar amount may vary by loan program and geographic region as determined by the executive director, after taking into consideration such factors as he deems appropriate, including, without limitation, the following factors:

Number of Persons to Occupy Dwelling	Percentage of applicable median family income (regardless of whether residence is new construction, existing or substantially rehabilitated)
2 or fewer persons	85%
3 or more persons	100%

~~The executive director may from time to time establish maximum gross incomes equal to the following percentages of applicable median family income (as so defined) with respect to such mortgage loans as he may designate on which the interest rate has been reduced due to financial support by the authority:~~

Number of Persons to Occupy Dwelling	Percentage of applicable median family income (regardless of whether residence is new construction, existing or substantially rehabilitated)
2 or fewer persons	65%
3 or more persons	80%

1. The current and anticipated financial resources available to the authority to make mortgage loans;

2. The current and anticipated financial resources available to potential applicants from sources other than the authority to finance mortgage loans;

3. The current and anticipated demand for mortgage loans;

4. The prevailing mortgage loan terms available to potential applicants; and

5. The current and anticipated need for targeted or subsidized lending in each region based upon financial conditions and the housing market in such region.

~~The executive director may from time to time shall apply the foregoing factors to time establish the maximum gross incomes equal to the following percentages of applicable median family income (as so defined) with respect to such mortgage loans as he may designate if he determines that such maximum gross incomes will enable the Authority to assist the state in achieving its economic and housing goals and policies: that enable the authority to effectively and efficiently allocate its current and anticipated financial resources so as to best meet the current and future housing needs of the citizens throughout the Commonwealth.~~

Number of Persons to Occupy Dwelling	Percentage of applicable median family income (regardless of whether residence is new construction, existing or substantially rehabilitated)
2 or fewer persons	95%
3 or more persons	110%

The authority shall from time to time inform its originating agents and servicing agents by written notification thereto of the foregoing maximum gross income limits ~~incomes~~ under this ~~subsection~~ section expressed in dollar amounts for each area of the state, as established by the executive director, and the number of persons to occupy the dwelling, if

applicable. Any changes to the dollar amounts of such ~~income limits~~ maximum gross incomes shall be effective as of such date as the executive director shall determine (subject to any exceptions for pending loan reservations or applications as the executive director may determine), and authority is reserved to the executive director to implement any such changes on such date or dates as he shall deem necessary or appropriate to best accomplish the purposes of the program.

~~C. With respect to a loan to be guaranteed by Rural Development, the maximum income shall be the lesser of the maximum gross income determined in accordance with §10-40-100 A or Rural Development income limits in effect at the time of application.~~

13VAC10-40-110. Calculation of maximum loan amount.

Single family detached residence, townhouse (fee simple ownership) and approved condominium--Maximum of 100% (or, in the case of an FHA, VA, Rural Development loan or a loan with private mortgage insurance, such other percentage as may be permitted by FHA, VA, Rural Development or the private mortgage insurance provider) of the lesser of the sales price or appraised value, except as may otherwise be approved by the ~~authority~~ executive director; provided, however, the executive director may establish lower percentages if the executive director determines that lower percentages are necessary to protect the authority's financial interests or to enable the authority to effectively and efficiently allocate its current and anticipated financial resources so as to best meet the current and future housing needs of the citizens throughout the Commonwealth.

In the case of an FHA, VA or Rural Development loan, the FHA, VA or Rural Development insurance fees or guarantee fees charged in connection with such loan (and, if an FHA loan, the FHA permitted closing costs as well) may be included in the calculation of the maximum loan amount in accordance with applicable FHA, VA or Rural Development requirements; provided, however, that in no event shall this revised maximum loan amount which includes such fees and closing costs be permitted to exceed the authority's maximum allowable sales price limits set forth herein.

13VAC10-40-120. Mortgage insurance requirements.

Unless the loan is an FHA, VA or Rural Development loan, the borrower or borrowers are required to purchase at time of loan closing full private mortgage insurance (~~25% to 100% coverage, as the authority shall determine~~) (in an amount equal to the percentage of the loan that exceeds 80% of the lesser or sales price or appraised value of the property or such higher percentage as the executive director may determine is necessary to protect the authority's financial interests) on each loan the amount of which exceeds 80% of the lesser of sales price or appraised value of the property to be financed. Such insurance shall be issued by a company acceptable to the authority. The originating agent is required to escrow for

annual payment of mortgage insurance, unless an alternative payment plan is approved by the authority. If the authority requires FHA, VA or Rural Development insurance or guarantee, the loan will either, at the election of the authority, (a) be closed in the authority's name in accordance with the procedures and requirements herein or (b) be closed in the originating agent's name and purchased by the authority once the FHA Certificate of Insurance, VA Guaranty or Rural Development Guarantee has been obtained or subject to the condition that such FHA Certificate of Insurance, VA Guaranty or Rural Development Guarantee be obtained. In the event that the authority purchases an FHA, VA or Rural Development loan, the originating agent must enter into a purchase and sale agreement on such form as shall be provided by the authority. For assumptions of conventional loans (i.e., loans other than FHA, VA or Rural Development loans), full private mortgage insurance as described above is required unless waived by the authority.

The executive director may waive the requirements for private mortgage insurance in the preceding paragraph for a loan having a principal amount in excess of 80% of the lesser of sales price or appraised value of the property to be financed if the applicant satisfies the criteria set forth in subdivisions 11 through 17 of 13VAC10-40-230 or if the executive director otherwise determines that the financial integrity of the program is protected by the financial strength of the applicant or applicants or the terms of the financing.

13VAC10-40-130. Underwriting.

A. In general, to be eligible for authority financing, an applicant or applicants must satisfy the following underwriting criteria which demonstrate the willingness and ability to repay the mortgage debt and adequately maintain the financed property.

1. The applicant or applicants must document the receipt of a stable current income which indicates that the applicant or applicants will receive future income which is sufficient to enable the timely repayment of the mortgage loan as well as other existing obligations and living expenses.
2. The applicant or, in the case of multiple applicants, the applicants individually and collectively must possess a credit history which reflects the ability to successfully meet financial obligations and a willingness to repay obligations in accordance with established credit repayment terms.
3. An applicant having a foreclosure instituted by the authority on his property financed by an authority mortgage loan will not be eligible for a mortgage loan hereunder. The authority will consider previous foreclosures (other than on authority financed loans) on an exception basis based upon circumstances surrounding the cause of the foreclosure, length of time since the foreclosure, the applicant's subsequent credit history and overall financial stability. Under no circumstances will an

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applicant be considered for an authority loan within three years from the date of the foreclosure. The authority has complete discretion to decline to finance a loan when a previous foreclosure is involved.

4. The applicant or applicants must document that sufficient funds will be available for required down payment and closing costs.

a. The terms and sources of any loan to be used as a source for down payment or closing costs must be reviewed and approved in advance of loan approval by the authority.

b. Sweat equity, the imputed value of services performed by an eligible borrower or members of his family (brothers and sisters, spouse, ancestors and lineal descendants) in constructing or completing the residence, generally is not an acceptable source of funds for down payment and closing costs. Any sweat equity allowance must be approved by the authority prior to loan approval.

5. Proposed monthly housing expenses compared to current monthly housing expenses will be reviewed. If there is a substantial increase in such expenses, the applicant or applicants must demonstrate his ability to pay the additional expenses.

6. All applicants are encouraged to attend a home ownership educational program to be better prepared to deal with the home buying process and the responsibilities related to homeownership. The authority may require all applicants applying for certain authority loan programs to complete an authority approved homeownership education program prior to loan approval.

B. In addition to the requirements set forth in subsection A of this section, the following requirements must be met in order to satisfy the authority's underwriting requirements for conventional loans. However, additional or more stringent requirements may be imposed (i) by private mortgage insurance companies with respect to those loans on which private mortgage insurance is required or (ii) on loans as described in the last paragraph of 13VAC10-40-120.

1. The following rules apply to the authority's employment and income requirement.

a. Employment for the preceding two-year period must be documented. Education or training for employment during this two-year period shall be considered in satisfaction of this requirement if such education or training is related to an applicant's current line of work and adequate future income can be anticipated because such education and training will expand the applicant's job opportunities. The applicant must be employed a minimum of six months with present employer. An exception to the six-month requirement can be granted by the authority if it can be determined that the type of work

is similar to previous employment and previous employment was of a stable nature.

b. Note: Under the tax code, the residence may not be expected to be used in trade or business. (See 13VAC10-40-50 C.) Any self-employed applicant must have a minimum of two years of self-employment with the same company and in the same line of work. In addition, the following information is required at the time of application:

(1) Federal income tax returns for the two most recent tax years.

(2) Balance sheets and profit and loss statements prepared by an independent public accountant.

In determining the income for a self-employed applicant, income will be averaged for the two-year period.

c. The following rules apply to income derived from sources other than primary employment.

(1) When considering alimony and child support. A copy of the legal document and sufficient proof must be submitted to the authority verifying that alimony and child support are court ordered and are being received. Child support payments for children 15 years or older are not accepted as income in qualifying an applicant or applicants for a loan.

(2) When considering social security and other retirement benefits. Social Security Form No. SSA 2458 must be submitted to verify that applicant is receiving social security benefits. Retirement benefits must be verified by receipt or retirement schedules. VA disability benefits must be verified by the VA. Educational benefits and social security benefits for dependents 15 years or older are not accepted as income in qualifying an applicant or applicants for a loan.

(3) All part-time employment must be continuous for a minimum of 24 months, except that the authority may consider part-time employment that is continuous for more than 12 months but less than 24 months if such part-time employment is of a stable nature and is likely to continue after closing of the mortgage loan.

(4) Overtime earnings must be guaranteed by the employer or verified for a minimum of two years. Bonus and commissions must be reasonably predictable and stable and the applicant's employer must submit evidence that they have been paid on a regular basis and can be expected to be paid in the future.

2. The following rules apply to each applicant's credit:

a. The authority requires that an applicant's previous credit experience be satisfactory. Poor credit references without an acceptable explanation will cause a loan to be rejected. Satisfactory credit references and history are

considered to be important requirements in order to obtain an authority loan.

b. An applicant will not be considered for a loan if the applicant has been adjudged bankrupt within the past two years. If longer than two years, the applicant must submit a written explanation giving details surrounding the bankruptcy. The authority has complete discretion to decline a loan when a bankruptcy is involved.

c. An applicant is required to submit a written explanation for all judgments and collections. In most cases, judgments and collections must be paid before an applicant will be considered for an authority loan.

3. The authority reserves the right to obtain an independent appraisal in order to establish the fair market value of the property and to determine whether the dwelling is eligible for the mortgage loan requested.

