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Virginia Code Commission

# Virginia Register of Regulations

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# THE VIRGINIA REGISTER INFORMATION PAGE

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

## ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS

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

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

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

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

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

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

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

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

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

## FAST-TRACK RULEMAKING PROCESS

Section 2.2-4012.1 of the Code of Virginia provides an exemption from certain provisions of the Administrative Process Act for agency regulations deemed by the Governor to be noncontroversial. To use this process, Governor's concurrence is required and advance notice must be provided to certain legislative committees. Fast-track regulations will become effective on the date noted in the regulatory action if no objections to using the process are filed in accordance with § 2.2-4012.1.

## EMERGENCY REGULATIONS

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

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

## STATEMENT

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

## CITATION TO THE VIRGINIA REGISTER

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

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

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

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>).

## March 2008 through March 2009

<u>Volume: Issue</u>	<u>Material Submitted By Noon*</u>	<u>Will Be Published On</u>
24:15	March 12, 2008	March 31, 2008
24:16	March 26, 2008	April 14, 2008
24:17	April 9, 2008	April 28, 2008
24:18	April 23, 2008	May 12, 2008
24:19	May 7, 2008	May 26, 2008
24:20	May 21, 2008	June 9, 2008
<b>INDEX 3 Volume 24</b>		<b>July 2008</b>
24:21	June 4, 2008	June 23, 2008
24:22	June 18, 2008	July 7, 2008
24:23	July 2, 2008	July 21, 2008
24:24	July 16, 2008	August 4, 2008
24:25	July 30, 2008	August 18, 2008
24:26	August 13, 2008	September 1, 2008
<b>FINAL INDEX Volume 24</b>		<b>October 2008</b>
25:1	August 27, 2008	September 15, 2008
25:2	September 10, 2008	September 29, 2008
25:3	September 24, 2008	October 13, 2008
25:4	October 8, 2008	October 27, 2008
25:5	October 22, 2008	November 10, 2008
25:6	November 5, 2008	November 24, 2008
25:7	November 18, 2008 (Tuesday)	December 8, 2008
<b>INDEX 1 Volume 25</b>		<b>January 2009</b>
25:8	December 3, 2008	December 22, 2008
25:9	December 16, 2008 (Tuesday)	January 5, 2009
25:10	December 30, 2008 (Tuesday)	January 19, 2009
25:11	January 14, 2009	February 2, 2009
25:12	January 28, 2009	February 16, 2009
25:13	February 11, 2009	March 2, 2009

\*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
<b>Title 1. Administration</b>			
1 VAC 55-30-10 through 1 VAC 55-30-90	Added	23:26 VA.R. 4413-4416	10/3/07
1 VAC 55-30-10 through 1 VAC 55-30-90	Erratum	24:7 VA.R. 940	--
<b>Title 2. Agriculture</b>			
2 VAC 5-110 (Forms)	Amended	23:26 VA.R. 4452	--
2 VAC 5-210-30	Amended	24:9 VA.R. 1096	12/11/07
2 VAC 5-210-41	Amended	24:9 VA.R. 1097	12/11/07
2 VAC 5-580-10 through 2 VAC 5-580-310	Repealed	24:2 VA.R. 72	10/16/07
2 VAC 5-585-10 through 2 VAC 5-585-4070	Added	24:2 VA.R. 72-133	10/16/07
<b>Title 3. Alcoholic Beverages</b>			
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	*
3 VAC 5-50-140 emer	Amended	24:11 VA.R. 1344	1/9/08-1/8/09
3 VAC 5-50-145 emer	Added	24:11 VA.R. 1345	1/9/08-1/8/09
3 VAC 5-70-220	Amended	24:14 VA.R. 1891	5/1/08
3 VAC 5-70-225 emer	Added	24:10 VA.R. 1257	1/2/08-1/1/09
<b>Title 4. Conservation and Natural Resources</b>			
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 15-20-50	Amended	24:10 VA.R. 1258	1/1/08
4 VAC 15-20-130	Amended	24:10 VA.R. 1259	1/1/08
4 VAC 15-20-200	Amended	24:10 VA.R. 1261	1/1/08
4 VAC 15-20-210	Amended	24:10 VA.R. 1261	1/1/08