4. The applicant or applicants satisfy the authority's minimum income requirement for financing if the monthly principal and interest (at the rate determined by the authority), tax, insurance ("PITI") and other additional monthly fees such as condominium assessments ~~(60% of the monthly condominium assessment shall be added to the PITI figure)~~ association fees (excluding unit utility charges), townhouse assessments, etc. do not exceed 32% of monthly gross income and if the monthly PITI plus outstanding monthly debt payments with more than ~~six~~ 10 months duration (and payments on debts lasting less than ~~six~~ 10 months, if making such payments will adversely affect the applicant's or applicants' ability to make mortgage loan payments [~~during in~~] the months following loan closing) do not exceed 40% of monthly gross income (see Exhibit B). However, with respect to those mortgage loans on which private mortgage insurance is required, the private mortgage insurance company may impose more stringent requirements. If either of the percentages set forth [~~above~~] are exceeded, compensating factors may be used by the authority, in its sole discretion, to approve the mortgage loan.

5. Funds necessary to pay the downpayment and closing costs must be deposited at the time of loan application. The authority does not permit an applicant to borrow funds for this purpose unless approved in advance by the authority. If the funds are being held in an escrow account by the real estate broker, builder or closing attorney, the source of the funds must be verified. A verification of deposit from the parties other than financial institutions authorized to handle deposited funds is not acceptable.

6. ~~A gift letter is required when an applicant proposes to obtain funds as a gift from a third party. The gift letter must confirm that there is~~ The applicant proposes to obtain funds as a gift from a third party. The gift letter must confirm that there is may receive a gift from only a relative, employer or nonprofit entity not involved in the transfer or financing of the property. The individual(s)

making the gift must provide a letter to the authority confirming that the transfer of funds is a gift with no obligation on the part of an applicant to repay the funds at any time. The party making the gift must submit proof that the funds are available. The executive director may approve gifts from other sources provided the executive director determines that such transfer of funds to the applicant is not subject to repayment by the applicant and is not made in consideration of any past or future obligation of the applicant or in consideration of any terms of the property transfer or mortgage loan transaction.

7. Seller contributions for settlement or financing costs (including closing costs, discount points and upfront mortgage insurance premiums) may not exceed the lesser of 6.0% of the sales price or the amount permitted by the applicable mortgage insurer guidelines.

C. The following rules are applicable to FHA loans only.

1. The authority will normally accept FHA underwriting requirements and property standards for FHA loans. However, the applicant or applicants must satisfy the underwriting criteria set forth in subsection A of this section and most of the authority's basic eligibility requirements including those described in 13VAC10-40-30 through 13VAC10-40-100 hereof remain in effect due to treasury restrictions or authority policy.

2. The applicant's or applicants' mortgage insurance premium fee may be included in the FHA acquisition cost and may be financed provided that the final loan amount does not exceed the authority's maximum allowable sales price. In addition, in the case of a condominium, such fee may not be paid in full in advance but instead is payable in annual installments.

3. The FHA allowable closing fees may be included in the FHA acquisition cost and may be financed provided the final loan amount does not exceed the authority's maximum allowable sales price.

4. FHA appraisals are acceptable. VA certificates of reasonable value (CRV's) are acceptable if acceptable to FHA.

D. The following rules are applicable to VA loans only.

1. The authority will normally accept VA underwriting requirements and property guidelines for VA loans. However, the applicant or applicants must satisfy the underwriting criteria set forth in subsection A of this section and most of the authority's basic eligibility requirements (including those described in 13VAC10-40-30 through 13VAC10-40-100) remain in effect due to treasury restrictions or authority policy.

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2. The funding fee can be included in loan amount provided the final loan amount does not exceed the authority's maximum allowable sales price.

3. VA certificates of reasonable value (CRV's) are acceptable in lieu of an appraisal.

E. The following rules are applicable to Rural Development loans only.

1. The authority will normally accept Rural Development underwriting requirements and property standards for Rural Development loans. However, the applicant or applicants must satisfy the underwriting criteria set forth in subsection A of this section and most of the authority's basic eligibility requirements including those described in 13VAC10-40-30 through 13VAC10-40-100 remain in effect due to treasury restrictions or authority policy.

2. The Rural Development guarantee fee can be included in loan amount provided the final loan amount does not exceed the authority's maximum allowable sales price.

F. With respect to FHA, VA, RD and conventional loans, the authority permits the deposit of a sum of money (the "buydown funds") by a party (the "provider") with an escrow agent, a portion of which funds are to be paid to the authority each month in order to reduce the amount of the borrower's or borrowers' monthly payment during a certain period of time. Such arrangement is governed by an escrow agreement for buydown mortgage loans (see Exhibit V) executed at closing (see 13VAC10-40-180 for additional information). The escrow agent will be required to sign a certification (Exhibit X) in order to satisfy certain insurer or guarantor requirements. For the purposes of underwriting buydown mortgage loans, the reduced monthly payment amount may be taken into account based on insurer or guarantor guidelines then in effect (see also subsection C, D or E of this section, as applicable).

G. Unlike the program described in subsection E of this section which permits a direct buydown of the borrower's or borrowers' monthly payment, the authority also from time to time permits the buydown of the interest rate on a conventional, FHA or VA mortgage loan for a specified period of time.

13VAC10-40-170. Commitment (Exhibit J).

A. Upon approval of the applicant or applicants, the authority will send a mortgage loan commitment to the borrower or borrowers in care of the originating agent. The originating agent shall ask the borrower or borrowers to indicate acceptance of the mortgage loan commitment by signing and returning it to the originating agent ~~within 15 days after the date of the commitment or~~ prior to settlement, ~~whichever occurs first.~~

A commitment must be issued in writing by an authorized officer of the authority and signed by the applicant or

applicants before a loan may be closed. The term of a commitment may be extended in certain cases upon written request by the applicant or applicants and approved by the authority. If an additional commitment is issued to an applicant or applicants, the interest rate may be higher than the rate offered in the original commitment. Such new rate and the availability of funds therefor shall in all cases be determined by the authority in its discretion.

B. If the application fails to meet any of the standards, criteria and requirements herein, a loan rejection letter will be issued by the authority (see Exhibit L). In order to have the application reconsidered, the applicant or applicants must resubmit the application within 30 days after loan rejection. If the application is so resubmitted, the credit documentation cannot be more than 90 days old and the appraisal not more than six months old.

13VAC10-40-190. Property guidelines.

A. For each application the authority must make the determination that the property will constitute adequate security for the loan. That determination shall in turn be based solely upon a real estate appraisal's determination of the value and condition of the property. Such appraisal must be performed by an appraiser licensed in the Commonwealth of Virginia.

When the residence is located in an area experiencing a decline in property values as determined by the appraiser or the executive director based upon objective quantitative data, the executive director may establish additional requirements, including, without limitation, lower loan to value ratios, for such loan as determined necessary by the executive director to protect the financial interests of the authority.

All properties must be structurally sound and in adequate condition to preserve the continued marketability of the property and to protect the health and safety of the occupants. Eligible properties must possess features which are acceptable to typical purchasers in the subject market area and provide adequate amenities. Eligible properties must meet ~~FNMA~~ Fannie Mae and ~~FHLMC~~ Freddie Mac property guidelines unless otherwise approved by the authority.

All properties must be structurally sound and in adequate condition to preserve the continued marketability of the property and to protect the health and safety of the occupants. Eligible properties must possess features that are acceptable to typical purchasers in the subject market area and provide adequate amenities. Eligible properties must meet FNMA and FHLMC property guidelines unless otherwise approved by the authority.

In addition, manufactured housing, both new construction and certain existing, may be financed only if the loan is insured 100% by FHA (see subsection C of this section). The authority may also impose other property requirements and offer other financing terms for manufactured housing,

provided that the executive director determines that such property requirements and financing terms adequately protect the financial integrity of the program.

B. The following rules apply to conventional loans.

1. The following requirements apply to both new construction and existing housing to be financed by a conventional loan: (i) all property must be located on a state maintained road; provided, however, that the authority may, on a case-by-case basis, approve financing of property located on a private road acceptable to the authority if the right to use such private road is granted to the owner of the residence pursuant to a recorded right-of-way agreement providing for the use of such private road and a recorded maintenance agreement provides for the maintenance of such private road on terms and conditions acceptable to the authority (any other easements or rights-of-way to state maintained roads are not acceptable as access to properties); (ii) any easements, covenants or restrictions which will adversely affect the marketability of the property, such as high-tension power lines, drainage or other utility easements will be considered on a case-by-case basis to determine whether such easements, covenants or restrictions will be acceptable to the authority; (iii) property with available water and sewer hookups must utilize them; and (iv) property without available water and sewer hookups may have their own well and septic system; provided that joint ownership of a well and septic system will be considered on a case-by-case basis to determine whether such ownership is acceptable to the authority, provided further that cisterns will be considered on a case-by-case basis to determine whether the cistern will be adequate to serve the property.

2. New construction financed by a conventional loan must also meet ~~Uniform~~ Virginia Statewide Building Code and local code.

C. The following rules apply to FHA, VA or Rural Development loans.

1. Both new construction and existing housing financed by an FHA, VA or Rural Development loan must meet all applicable requirements imposed by FHA, VA or Rural Development.

2. Manufactured housing being financed by FHA loans must also meet federal manufactured home construction and safety standards, satisfy all FHA insurance requirements, be on a permanent foundation to be enclosed by a perimeter masonry curtain wall conforming to standards of the ~~Uniform~~ Virginia Statewide Building Code, be permanently affixed to the site owned by the borrower or borrowers and be insured 100% by FHA under its section 203B program. In addition, the property must be classified and taxed as real estate and no personal property may be financed.

13VAC10-40-210. Condominium requirements.

A. For conventional loans, the originating agent must provide evidence that the condominium meets the eligibility requirements of either ~~FNMA~~ Fannie Mae or ~~FHLMC~~ Freddie Mac. The originating agent must submit evidence at the time the borrower's or borrowers' application is submitted to the authority for approval. The executive director may require additional evidence of marketability of the condominium unit, such as a market study prepared by qualified professional, if the executive director determines that such additional evidence is necessary to protect the financial interests of the authority.

B. For FHA, VA or Rural Development loans, the authority will accept a loan to finance a condominium if the condominium is approved by FHA, in the case of an FHA loan, by VA, in the case of a VA loan or be Rural Development, in the case of a Rural Development loan.

C. The executive director may waive any requirements in subsections A and B of this section if he determines that any additional risk as a result of such waiver is adequately compensated or otherwise covered by the terms of the mortgage loan or the financial strength or credit of the applicant or applicants.

13VAC10-40-230. Flexible alternative mortgage loan programs.

The executive director may establish flexible alternative mortgage loan programs. 13VAC10-40-10 through 13VAC10-40-220 shall apply to such flexible alternative mortgage loan programs, with the following modifications:

1. The following requirements shall not apply: (i) the new mortgage requirement; (ii) the requirements as to the use of the property in a trade or business; (iii) the requirements as to acquisition cost and sales price of the property to be financed; (iv) the requirement that each applicant shall not have had a present ownership interest in his principal residence within the preceding three years; (v) the net worth requirement; (vi) the requirements for the payment by the seller of an amount equal to 1.0% of the loan in 13VAC10-40-160 D 2; and (vii) the lot size restriction in 13VAC10-40-50 C 3.

2. The gross income of the applicant or applicants shall not exceed 120% of the applicable median family income without regard to household size, provided, however, that the authority may increase such percentage of applicable median family income, not to exceed 150%, if the executive director determines that it is necessary to provide financing in underserved areas identified by the executive director to persons with disabilities (i.e., physically or mentally disabled, as determined by the executive director on the basis of medical evidence from a licensed physician or other appropriate evidence satisfactory to the executive

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director), to applicants with a household size of two or more persons, or other similarly underserved individuals identified by the executive director.

3. At the time of closing, each applicant must occupy or intend to occupy within 60 days (90 days in the case of new construction) the property to be financed as his principal residence.

4. The property to be financed must be one of the following types: (i) a single family residence (attached or detached); (ii) a unit in a condominium or PUD which is approved for financing by ~~FNMA~~ Fannie Mae or ~~FHLMC~~ Freddie Mac or satisfies the requirements for such financing, except that the executive director may waive any of such requirements if he determines that any additional risk as a result of such waiver is adequately compensated or otherwise covered by the terms of the mortgage loan or the financial strength or credit of the applicant or applicants; or (iii) a doublewide manufactured home permanently affixed to the land.

5. The land, residence and all other improvements on the property to be financed must be expected to be used by the borrower or borrowers primarily for residential purposes.

6. Personal property which is related to the use and occupancy of the property as the principal residence of the borrower or borrowers and is customarily transferred with single family residences may be included in the real estate contract, transferred with the residence and financed by the loan; however, the value of such personal property shall not be considered in the appraised value.

7. The principal amount of the mortgage loan shall not exceed the limits established by ~~FNMA~~ Fannie Mae or ~~FHLMC~~ Freddie Mac for single family residences.

8. The maximum loan amount shall be calculated as follows:

a. If the authority loan will be used to acquire the residence, the loan amount (plus all subordinate debt to be secured by the property after closing of the authority loan) may not exceed 100% of the lesser of appraised value or sales price; provided, however, the executive director may establish a lower percentage if the executive director determines that such lower percentage is necessary to protect the authority's financial interests or to enable the authority to effectively and efficiently allocate its current and anticipated financial resources so as to best meet the current and future housing needs of the citizens throughout the Commonwealth. In the case of loans to finance such acquisition, the executive director may approve additional subordinate financing if he determines that any additional risk as a result of such additional subordinate financing is adequately compensated or otherwise covered by the terms of the

mortgage loan or the financial strength or credit of the applicant or applicants.

b. If the loan proceeds will not be used to finance the acquisition of the residence, the loan amount (plus all subordinate debt to be secured by the property after closing of the authority loan) may not exceed the lesser of the current appraised value of the property or the sum of (i) the payoff (if any) of the applicant's existing first mortgage loan; (ii) the payoff (if any) of applicant's or applicants' subordinate mortgage loans (provided such loans do not permit periodic advancement of loan proceeds) closed for not less than 12 months preceding the date of the closing of the authority loan and the payoff (if any) of applicant's or applicants' home equity line of credit loan (i.e., loan that permits periodic advancement of proceeds) with no more than \$2,000 in advances within the 12 months preceding the date of the closing of the authority loan, excluding funds used for the purpose of documented improvements to the residence; (iii) improvements to be performed to the property after the closing of the authority loan and for which loan proceeds will be escrowed at closing; (iv) closing costs, discount points, fees and escrows payable in connection with the origination and closing of the authority loan; and (v) up to \$500 to be payable to applicant or applicants at closing.

c. If the applicant or applicants request to receive loan proceeds at closing in excess of the limit set forth in clause (v) of subdivision 8 b of this section, the loan amount (plus all subordinate debt to be secured by the property after closing of the authority loan) may be increased to finance such excess cash up to a loan amount not in excess of 95% of the current appraised value. To be eligible for such increased financing, the applicant's or applicants' credit score may be no less than 660, and the financial integrity of the flexible alternative program must be protected by an upward adjustment to the rate of interest charged to the applicant or applicants or otherwise.

d. If the applicant's or applicants' existing mortgage loan to be refinanced is an authority mortgage loan, the applicant or applicants may request a streamlined refinance of the authority mortgage loan in which the authority may require less underwriting documentation (e.g., verification of employment) and may charge reduced points and fees. For such streamlined refinances, the loan amount (plus all subordinate debt to be secured by the property after closing of the authority loan) is limited to (i) the payoff of the existing authority mortgage loan and (ii) required closing costs, discount points, fees and escrows payable in connection with the origination and closing of the new authority loan, provided, however, that the loan amount (plus all subordinate debt to be secured by the property after

closing of the authority loan) may not exceed 100% of the greatest of original appraised value, current real estate tax assessment, current appraised value or other alternative valuation method approved by the authority. To be eligible for such streamlined refinance, the applicant's or applicants' payment history on the current authority loan may not include any 30 day late payments within the previous 24-month period (12 months for applicants whose current authority loans do not carry mortgage insurance) and no bankruptcy since the closing of the original mortgage loan. In approving such streamlined refinance, the executive director must determine that any additional risk is outweighed by the demonstrated satisfactory payment history of applicant to the authority.

e. In addition to the foregoing maximum loan amounts under this section, the executive director may approve the disbursement of additional amounts to finance closing costs and fees and costs of rehabilitation and improvements to be completed subsequent to the closing. Except for loans financed under the program described in subdivision 24 of this subsection, these additional amounts may not exceed 5.0% of the lesser of sales price (if any) or appraised value, provided, however, that in addition to such 5.0%, amounts not to exceed 5.0% of the lesser of sales price (if any) or appraised value may be funded for the costs of rehabilitation and improvements to retrofit the residence or add accessibility features to accommodate the needs of a disabled occupant or to provide for visitability by disabled individuals.

9. Mortgage insurance shall not be required, except that in the case of manufactured homes mortgage insurance shall be required in accordance with 13VAC10-40-120.

10. (Reserved.)

11. The applicant or applicants must have a history of receiving stable income from employment or other sources with a reasonable expectation that the income will continue in the foreseeable future; typically, verification of two years' stable income will be required; and education or training in a field related to the employment of the applicant or applicants may be considered to meet no more than one year of this requirement.

12. The applicant or applicants must possess a credit history as of the date of loan application satisfactory to the authority and, in particular, must satisfy the following: (i) for each applicant, no bankruptcy or foreclosure within the preceding three years; for each applicant, no housing payment past due for 30 days in the preceding 24 months; for a single applicant individually and all multiple applicants collectively, no more than one payment past due for 30 days or more on any other debt or obligation within the preceding 12 months; for each applicant, no

outstanding collection, judgment, charge off, repossession or 30-day past due account; and a minimum credit score of 620 if the loan-to-value ratio is 95% or less or 660 if the loan-to-value ratio exceeds 95% (credit scores as referenced in these regulations shall be determined by obtaining credit scores for each applicant from a minimum of three repositories and using the middle score in the case of a single applicant and the lowest middle score in the case of multiple applicants); or (ii) for each applicant, no previous bankruptcy or foreclosure; for a single applicant individually and all multiple applicants collectively, no outstanding collection, judgment, charge off or repossession within the past 12 months or more than one 30-day past due account within the past 12 months and no more than four 30-day past due accounts within the past 24 months; for each applicant, no previous housing payment past due for 30 days; for a single applicant individually and all multiple applicants collectively, minimum of three sources of credit with satisfactory payment histories for the most recent 24-month period; for a single applicant individually and all multiple applicants collectively, no more than nine accounts currently open; and for a single applicant individually and all multiple applicants collectively, no more than three new accounts opened in the past 12 months (in establishing guidelines to implement the flexible alternative mortgage loan programs, the authority may refer to the credit requirements in clause (i) of this subdivision as the "alternative" credit requirements and the requirements in clause (ii) of this subdivision as the "standard" credit requirements).

If the executive director determines it is necessary to protect the financial integrity of the flexible alternative program, the executive director may require that applicant or applicants for loans having loan-to-value ratios in excess of 97% meet the alternative credit requirements in clause (i) of this subdivision.

13. Homeownership education approved by the authority shall be required for any borrower who is a first time homeowner if the loan-to-value ratio exceeds 95%. This requirement shall be waived if the applicant or applicants have a credit score of 660 or greater (see subdivision 12 of this section for the manner of determining credit scores); unless the executive director determines that such homeownership education is necessary to protect its financial interests;

14. Seller contributions for closing costs and other amounts payable by the borrower or borrowers in connection with the purchase or financing of the property shall not exceed 4.0% of the contract price.

15. Sources of funds for the down payment and closing costs payable by the borrower shall be limited to the borrower's or borrowers' funds, gifts or unsecured loans from relatives, grants from employers or nonprofit entities

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not involved in the transfer or financing of the property, and unsecured loans on terms acceptable to the authority (payments on any unsecured loans permitted under this subdivision shall be included in the calculation of the debt/income ratios described below), and documentation of such sources of funds shall be in form and substance acceptable to the authority.

16. The maximum debt ratios shall be 35% and 43% in lieu of the ratios of 32% and 40%, respectively, set forth in 13VAC10-40-130 B 4.

17. Cash reserves at least equal to two months' loan payments must be held by the applicant or applicants if the loan-to-value ratio exceeds 95%; cash reserves at least equal to one month's loan payment must be held by the applicant or applicants if the loan-to-value ratio is greater than 90% and is less than or equal to 95%; and no cash reserves shall be required if the loan-to-value ratio is 90% or less.

18. The payment of points (a point being equal to 1.0% of the loan amount) in addition to the origination fee shall be charged as follows: if the loan-to-value ratio is 90% or less, one-half of one point shall be charged; if the loan-to-value ratio is greater than 90% and is less than or equal to 95%, one point shall be charged; and if the loan-to-value ratio exceeds 95%, one and one-half point shall be charged. If the executive director determines that the financial integrity of the flexible alternative program is protected, by an adjustment to the rate of interest charged to the applicant or applicants or otherwise, the authority may provide the applicant or applicants with the option of an alternative point requirement.

In addition to the above, a reduction of one-half of one point will be made to the applicant or applicants meeting the credit requirements in clause 12 (i) above with a credit score of 700 or greater (see subdivision 12 of this section for the manner of determining credit scores).