\* Objection to Fast-Track Rulemaking 24:1

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

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
4 VAC 15-30-5	Amended	24:10 V.A.R. 1262	1/1/08
4 VAC 15-30-40	Amended	24:10 V.A.R. 1262	1/1/08
4 VAC 15-200-10	Amended	24:6 V.A.R. 676	10/26/07
4 VAC 15-270-40	Amended	24:6 V.A.R. 676	7/1/08
4 VAC 15-270-80	Added	24:6 V.A.R. 676	10/26/07
4 VAC 15-270-90	Added	24:6 V.A.R. 677	1/1/08
4 VAC 15-320-25	Amended	24:10 V.A.R. 1265	1/1/08
4 VAC 15-330-30	Amended	24:10 V.A.R. 1272	1/1/08
4 VAC 15-330-100	Amended	24:10 V.A.R. 1272	1/1/08
4 VAC 15-330-120	Amended	24:10 V.A.R. 1272	1/1/08
4 VAC 15-330-160	Amended	24:10 V.A.R. 1272	1/1/08
4 VAC 15-330-171	Amended	24:10 V.A.R. 1273	1/1/08
4 VAC 15-330-200	Amended	24:10 V.A.R. 1273	1/1/08
4 VAC 15-340-10	Amended	24:10 V.A.R. 1273	1/1/08
4 VAC 15-340-30	Amended	24:10 V.A.R. 1274	1/1/08
4 VAC 15-350-20	Amended	24:10 V.A.R. 1275	1/1/08
4 VAC 15-350-30	Amended	24:10 V.A.R. 1275	1/1/08
4 VAC 15-350-60	Amended	24:10 V.A.R. 1275	1/1/08
4 VAC 15-350-70	Amended	24:10 V.A.R. 1275	1/1/08
4 VAC 15-360-10	Amended	24:10 V.A.R. 1276	1/1/08
4 VAC 20-20-50	Amended	24:5 V.A.R. 555	11/1/07
4 VAC 20-150-30	Amended	24:10 V.A.R. 1277	1/1/08
4 VAC 20-252-55	Amended	24:10 V.A.R. 1278	1/1/08
4 VAC 20-252-90	Amended	24:4 V.A.R. 471	10/1/07
4 VAC 20-252-100	Amended	24:4 V.A.R. 471	10/1/07
4 VAC 20-252-120	Amended	24:10 V.A.R. 1278	1/1/08
4 VAC 20-252-150	Amended	24:10 V.A.R. 1279	1/1/08
4 VAC 20-252-160	Amended	24:10 V.A.R. 1279	1/1/08
4 VAC 20-252-230	Amended	24:10 V.A.R. 1281	1/1/08
4 VAC 20-260-10	Amended	24:4 V.A.R. 472	10/1/07
4 VAC 20-260-20	Amended	24:4 V.A.R. 472	10/1/07
4 VAC 20-260-30	Amended	24:4 V.A.R. 473	10/1/07
4 VAC 20-260-35	Added	24:4 V.A.R. 474	10/1/07
4 VAC 20-260-40	Amended	24:4 V.A.R. 474	10/1/07
4 VAC 20-260-60	Amended	24:4 V.A.R. 474	10/1/07
4 VAC 20-320-50	Amended	24:12 V.A.R. 1456	2/1/08
4 VAC 20-530-20	Amended	24:12 V.A.R. 1456	2/1/08
4 VAC 20-530-31	Amended	24:13 V.A.R. 1735	2/5/08
4 VAC 20-530-32	Repealed	24:12 V.A.R. 1457	2/1/08
4 VAC 20-610-20	Amended	24:8 V.A.R. 959	12/1/07
4 VAC 20-610-25	Added	24:8 V.A.R. 959	12/1/07
4 VAC 20-610-30	Amended	24:8 V.A.R. 960	12/1/07
4 VAC 20-610-50	Amended	24:8 V.A.R. 961	12/1/07
4 VAC 20-610-60	Amended	24:8 V.A.R. 961	12/1/07
4 VAC 20-620-30	Amended	24:10 V.A.R. 1281	12/27/07
4 VAC 20-620-40 emer	Amended	24:8 V.A.R. 962	11/28/07-12/27/07
4 VAC 20-620-40	Amended	24:10 V.A.R. 1282	12/27/07
4 VAC 20-650-20	Amended	24:4 V.A.R. 474	10/1/07
4 VAC 20-650-30	Amended	24:4 V.A.R. 475	10/1/07
4 VAC 20-650-40	Amended	24:4 V.A.R. 475	10/1/07
4 VAC 20-720-20	Amended	24:4 V.A.R. 475	10/1/07