19. The interest rate which would otherwise be applicable to the loan shall be reduced by .25% if the loan-to-value ratio is 80% or less.

20. The documents relating to requirements of the federal tax code governing tax-exempt bonds shall not be required.

21. For assumptions of loans, the above requirements for occupancy of the property as the borrower's or borrowers' principal residence, the above income limit, and the underwriting criteria in the regulations as modified by this section must be satisfied.

22. The authority may require that any or all loans financed under such alternative mortgage programs be serviced by the authority.

23. The authority may accept an approval of an automated underwriting system in lieu of satisfaction of the foregoing

requirements for the flexible alternative program if the executive director determines that such delegated underwriting system is designed so as to adequately protect the financial integrity of the flexible alternative program.

24. The executive director may establish a flexible alternative rehabilitation mortgage loan program. The regulations set forth in subdivisions 1 through 23 of this section shall apply to such flexible alternative rehabilitation mortgage loan program, with the following modifications:

a. At the time of closing, each applicant must occupy or intend to occupy within 180 days the property to be financed as his principal residence;

b. The provision of clause (iii) of subdivision 4 of this section permitting the financing of a doublewide manufactured home permanently affixed to the land shall not apply.

c. The maximum loan amount for a purchase shall be 100% of the lesser of (i) the sum of purchase price plus rehabilitation costs; or (ii) the as completed appraised value. The maximum loan amount for a refinance shall be 100% of the lesser of (i) the outstanding principal balance plus rehabilitation costs; or (ii) the as completed appraised value.

d. The rehabilitation costs to be financed may not exceed an amount equal to 50% of the as completed appraised value.

e. Loan proceeds may be used to finance the purchase and installation of eligible improvements. Improvements that are eligible for financing are structural alterations, repairs, additions to the residence itself, or other improvements (including appliances) upon or in connection with the residence. In order to be eligible, such improvements must substantially protect or improve the basic livability or utility of the residence. Improvements that are physically removed from the residence but that are located on the property occupied by the residence may be eligible for financing if these improvements substantially protect or improve the basic livability or utility of the residence (i.e., installation of a septic tank or the drilling of a well). Luxury items (such as swimming pools and spas) shall not be eligible for financing hereunder.

f. Loan proceeds may not be used to finance any improvements that have been completed at the time the application is submitted to the authority.

g. All work financed with the loan proceeds shall be performed by a contractor duly licensed in Virginia to perform such work and be performed pursuant to a validly issued building permit, if required, and shall comply with all applicable state and local health,

housing, building, fire prevention and housing maintenance codes and other applicable standards and requirements. Compliance with the foregoing shall be evidenced by such documents and certifications as shall be prescribed by the executive director.

h. The executive director may require the applicant or applicants to establish a contingency fund for the mortgage loan in an amount adequate to ensure sufficient reserve funds for the proper completion of the proposed improvements in the event of cost over runs. The executive director may also require a holdback from each disbursement of loan proceeds until completion of the residence.

i. The executive director may approve originating agents to originate the acquisition/rehabilitation loans. To be so approved, the originating agent must have a staff with demonstrated ability and experience in acquisition/rehabilitation mortgage loan origination, processing and administration.

j. In addition to the payment of points set forth in subdivision 18 of this section, the originating agent may collect an escrow administration fee and an inspection fee in an amount determined by the executive director to compensate the originating agent for administering the disbursement of the mortgage loan during the rehabilitation of the residence.

Except as modified hereby, all of the requirements, terms and conditions set forth in 13VAC10-40-10 through 13VAC10-40-220 shall apply to the flexible alternative mortgage loan programs.

VA.R. Doc. No. R08-967; Filed November 13, 2007, 9:30 a.m.



TITLE 14. INSURANCE

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: 14VAC5-420. Rules Governing Military Sales Practices (adding 14VAC5-420-10 through 14VAC5-420-60).

Statutory Authority: §§12.1-13 and 38.2-223 of the Code of Virginia; P.L. 109-290 (Military Personnel Financial Services Protection Act).

Effective Date: February 15, 2008.

Agency Contact: James Young, Senior Market Examiner, State Corporation Commission, 1300 East Main Street, 3rd Floor, P.O. Box 1157, Richmond, VA 23218, telephone (804) 371-9532, FAX (804) 371-9821, or email james.young@scc.virginia.gov.

Summary:

In September 2006, Congress passed the Military Personnel Financial Services Protection Act (P.L. 109-290). Congress found it imperative that members of the United States Armed Forces be shielded from "abusive and misleading sales practices" and protected from certain life insurance products that were "improperly marketed as investment products, providing minimal death benefits in exchange for excessive premiums...., making them entirely inappropriate for most military personnel." To address these concerns, Congress required that the states collectively work with the Secretary of Defense to ensure implementation of appropriate standards to protect members of the Armed Forces from dishonest and predatory sales practices while on a military installation. To that end, the National Council of Insurance Commissioners (NAIC) worked with the Department of Defense to develop the Military Sales Practices Model Regulation to address these Congressional mandates. The rules proposed by the Bureau of Insurance closely follow the model regulation.

The revisions from the proposed rules to the final rules include the following: 14VAC5-420-20, the definition of "active duty" was revised to eliminate the rules' application to members of the National Guard or Reserves who are in an active duty or training status for less than 31 days. This revision more closely follows the language of the NAIC Model. 14VAC50-420-20 also added a definition of "basic illustration." 14VAC5-420-50 added language in subdivision A 5 to prohibit Department of Defense personnel from soliciting service members "who are junior in rank or grade." This revision mirrors the NAIC Model. 14VAC5-420-50 added language in subdivision E 5 to allow for a basic illustration to meet the written disclosure requirements.

Summary of Public Comments and Agency's Response: No public comments were received by the promulgating agency.

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AT RICHMOND, NOVEMBER 9, 2007

COMMONWEALTH OF VIRGINIA

At the relation of the

STATE CORPORATION COMMISSION

CASE NO. INS-2007-00268

Ex Parte: In the matter of Adopting New
Rules Governing Military Sales Practices

ORDER ADOPTING RULES

By order entered herein August 29, 2007, all interested persons were ordered to take notice that subsequent to October 15, 2007, the State Corporation Commission (Commission) would consider the entry of an order adopting new rules proposed by the Bureau of Insurance (Bureau) entitled Rules Governing Military Sales Practices (Rules), set forth in Chapter 420 of Title 14 of the Virginia Administrative Code, unless on or before October 15, 2007, any person objecting to the adoption of the proposed new rules filed a request for hearing with the Clerk of the Commission (Clerk).

The Order to Take Notice also required all interested persons to file their comments in support of or in opposition to the proposed new rules on or before October 15, 2007.

The American Council of Life Insurers (ACLI) timely filed comments with the Clerk, to which the Bureau provided a response in the form of a Statement of Position filed with the Clerk on November 1, 2007.

The Bureau recommends that the proposed new rules be revised at 14 VAC 5-420-20, in the definition of "active duty", and by adding a definition of "basic illustration." Further, 14 VAC 5-420-50 is recommended to be revised in subsection A 5 to add language to mirror the National Association of Insurance Commissioners (NAIC) Model regulation of the same title, and subsection E 5 be revised to allow for a basic illustration to meet the written disclosure requirements.

THE COMMISSION, having considered the proposed revisions, the comments, and the Bureau's response to and recommendation regarding the comments, is of the opinion that the attached new rules and revisions from the proposed rules should be adopted.

THEREFORE IT IS ORDERED THAT:

(1) The new rules at Chapter 420 of Title 14 of the Virginia Administrative Code entitled "Rules Governing Military Sales Practices," which are attached hereto and made a part hereof, should be, and they are hereby, ADOPTED to be effective February 15, 2008.

(2) AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to Jacqueline K. Cunningham,

Deputy Commissioner, Bureau of Insurance, State Corporation Commission, who forthwith shall give further notice of the adoption of the new rules by mailing a copy of this Order, including a clean copy of the attached final rules, to all insurance carriers licensed by the Commission to sell life or variable life insurance or annuities or variable annuities in the Commonwealth of Virginia, and certain interested parties designated by the Bureau of Insurance.

(3) The Commission's Division of Information Resources forthwith shall cause a copy of this Order, including a copy of the attached new rules, to be forwarded to the Virginia Registrar of Regulations for appropriate publication in the Virginia Register of Regulations and shall make this Order and the attached new rules available on the Commission's website, <http://www.scc.virginia.gov/caseinfo.htm>.

(4) The Bureau of Insurance shall file with the Clerk of the Commission an affidavit of compliance with the notice requirements in paragraph (2) of this Order.

CHAPTER 420

RULES GOVERNING MILITARY SALES PRACTICES

14VAC5-420-10. Purpose and scope.

A. The purpose of this chapter is to set forth standards to protect active duty service members of the United States Armed Forces from dishonest and predatory insurance sales practices by prohibiting certain false, misleading, deceptive or unfair acts and practices.

B. This chapter shall apply only to the solicitation or sale of any life insurance or annuity product by an insurer or insurance agent to an active duty service member of the United States Armed Forces.

C. Nothing in this chapter shall be construed to create or imply a private cause of action for a violation of any provision of this chapter.

14VAC5-420-20. Definitions.

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

"Active duty" means full-time duty in the active military service of the United States and includes members of the reserve component (National Guard and Reserve) while serving under published orders for active duty [~~or~~] full-time training [~~or in a drill status in the National Guard or United States Armed Forces Reserve. The term does not include members of the reserve component who are performing active duty or active duty for training under military calls or orders specifying periods of less than 31 calendar days~~].

["Basic illustration" means a presentation or depiction that includes both guaranteed and nonguaranteed elements of a policy of life insurance over a period of years.]

"Commission" means the State Corporation Commission.

"Department of Defense (DoD) personnel" means all active duty service members and all civilian employees, including nonappropriated fund employees and special government employees of the Department of Defense.

"DoD" means the Department of Defense.

"Door to door" means a solicitation or sales method whereby an insurance agent proceeds randomly or selectively from household to household without prior specific appointment.

"General advertisement" means an advertisement having as its sole purpose the promotion of the reader's or viewer's interest in the concept of insurance, or the promotion of the insurer or the insurance agent.

"Insurer" means an insurance company required to be licensed in the Commonwealth of Virginia to provide life insurance products, including annuities.

"Insurance agent" means a person required to be licensed in the Commonwealth of Virginia to sell, solicit or negotiate life insurance, including annuities.

"Known" or "knowingly" means, depending on its use herein, the insurance agent or insurer had actual awareness, or in the exercise of ordinary care should have known, at the time of the act or practice complained of, that the person solicited is a service member.

"Life insurance" means insurance coverage on human lives including benefits of endowment and annuities, and may include benefits in the event of death or dismemberment by accident and benefits for disability income, and unless otherwise specifically excluded, includes individually issued annuities.

"Military installation" means any federally owned, leased, or operated base, reservation, post, camp, building, or other facility to which service members are assigned for duty, including barracks, transient housing, and family quarters.

"MyPay" is a Defense Finance and Accounting Service web-based system that enables service members to process certain discretionary pay transactions or provide updates to personal information data elements without using paper forms.

"Service member" means any active duty officer (commissioned and warrant) or enlisted member of the United States Armed Forces.

"SGLI" means Servicemembers Group Life Insurance, as authorized by 38 USC §1965 et seq.

"Side fund" means a fund or reserve that is part of or otherwise attached to a life insurance policy (excluding

individually issued annuities) by rider, endorsement or other mechanism that accumulates premium or deposits with interest or by other means. The term does not include:

1. Accumulated value or cash value or secondary guarantees provided by a universal life policy;
2. Cash values provided by a whole life policy which are subject to standard nonforfeiture law for life insurance; or
3. A premium deposit fund that:
 - a. Contains only premiums paid in advance that accumulate at interest;
 - b. Imposes no penalty for withdrawal;
 - c. Does not permit funding beyond future required premiums;
 - d. Is not marketed or intended as an investment; and
 - e. Does not carry a commission, either paid or calculated.

"Specific appointment" means a prearranged appointment agreed upon by both parties and definite as to place and time.

"United States Armed Forces" or "Armed Forces" means all components of the Army, Navy, Air Force, Marine Corps, and Coast Guard.

"VGLI" means Veterans' Group Life Insurance, as authorized by 38 USC §1965 et seq.

14VAC5-420-30. Exemptions.

A. This chapter shall not apply to solicitations or sales involving:

1. Credit insurance;
2. Group life insurance or group annuities where there is no in-person, face-to-face solicitation of individuals by an insurance agent or where the contract or certificate does not include a side fund;
3. An application to the existing insurer that issued the existing policy or contract when a contractual change or a conversion privilege is being exercised; or, when the existing policy or contract is being replaced by the same insurer pursuant to a program filed with and approved by the commission; or, when a term conversion privilege is exercised among corporate affiliates;
4. Individual standalone health policies, including disability income policies;
5. Contracts offered by SGLI or VGLI;
6. Life insurance contracts offered through or by a nonprofit military association, qualifying under §501(c)(23) of the Internal Revenue Code (26 USC §501(c)(23)) and that are not underwritten by an insurer; or

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7. Contracts used to fund:

a. An employee pension or welfare benefit plan that is covered by the Employee Retirement and Income Security Act (ERISA) (29 USC §1001 et seq.);

b. A plan described by §§401(a), 401(k), 403(b), 408(k) or 408(p) of the Internal Revenue Code, if established or maintained by an employer;

c. A government or church plan defined in §414 of the Internal Revenue Code, a government or church welfare benefit plan, or a deferred compensation plan of a state or local government or tax exempt organization under §457 of the Internal Revenue Code;

d. A nonqualified deferred compensation arrangement established or maintained by an employer or plan sponsor;

e. Settlements of or assumptions of liabilities associated with personal injury litigation or any dispute or claim resolution process; or

f. Prearranged funeral contracts.

B. Nothing herein shall be construed to abrogate the ability of nonprofit organizations or other organizations to educate members of the United States Armed Forces in accordance with Department of Defense DoD Instruction 1344.07, Personal Commercial Solicitation on DoD Installations, March 30, 2006.

C. For purposes of this chapter, general advertisements, direct mail and Internet marketing shall not constitute "solicitation." Telephone marketing shall not constitute "solicitation" provided the caller explicitly and conspicuously discloses that the product concerned is life insurance and makes no statements that avoid a clear and unequivocal statement that life insurance is the subject matter of the solicitation. Nothing in this subsection shall be construed to exempt an insurer or insurance agent from this chapter in any in-person, face-to-face meeting established as a result of the "solicitation" exemptions identified in this subsection.

14VAC5-420-40. Prohibited practices on a military installation.

A. The following acts or practices when committed on a military installation by an insurer or insurance agent with respect to the in-person, face-to-face solicitation of life insurance are prohibited:

1. Knowingly soliciting the purchase of any life insurance product door to door or without first establishing a specific appointment for each meeting with the prospective purchaser.

2. Soliciting service members in a group or mass audience or in a captive audience where attendance is not voluntary.

3. Knowingly making appointments with or soliciting service members during their normally scheduled duty hours.

4. Making appointments with or soliciting service members in barracks, day rooms, unit areas, or transient personnel housing or other areas where the installation commander has prohibited solicitation.

5. Soliciting the sale of life insurance without first obtaining permission from the installation commander or the commander's designee.

6. Posting unauthorized bulletins, notices or advertisements.

7. Failing to present DD Form 2885, Personal Commercial Solicitation Evaluation, to service members solicited, or encouraging service members solicited not to complete or submit a DD Form 2885.

8. Knowingly accepting an application for life insurance or issuing a policy of life insurance on the life of an enlisted member of the United States Armed Forces without first obtaining for the insurer's files a completed copy of any required form that confirms that the applicant has received counseling or fulfilled any other similar requirement for the sale of life insurance established by regulations, directives or rules of the DoD or any branch of the Armed Forces.

B. The following acts or practices when committed on a military installation by an insurer or insurance agent are prohibited:

1. Using DoD personnel, directly or indirectly, as a representative or agent in any official or business capacity with or without compensation with respect to the solicitation or sale of life insurance to service members.

2. Using an insurance agent to participate in any United States Armed Forces sponsored education or orientation program.

14VAC5-420-50. Prohibited practices regardless of location.

A. The following acts or practices by an insurer or insurance agent are considered to be corrupt practices, improper influences or inducements that are prohibited regardless of location:

1. Submitting, processing or assisting in the submission or processing of any allotment form or similar device used by the United States Armed Forces to direct a service member's pay to a third party for the purchase of life insurance. The foregoing includes, but is not limited to, using or assisting in using a service member's MyPay account or other similar internet or electronic medium for such purposes. This subdivision does not prohibit assisting

a service member by providing insurer or premium information necessary to complete any allotment form.

2. Knowingly receiving funds from a service member for the payment of premium from a depository institution with which the service member has no formal banking relationship. For purposes of this section, a formal banking relationship is established when the depository institution:

a. Provides the service member a deposit agreement and periodic statements and makes the disclosures required by the Truth in Savings Act (12 USC §4301 et seq.) and the regulations promulgated thereunder; and

b. Permits the service member to make deposits and withdrawals unrelated to the payment or processing of insurance premiums.

3. Employing any device or method or entering into any agreement whereby funds received from a service member by allotment for the payment of insurance premiums are identified on the service member's Leave and Earnings Statement or equivalent or successor form as "savings" or "checking" and where the service member has no formal banking relationship as defined in subdivision A 2 of this section.

4. Entering into any agreement with a depository institution for the purpose of receiving funds from a service member whereby the depository institution, with or without compensation, agrees to accept direct deposits from a service member with whom it has no formal banking relationship.

5. Using DoD personnel, directly or indirectly, as a representative or agent in any official or unofficial capacity with or without compensation with respect to the solicitation or sale of life insurance to service members [3 who are junior in rank or grade] , or to the family members of such personnel.

6. Offering or giving anything of value, directly or indirectly, to DoD personnel to procure their assistance in encouraging, assisting or facilitating the solicitation or sale of life insurance to another service member.

7. Knowingly offering or giving anything of value to a service member for his attendance to any event where an application for life insurance is solicited.

8. Advising a service member to change his income tax withholding or state of legal residence for the sole purpose of increasing disposable income to purchase life insurance.

B. The following acts or practices by an insurer or insurance agent lead to confusion regarding source, sponsorship, approval or affiliation and are prohibited:

1. Making any representation, or using any device, title, descriptive name or identifier that has the tendency or

capacity to confuse or mislead a service member into believing that the insurer, insurance agent or product offered is affiliated, connected or associated with, endorsed, sponsored, sanctioned or recommended by the U.S. Government, the United States Armed Forces, or any state or federal agency or government entity. Examples of prohibited insurance agent titles include, but are not limited to "Battalion Insurance Counselor," "Unit Insurance Advisor," "Servicemen's Group Life Insurance Conversion Consultant" or "Veteran's Benefits Counselor."

Nothing herein shall be construed to prohibit a person from using a professional designation awarded after the successful completion of a course of instruction in the business of insurance by an accredited institution of higher learning. Such designations include, but are not limited to Chartered Life Underwriter (CLU), Chartered Financial Consultant (ChFC), Certified Financial Planner (CFP), Master of Science In Financial Services (MSFS), or Masters of Science Financial Planning (MS).

2. Soliciting the purchase of any life insurance product through the use of or in conjunction with any third party organization that promotes the welfare of or assists members of the United States Armed Forces in a manner that has the tendency or capacity to confuse or mislead a service member into believing that either the insurer, insurance agent or insurance product is affiliated, connected or associated with, endorsed, sponsored, sanctioned or recommended by the U.S. Government or the United States Armed Forces.

C. The following acts or practices by an insurer or insurance agent lead to confusion regarding premiums, costs or investment returns and are prohibited:

1. Using or describing the credited interest rate on a life insurance policy in a manner that implies that the credited interest rate is a net return on premium paid.

2. Excluding individually issued annuities, misrepresenting the mortality costs of a life insurance product, including stating or implying that the product costs nothing or is free.

D. The following acts or practices by an insurer or insurance agent regarding SGLI or VGLI are prohibited:

1. Making any representation regarding the availability, suitability, amount, cost, exclusions or limitations to coverage provided to a service member or dependents by SGLI or VGLI, that is false, misleading or deceptive.

2. Making any representation regarding conversion requirements, including the costs of coverage, or exclusions or limitations to coverage of SGLI or VGLI to private insurers that is false, misleading or deceptive.

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3. Suggesting, recommending or encouraging a service member to cancel or terminate his SGLI policy or issuing a life insurance policy that replaces an existing SGLI policy unless the replacement shall take effect upon or after the service member's separation from the United States Armed Forces.

E. The following acts or practices by an insurer or insurance agent regarding disclosure are prohibited:

1. Deploying, using or contracting for any lead generating materials designed exclusively for use with service members that do not clearly and conspicuously disclose that the recipient will be contacted by an insurance agent, if that is the case, for the purpose of soliciting the purchase of life insurance.

2. Failing to disclose that a solicitation for the sale of life insurance will be made when establishing a specific appointment for an in-person, face-to-face meeting with a prospective purchaser.

3. Excluding individually issued annuities, failing to clearly and conspicuously disclose the fact that the product being sold is life insurance.

4. Failing to make, at the time of sale or offer to an individual known to be a service member, the written disclosures required by §10 of the Military Personnel Financial Services Protection Act ([Pub. L. No. P.L.] 109-290).

5. Excluding individually issued annuities, when the sale is conducted in-person, face-to-face with an individual known to be a service member, failing to provide the applicant at the time the application is taken:

a. An explanation of any free look period with instructions on how to cancel if a policy is issued; and

b. Either a copy of the application or a written disclosure. The copy of the application or the written disclosure shall clearly and concisely set out the type of life insurance, the death benefit applied for and its expected first year cost. [A basic illustration shall be deemed sufficient to meet this requirement for a written disclosure.]

F. The following acts or practices by an insurer or insurance agent with respect to the sale of certain life insurance products are prohibited:

1. Excluding individually issued annuities, recommending the purchase of any life insurance product that includes a side fund to a service member unless the insurer has reasonable grounds for believing that the life insurance death benefit, standing alone, is suitable.

2. Offering for sale or selling a life insurance product that includes a side fund to a service member who is currently enrolled in SGLI, is presumed unsuitable unless, after the completion of a needs assessment, the insurer demonstrates

that the applicant's SGLI death benefit, together with any other military survivor benefits, savings and investments, survivor income, and other life insurance are insufficient to meet the applicant's insurable needs for life insurance. For the purposes of this subdivision:

a. "Insurable needs" are the risks associated with premature death taking into consideration the financial obligations and immediate and future cash needs of the applicant's estate, survivors or dependents.

b. "Other military survivor benefits" include, but are not limited to: the death gratuity, funeral reimbursement, transition assistance, survivor and dependents' educational assistance, dependency and indemnity compensation, TRICARE healthcare benefits, survivor housing benefits and allowances, federal income tax forgiveness, and Social Security survivor benefits.

3. Excluding individually issued annuities, offering for sale or selling any life insurance contract that includes a side fund:

a. Unless interest credited accrues from the date of deposit to the date of withdrawal and permits withdrawals without limit or penalty;

b. Unless the applicant has been provided with a schedule of effective rates of return based upon cash flows of the combined product. For this disclosure, the effective rate of return will consider all premiums and cash contributions made by the policyholder and all cash accumulations and cash surrender values available to the policyholder in addition to life insurance coverage. This schedule will be provided for at least each policy year from one to 10 and for every fifth policy year thereafter ending at age 100, policy maturity or final expiration; and

c. Which by default diverts or transfers funds accumulated in the side fund to pay, reduce or offset any premiums due.

4. Excluding individually issued annuities, offering for sale or selling any life insurance contract that after considering all policy benefits, including but not limited to endowment, return of premium or persistency, does not comply with standard nonforfeiture law for life insurance.

5. Selling any life insurance product to an individual known to be a service member that excludes coverage if the insured's death is related to war, declared or undeclared, or any act related to military service except for an accidental death coverage, e.g., double indemnity, which may be excluded.

14VAC5-420-60. Severability.

If any provision of this chapter or its application to any person or circumstance is for any reason held to be invalid by

a court, the remainder of this chapter and the application of the provisions to other persons or circumstances shall not be affected.

NOTICE: The forms used in administering the above regulation are listed below and published following the listing.

FORMS

Personal Commercial Solicitation Evaluation, DD Form 2885 (eff. 4/06).

PERSONAL COMMERCIAL SOLICITATION EVALUATION		
PRIVACY ACT STATEMENT		
AUTHORITY: Section 301 of Title 5 U.S.C.		
<p>PRINCIPAL PURPOSE(S): Information on this form will be used to document the experience with the sales representative who provides the Service member with this evaluation. This information will be maintained at the installation level. It may be forwarded to officials within the Department of Defense responsible for oversight of personal commercial solicitation practices if further action is required. These officials may need to make contact concerning the solicitation described in questions 2, 3, and 4. Service member response will help ensure sales representatives conduct themselves fairly and in accordance with DoD Instruction 1344.07. This information will be maintained as part of a case file in the event proceedings are considered necessary to deny or withdraw permission for the sales representative and/or the company to solicit on one or more installations.</p>		
ROUTINE USE(S): None.		
DISCLOSURE: Voluntary. There is no consequence to the Service member for not completing this evaluation.		
<p>Please take a moment to respond to the following questions concerning your experience with the sales representative who provided you this evaluation. Your response will help ensure sales representatives conduct themselves fairly and according to the policies outlined in DoD Instruction 1344.07.</p> <p>When you have completed this evaluation, please send it to the Installation Commander or his/her designated representative. Please do not give the completed evaluation back to the sales representative to mail for you.</p>		
1. SALES REPRESENTATIVE WHO CONTACTED YOU AND HIS OR HER COMPANY		
a. NAME OF SALES REPRESENTATIVE	b. COMPANY NAME	
2. MAKING THE APPOINTMENT <i>(Mark (X) "Yes" if any of the following are true)</i>		
	YES	NO
a. The sales representative <u>failed to</u> make an appointment in advance to see me.		
b. The <u>initial</u> contact to schedule an appointment occurred <u>while I was on duty</u> (during normal duty hours).		
c. My <u>initial</u> contact with the sales representative was in response to a notice in an official installation bulletin, marquee, announcement or newsletter that said he or she would be on the installation during a specific time or at a specific place.		
d. A superior in my chain of command advised or required me to meet with the sales representative.		
e. The sales representative made <u>initial</u> contact with me via a government phone, fax, or computer.		
3. TIME AND PLACE OF THE APPOINTMENT <i>(Mark (X) "Yes" if any of the following are true)</i>		
	YES	NO
a. The sales presentation took place on the installation while I was <u>on duty</u> (during normal duty hours).		
b. The sales presentation took place during a mandatory group meeting with other DoD personnel or as part of a military service sponsored financial education program.		
c. The sales presentation took place in an unauthorized or restricted area.		
d. The sales representative used an on-base facility as a showroom to display his or her product or services. (This does not include displays conducted by military family members in their on-base residence.)		
4. CONDUCT DURING THE APPOINTMENT <i>(Mark (X) "Yes" if any of the following are true)</i>		
	YES	NO
a. I was unduly pressured to buy the product or service.		
b. I was not given the adequate facts, or was induced to purchase based on factors other than the merits of the product or service.		
c. I was offered an incentive to meet with the sales representative, purchase the product or service, or drop a competing offer.		
d. The sales representative is a DoD employee of senior rank.		
e. The sales representative implied that he or she is sponsored or endorsed by the military, the installation or my unit. (For example, the representative used an official or unofficial title such as "unit advisor" or "installation consultant.")		
f. The sales representative had a military pay allotment or direct deposit form in his/her possession, or requested "MyPay" account access or PIN number.		
5. YOUR CONTACT INFORMATION		
a. NAME (Last, First, Middle Initial)	b. HOME TELEPHONE NUMBER <i>(Include area code)</i>	c. WORK TELEPHONE NUMBER <i>(Include area code)</i>
d. E-MAIL ADDRESS	e. UNIT ADDRESS	

DD FORM 2885, APR 2006

Adobe Professional 7.0

DOCUMENT INCORPORATED BY REFERENCE

Department of Defense Instruction, Number 1344.07, Personal Commercial Solicitation on DoD Installations, March 30, 2006.

V.A.R. Doc. No. R08-841; Filed November 19, 2007, 11:59 a.m.

TITLE 22. SOCIAL SERVICES
DEPARTMENT OF REHABILITATIVE SERVICES
Proposed Regulation

Title of Regulation: 22VAC30-10. **Public Participation Guidelines (amending 22VAC30-10-10, 22VAC30-10-20, 22VAC30-10-40, 22VAC30-10-50).**

Statutory Authority: §§2.2-4007.02 and 51.5-14 of the Code of Virginia.

Public Hearing Information: No public hearings are scheduled.

Public Comments: Public comments may be submitted until 5 p.m. on February 8, 2008.

Agency Contact: Vanessa S. Rakestraw, Policy Analyst, Department of Rehabilitative Services, 8004 Franklin Farms Drive, Richmond, VA 23229, telephone (804) 662-7612, FAX (804) 662-7696, or email vanessa.rakestraw@drs.virginia.gov.

Basis: The Commissioner of the Department of Rehabilitative Services has statutory authority in §51.5-14 of the Code of Virginia to promulgate regulations necessary to carry out the provisions of the laws of the Commonwealth administered by the department.

Public participation guidelines are mandated in §2.2-4007.02 of the Code of Virginia.

Purpose: The department has updated and clarified its guidelines for public participation in the development and promulgation of initial, amended or repealed regulations. Changes are recommended by department staff after reviewing each regulation for effectiveness, consistency and clarity. The intent is for amendments to be clarifying rather than substantive. Full participation by the public and regulated entities in the regulatory process is necessary to ensure that regulations fulfill the purpose of protecting the health and safety of the public in a manner that is not overly burdensome to those being regulated. These proposed amendments to regulations for public participation guidelines will allow interested citizens to receive notice of proposed regulatory changes and to provide public comment electronically via the Virginia Regulatory Town Hall. These amendments will help to ensure the goal of notifying the most

citizens in an effective and efficient manner. Using this electronic format will produce less paper waste and help the department save money on postage. Citizens' use of the Regulatory Town Hall will help to keep their contact information current and will increase the likelihood that they receive pertinent regulatory information in a timely manner.

Substance: The regulations have been reviewed for clarity, ease of compliance, and consistency with the law. Existing sections add the Virginia Regulatory Town Hall as an option for providing public comment and public notice. The commissioner may purge entries on the public participation notification list when they become obsolete. The failure of any person or entity to receive any regulatory notice shall not affect the validity of regulations that are properly adopted under the Administrative Process Act (§2.2-4000 et seq. of the Code of Virginia). The department shall consider all input received within the comment period. Any person or entity may petition the commissioner to develop new or amend existing regulations, but the department shall have the sole authority to dispose of the petition.

Issues: The primary advantage to the public with these amendments is that they clarify the regulations and add the option of the Virginia Regulatory Town Hall as a vehicle for public notice and comment. The amendments are intended to give the public more access to the regulatory process. These amendments pose no disadvantages to the public.

The proposed amendments will assist the department in maintaining a current list of individuals and entities who are interested in the regulatory process while allowing the deletion of obsolete information from the public participation list. There are no disadvantages to the agency or the Commonwealth. There are no other pertinent matters of interest.

Department of Planning and Budget's Economic Impact Analysis:

Summary of the Proposed Amendments to Regulation. The Department of Rehabilitative Services (DRS) proposes to 1) allow individuals to be added to the public participation notification list by registering on the Virginia Regulatory Town Hall, 2) update references to the Code of Virginia, 3) clarify that the entries on the public participation list may be purged by the Commissioner if the address is incorrect, 4) clarify that failure of any individuals to receive regulations should not affect the validity of the regulations, 5) clarify that DRS consider all input received in development of regulations, and 6) clarify that any person or entity may petition to develop a new regulation or amend an existing one, but DRS shall have the sole authority to dispose of the petition.

Result of Analysis. The benefits likely exceed the costs for all proposed changes.

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Estimated Economic Impact. One of the proposed changes will allow individuals to be added to the DRS public participation notification list by registering on the Virginia Regulatory Town Hall. The main effect of this proposed change is to provide information to the interested parties that they can easily enroll in the public participation notification list by registering on the Virginia Regulatory Town Hall.

The remaining proposed changes include updating references to the Code of Virginia; clarifying that the entries on the public participation list may be purged by the Commissioner if the address is incorrect; clarifying that failure of any individuals to receive regulations should not affect the validity of the regulations; clarifying that DRS consider all input received in development of regulations; and clarifying that any person or entity may petition to develop a new regulation or amend an existing one, but DRS shall have the sole authority to dispose of the petition. All of these proposed changes are clarifications and are not expected to create any significant economic effect other than reducing the chances of a potentially costly mistake occurring due to unclear language.

Businesses and Entities Affected. The proposed changes will primarily affect persons and entities listed on the public notification mailing list and could also affect consumer of services provided by DRS. Last year, there were 729 persons and entities on the mailing list and about 28,609 consumers received services from DRS.

Localities Particularly Affected. The proposed regulations apply throughout the Commonwealth.

Projected Impact on Employment. The proposed changes are not anticipated to affect employment.

Effects on the Use and Value of Private Property. The proposed changes are not anticipated to affect the use and value of private property.

Small Businesses: Costs and Other Effects. The proposed changes are not anticipated to have a significant economic effect on small businesses.

Small Businesses: Alternative Method that Minimizes Adverse Impact. The proposed changes are not anticipated to have an adverse effect on small businesses.

Real Estate Development Costs. The proposed changes are not anticipated to affect the real estate development costs.

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.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The Department of Rehabilitative Services concurs with the economic impact analysis submitted by the Department of Planning and Budget on July 27, 2007.

Summary:

The proposed amendments (i) add the Virginia Regulatory Town Hall as an option for providing public notice and public comment; (ii) update references to the Code of Virginia that have changed as a result of recodification and other legislative changes; (iii) authorize the commissioner to purge entries on the public participation notification list when the individual or entity requests to be removed from the list, when notices are returned as undeliverable, or when there is no response to a request from the commissioner; (iv) provide that the failure of any person or entity to receive any notice or any copies of documents provided under these guidelines shall not affect the validity of any regulations otherwise properly adopted under the Administrative Process Act (§2.2-4000 et seq. of the Code of Virginia); (v) require the department to consider all input received within the established comment period; and (vi) provide that any person or entity may petition the commissioner to develop a new or amend an existing regulation, but the department shall have to sole authority to dispose of the petition.

22VAC30-10. General information.

These regulations provide guidelines to inform the public of, and involve interested parties in, the development, promulgation, amendment, and periodic review of regulations of the Department of Rehabilitative Services. The guidelines do not apply to regulations exempted or excluded from the provisions of ~~§9-6.14:4.1~~ the Administrative Process Act (§2.2-4000 et seq. of the Code of Virginia).

22VAC30-10-20. Identification and notification of interested parties.

A. The commissioner shall create and maintain a list or lists of ~~parties~~ (individuals and entities) to be notified of an intended regulatory action (such as regulation development or amendment) and invited to participate. The commissioner may maintain a general list or individual lists based on specific regulatory issues, proposals or actions.

B. Any person or entity may request to be placed on the list by contacting the commissioner or may register on the Virginia Regulatory Town Hall.

C. The list shall include, but is not limited to, ~~parties~~ individuals or entities who:

1. Request that the commissioner place their ~~name~~ names on the list; or
2. Petition the department for rulemaking.

D. The commissioner may add to the list ~~parties~~ individuals or entities likely to be interested in, regulated by, or otherwise affected by the proposed regulatory action.

E. The commissioner shall periodically update the list. Updating the list shall include, but is not limited to, annually publishing in the Virginia Register (an official state publication issued biweekly by the Virginia Code Commission, which is available to the public on the Internet or by subscription or individual issue through the Registrar of Regulations) a notice requesting that any individual or entity wishing to be notified of, or be involved in, the development, promulgation, or amendment of department regulations notify the commissioner or register on the Virginia Regulatory Town Hall website. The commissioner may purge entries on the list when the individual or entity requests to be removed from the list, when either regular or electronic notice is returned or undeliverable, or there has been no response to the request from the commissioner. In addition, the commissioner may use other methods to periodically purge (with prior notification) and update the list.

F. ~~The~~ At the appropriate stage of the regulatory process, the commissioner shall notify the parties on the list of the intended regulatory action and comment period and invite them to participate. mail or have electronically transmitted the following documents or notification of how to access the documents: Notice of Intended Regulatory Action; notice of comment period and public hearings, along with, at the proposed stage, a copy of the proposed regulation; a copy of the final regulation adopted by the department; and notice soliciting comments on a final regulation if the regulatory process has been extended. The commissioner shall post the documents on the Virginia Regulatory Town Hall. When the commissioner determines a specific regulation is subject to the Administrative Process Act (§2.2-4000 et seq. of the Code of Virginia), the commissioner shall also publish the

documents in the Virginia Register. For any meeting of a department advisory body where it is anticipated that development or review of a regulation will occur, advance notice of the meeting and title of the regulation shall be published in the Virginia Register and on the Virginia Regulatory Town Hall.

G. Failure of any person or entity to receive any notice or any copies of documents provided under these guidelines shall not affect the validity of any regulation otherwise properly adopted under the Administrative Process Act (§2.2-4000 et seq. of the Code of Virginia).

22VAC30-10-40. Role of interested parties, advisory bodies, ad hoc committee.

A. Activities in which the commissioner may involve parties indicating a desire to participate in rulemaking, a standing advisory body, or ad hoc committee include, but are not limited to:

1. Assisting with the preparation of draft amendments or proposed regulations,
2. Reviewing and commenting on draft amendments or proposed regulations, or
3. Assisting with the periodic review of regulations and recommending appropriate regulatory action.

B. In developing any regulation, the department shall afford interested individuals and entities an opportunity to submit data, views, and arguments, either orally or in writing or by electronic means, to the department or its specially designated subordinate. Prior to or during any such opportunity the ~~agency~~ department may, at its discretion, begin drafting the proposed regulation. Subject to the provisions of ~~§9-6.14:7.1~~ §2.2-4007.02 of the Code of Virginia, the commissioner may elect to conduct a public hearing.

C. The department shall consider all input received within the established comment period deadline.

22VAC30-10-50. Petition requirements.

A. As provided for under ~~§9-6.14:7.1~~ §2.2-4007 of the Code of Virginia, any person may petition the commissioner to develop a new regulation or amend an existing regulation. A petition for rulemaking shall include, but is not limited to, the following:

1. The petitioner's name, mailing address, telephone number, facsimile and email address if available and, if applicable, the name of the group represented in the petition,
2. The number or title of the regulation to be addressed,
3. A description of the regulatory problem, action, or issue to be addressed, and

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4. A recommended addition, deletion, or amendment to the regulation.

B. The commissioner shall consider the petition and decide whether to initiate rulemaking in response to the petition. The commissioner shall communicate the decision and grounds for the decision to the petitioner as required under ~~§9-6.14:7.1~~ §2.2-4007 of the Code of Virginia. The department shall have the sole authority to dispose of the petition.

C. Nothing herein shall prohibit the commissioner from receiving information from the public and proceeding with the commissioner's own motion for rulemaking.

VA.R. Doc. No. R06-85; Filed November 9, 2007, 2:15 p.m.



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BOARD FOR BRANCH PILOTS

Notice of Periodic Review

The Board for Branch Pilots invites public comment on 18VAC45-20, Board for Branch Pilots Regulations. This review is being conducted under Executive Order 36 (2006). The board welcomes written comments on the performance and effectiveness of this regulation in achieving the following goals:

To ensure that only regulations that are necessary to interpret the law or to protect the public health, safety and welfare have been promulgated; regulate the branch pilot profession in the most efficient and cost effective manner possible; and ensure that the regulations are clearly written and easily understandable by the individuals and entities affected.

Copies of the regulation may be obtained from the board. Written comments will be received until 5 p.m. on Wednesday, January 2, 2008. Comments or questions should be sent to Mark N. Courtney, Executive Director, Board for Branch Pilots, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-8514, FAX (804) 527-4294, or email branchpilots@dpor.virginia.gov.

DEPARTMENT OF ENVIRONMENTAL QUALITY

Total Maximum Daily Load - Neabsco Creek

Announcement of a water quality study to develop a total maximum daily load (TMDL) for a bacteria impairment in the free-flowing portion of Neabsco Creek.

Purpose of notice: The Virginia Department of Environmental Quality (DEQ) and the Virginia Department of Conservation and Recreation announce a public meeting for the Neabsco Creek TMDL study.

Public Meeting: Thursday, December 13, 2007, 7 p.m. - 8:30 p.m., Virginia Department of Environmental Quality, Northern Regional Office, 13901 Crown Court, Conference Rooms 1 and 2, Woodbridge, Virginia.

Meeting Description: The purpose of this meeting is to provide information about the project and discuss the study with community members.

Description of study: Virginia agencies are working to identify sources of bacteria pollution in an 8.42-mile segment of free-flowing Neabsco Creek. The impaired stream segment is located completely in Prince William County.

Stream Name	Locality	Impairment	Length (miles)	Upstream Limit	Downstream Limit
Neabsco Creek	Prince William County	Bacteria	8.42	Confluence with an unnamed tributary to Neabsco Creek, near Dale City and approximately 0.4 rivermiles downstream from Route 784 (on the tributary)	Start of the tidal waters of Neabsco Bay (just downstream from the Route 1 Bridge Crossing)

During the study, DEQ will develop a total maximum daily load, or a TMDL, for the impaired stream 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, pollutant levels have to be reduced to the TMDL allocated amount. The draft TMDL report for Neabsco Creek will be available for review and public comment at the meeting.

How to comment: The public comment period on the materials presented at the meeting, including the draft report, will extend from December 13, 2007, to January 11, 2008. 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, Virginia Department of Environmental Quality, 13901 Crown Court, Woodbridge, VA 22193, telephone (703) 583-3804, or email 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

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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 January 2, 2008.

12VAC5-20, Regulations for the Conduct of Human Research - Contact Kathy Wibberly

12VAC5-215, Rules and Regulations Governing Health Data Reporting - Contact Gay Cohn

12VAC5-216, Methodology to Measure Efficiency and Productivity of Health Care Institutions - Contact Gay Cohn

12VAC5-217, Regulations of the Patient Level Data System - Contact Gay Cohn

12VAC5-218, Rules and Regulations Governing Outpatient Health Data Reporting - Contact Gay Cohn

12VAC5-220, Virginia Medical Care Facilities Certificate of Public Need Rules and Regulations - Contact Carrie Eddy

12VAC5-407, Procedures for the Submission of Health Maintenance Organization Quality of Care Performance Information - Contact Karen Reed

12VAC5-501, Rules and Regulations Governing the Construction and Maintenance of Migrant Labor Camps - Contact Gary Hagy

12VAC5-510, Guidelines for General Assembly Nursing Scholarships - Contact Karen Reed

12VAC5-520, Regulations Governing the Dental Scholarship and Loan Repayment Programs - Contact Elizabeth Barrett

12VAC5-530, Regulations Governing the Virginia Medical Scholarship Program - Contact Karen Reed

12VAC5-540, Rules and Regulations for the Identification of Medically Underserved Areas in Virginia - Contact Karen Reed

12VAC5-542, Rules and Regulations Governing the Virginia Nurse Practitioner/Nurse Midwife Scholarship Program - Contact Karen Reed

12VAC5-620, Regulations Governing Application Fees for Construction Permits for Onsite Sewage Disposal Systems and Private Wells - Contact Don Alexander

AGENCY CONTACTS

Kathy Wibberly, Virginia Department of Health, OHPP, 109 Governor Street, Richmond, VA 23219, (804) 864-7426, kathy.wibberly@vdh.virginia.gov

Gay Cohn, Virginia Department of Health, OIM, 109 Governor Street, Richmond, VA 23219, (804) 864-7112, gay.cohn@vdh.virginia.gov

Carrie Eddy, Virginia Department of Health, OLC, 9960 Mayland Drive, Richmond, VA 23233, (804) 367-2157, carrie.eddy@vdh.virginia.gov

Karen Reed, Virginia Department of Health, OHPP, 109 Governor Street, Richmond, VA 23219, (804) 864-7427, karen.reed@vdh.virginia.gov

Gary Hagy, Virginia Department of Health, OEHS, 109 Governor Street, Richmond, VA 23219, (804) 864-7455, gary.hagy@vdh.virginia.gov

Elizabeth Barrett, Virginia Department of Health, 109 Governor Street, Richmond, VA 23219, (804) 864-7824, elizabeth.barrett@vdh.virginia.gov

Don Alexander, Virginia Department of Health, OEHS, 109 Governor Street, Richmond, VA 23219, (804) 864-7452, don.alexander@vdh.virginia.gov

BOARD OF NURSING

Notice of Periodic Review

The Virginia Board of Nursing is conducting a periodic review of its current regulations governing the certification of massage therapists and is requesting comment on the following current regulations:

18VAC90-50, Regulations Governing the Certification of Massage Therapists

The board will consider whether the existing regulations are essential to protect the health, safety and welfare of the public in providing assurance that licensed practitioners are competent to practice. Alternatives to the current regulations or suggestions for clarification of the regulation will also be received and considered.

Comment begins December 10, 2007, and ends on January 9, 2008. If any member of the public would like to comment on these regulations, please send comments by the close of the comment period to Elaine J. Yeatts, Senior Policy Analyst, Department of Health Professions, 9960 Mayland Drive, Suite 300, Richmond, VA 23233-1463, FAX (804) 524-4434, or email elaine.yeatts@dhp.virginia.gov.

Regulations may be viewed on line under the Board of Nursing website at www.dhp.virginia.gov or copies will be sent upon request.

STATE WATER CONTROL BOARD**Proposed Consent Special Order - Barnette Energy, LLC**

Purpose of notice: To seek public comment on a proposed consent order from the Department of Environmental Quality for a facility in Dickenson County, Virginia.

Public comment period: December 10, 2007, through January 9, 2008.

Consent order description: The State Water Control Board proposes to issue a consent order to Barnette Energy, LLC to address alleged violations of Virginia's regulations. The location of the facility where the alleged violations occurred is the Barnette Energy, LLC Mill Creek No. 1 Surface Mine, located one mile east of Clinchco, on Mill Creek. The consent order describes a settlement to resolve the issue of unauthorized stream impacts that occurred due to mining activities in an unnamed tributary to Mill Creek.

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.

Contact for public comments, document requests and additional information: Dallas R. Sizemore, Department of Environmental Quality, Southwest Regional Office, P.O. Box 1688, Abingdon, VA 24212-1688 (the office is located at 355 Deadmore Street, Abingdon, Virginia), telephone (276) 676-4800, FAX (276) 676-4899, or email drsizemore@deq.virginia.gov.

Notice of Intent to Provide §401 Water Quality Certification of Norfolk District Army Corps of Engineers Regional Permit 05 For Construction of Small Impoundments

Pursuant to Virginia Water Protection Permit Regulation 9VAC25-210-130 H, the State Water Control Board (board) is giving notice of its intent to provide §401 Water Quality Certification for certain activities authorized by the above referenced U.S. Army Corps of Engineers (USACE) Norfolk District Regional Permit after considering public comment for a 30-day period starting November 19, 2007. The Regional Permit 05, which expires on January 31, 2011, can be found on the USACE website at <http://www.nao.usace.army.mil/technical%20services/Regulatory%20branch/06-RP-05.pdf>.

The board can only issue final §401 certification of a nationwide or regional USACE permit if the permit meets the requirements of the VWP regulation and after advertising and

accepting public comment for 30 days on its intent to provide certification. While no changes have occurred to the regional permit, the board is providing an opportunity to comment on its preliminary conditional certification, as described in the attached preliminary decision.

The State Water Control Board will issue its final §401 water quality certification for certain activities authorized by the above referenced U.S. Army Corps of Engineers (USACE) Norfolk District Regional Permit at the end of the 30-day comment period and after any comments received are considered. The details of the board's preliminary decision are available on the Department of Environmental Quality website at <http://www.deq.virginia.gov> or by calling or emailing David Davis, Director, Office of Wetlands and Water Protection. Written comments, including those by email, must be received no later than 5 p.m. on December 19, 2007, and should be submitted to David Davis at the address given below. Only those comments received within this period will be considered by the board. Written comments shall include the name, address, and telephone number of the writer, and shall contain a complete, concise statement of the factual basis for comments.

The Department of Environmental Quality is also soliciting public comments on the consistency of the issuance of these permits with Virginia's Coastal Resources Management Program (VCP) pursuant to the federal Coastal Zone Management Act of 1972, as amended. Water quality certification pursuant to §401 of the federal Clean Water Act is one of the enforceable programs of the VCP. The deadline for public comments on the Coastal Zone consistency notice is December 19, 2007. For more information, contact Ellie Irons at (804) 698-4325, email elirons@deq.virginia.gov.

Preliminary decision on §401 water quality certification of Norfolk District Army Corps of Engineers RP-05 for Construction of Small Impoundments:

The State Water Control Board tentatively provides conditional §401 water quality certification for certain activities covered under the RP-05 for Construction of Small Impoundments as meeting the requirements of the Virginia Water Protection Permit Regulation, which serves as the Commonwealth's §401 water quality certification, provided that the following conditions are met:

1. Agricultural surface water withdrawals from nontidal waters that total less than one million gallons in a single month do not require flow-by of water past the impoundment. Withdrawals greater than or equal to one million gallons in a single month will be subject to a DEQ permit, unless otherwise exempt, that includes withdrawal limits to ensure the protection of in-stream beneficial uses downstream of the impoundment.
2. Surface water withdrawals from nontidal waters for all other purposes that total less than 10,000 gallons per day do

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not require flow-by of water past the impoundment. Withdrawals greater than or equal to 10,000 gallons per day will be subject to a DEQ permit, unless otherwise exempt, that includes withdrawal limits to ensure the protection of in-stream beneficial uses downstream of the impoundment.

3. The permittee shall report surface water withdrawals (i) where the average daily withdrawal during any single month exceeds 10,000 gallons per day for the purposes of, but not limited to, public water supply, manufacturing, mining, commercial, institutional, livestock watering, artificial fish culture, and steam-electric power generation uses; and (ii) where the withdrawal exceeds one million gallons in any single month for the purpose of irrigating crops. Permittees are not required to report the withdrawal of surface water if the withdrawal is made from a pond that only collects diffuse surface water (pond that is not located in a wetland or on an intermittent or perennial stream).

Pursuant to the Virginia Water Protection Permit Regulation 9VAC25-210-130 H, the State Water Control Board can only issue final §401 certification of a nationwide or regional USACE permit if the permit meets the requirements of the VWP regulation and after advertising and accepting public comment for 30 days on its intent to provide certification. The State Water Control Board will issue its final §401 water quality certification for the above referenced regional permit authorized by the Norfolk District U.S. Army Corps of Engineers at the end of that period and after any comments received are considered.

Agency Contact: David L. Davis, Office of Wetlands and Water Protection, Department of Environmental Quality, 629 East Main Street, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4105, FAX (804) 698-4347, or email dldavis@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 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.

ERRATA

DEPARTMENT OF HUMAN RESOURCE MANAGEMENT

Title of Regulation: 1VAC55-30. Long-Term Care Regulations (adding 1VAC55-30-10 through 1VAC55-30-90).

Publication: 23:26 VA.R. 4413-4416 September 3, 2007.

Correction to Final Regulation:

On page 4413, text for two definitions was not placed properly in the Register. The first two lines of the definition of "Local employer" at the bottom of the first column should have been placed after the 14th line of the definition of "Local employees" or "employees of local governments." The two definitions should read as follows:

"Local employees" or "employees of local governments" means all officers and employees of the governing body of any county, city, or town, and the directing or governing body of any political entity, subdivision, branch, or unit of the Commonwealth or of any commission or public authority or body corporate created by or under an act of the General Assembly specifying the power or powers, privileges or

authority capable of exercise by the commission or public authority or body corporate, as distinguished from §15.2-1300 or [§] 15.2-1303 of the Code of Virginia or similar statutes, provided that the officers and employees of a social services department, welfare board, mental health and mental retardation services board, or library board of a county, city, or town shall be deemed to be the employees of local government.

"Local employer" means any county, city, or town, school board, and the directing or governing body of any political entity, subdivision, branch or unit of the Commonwealth or of any commission or public authority or body corporate created by or under an act of the General Assembly specifying the power or powers, privileges or authority capable of exercise by the commission or public authority or body corporate, as distinguished from §15.2-1300 or [§] 15.2-1303 of the Code of Virginia, or similar statutes.

VA.R. Doc. No. R06-316