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

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
4 VAC 20-720-20	Erratum	24:5 V.A.R. 621	--
4 VAC 20-720-40 through 4 VAC 20-720-80	Amended	24:4 V.A.R. 478-480	10/1/07
4 VAC 20-720-40	Amended	24:12 V.A.R. 1457	2/1/08
4 VAC 20-720-50	Amended	24:12 V.A.R. 1458	2/1/08
4 VAC 20-720-60	Amended	24:12 V.A.R. 1458	2/1/08
4 VAC 20-720-80	Amended	24:12 V.A.R. 1458	2/1/08
4 VAC 20-720-95	Added	24:4 V.A.R. 480	10/1/07
4 VAC 20-720-110	Amended	24:4 V.A.R. 480	10/1/07
4 VAC 20-755-10	Amended	24:2 V.A.R. 133	9/1/07
4 VAC 20-755-20	Amended	24:2 V.A.R. 133	9/1/07
4 VAC 20-755-30	Amended	24:2 V.A.R. 136	9/1/07
4 VAC 20-910-45	Amended	24:5 V.A.R. 556	11/1/07
4 VAC 20-960-45	Amended	24:8 V.A.R. 964	1/1/08
4 VAC 20-960-47	Amended	24:8 V.A.R. 964	1/1/08
4 VAC 20-1040-20	Amended	24:8 V.A.R. 964	1/1/08
4 VAC 20-1040-35	Added	24:12 V.A.R. 1459	2/1/08
4 VAC 20-1090-30	Amended	24:8 V.A.R. 965	12/1/07
4 VAC 20-1120-20	Amended	23:23 V.A.R. 3871	6/28/07
4 VAC 20-1130-10 through 4 VAC 20-1130-70	Added	24:8 V.A.R. 968-970	12/1/07
4 VAC 25-20 (Forms)	Amended	23:24 V.A.R. 3968	--
4 VAC 25-50-10 through 4 VAC 25-50-110	Repealed	23:22 V.A.R. 3696	8/8/07
4 VAC 25-130 (Forms)	Amended	24:11 V.A.R. 1424	--
4 VAC 25-130-777.17	Amended	23:22 V.A.R. 3696	8/8/07
<b>Title 5. Corporations</b>			
5 VAC 5-20-20	Amended	24:11 V.A.R. 1347	2/15/08
5 VAC 5-20-140	Amended	24:11 V.A.R. 1347	2/15/08
5 VAC 5-20-150	Amended	24:11 V.A.R. 1348	2/15/08
5 VAC 5-20-170	Amended	24:11 V.A.R. 1348	2/15/08
5 VAC 5-20-240	Amended	24:11 V.A.R. 1349	2/15/08
5 VAC 5-30-10	Amended	23:23 V.A.R. 3872	7/1/07
5 VAC 5-30-20	Amended	23:23 V.A.R. 3872	7/1/07
5 VAC 5-30-30	Amended	23:23 V.A.R. 3873	7/1/07
5 VAC 5-30-40	Amended	23:23 V.A.R. 3873	7/1/07
5 VAC 5-30-50	Amended	23:23 V.A.R. 3874	7/1/07
5 VAC 5-30-60	Amended	23:23 V.A.R. 3874	7/1/07
5 VAC 5-30-70	Amended	23:23 V.A.R. 3875	7/1/07
<b>Title 6. Criminal Justice and Corrections</b>			
6 VAC 15-20-10 through 6 VAC 15-20-230	Amended	23:22 V.A.R. 3697-3703	8/9/07
6 VAC 15-61-10 through 6 VAC 15-61-300	Repealed	24:8 V.A.R. 970	1/24/08
6 VAC 15-62-10 through 6 VAC 15-62-120	Added	24:8 V.A.R. 970-979	1/24/08
6 VAC 15-62-110	Amended	24:13 V.A.R. 1736	3/3/08
6 VAC 15-62 (Forms)	Amended	24:12 V.A.R. 1523	--
6 VAC 20-120-40	Amended	23:25 V.A.R. 4177	9/19/07
6 VAC 35-20-37 emer	Amended	23:25 V.A.R. 4178	8/1/07-7/31/08
6 VAC 35-180-10 through 6 VAC 35-180-170	Added	24:5 V.A.R. 557-561	1/1/08
6 VAC 35-190-10 through 6 VAC 35-190-110	Added	24:2 V.A.R. 137-139	10/31/07
6 VAC 40-50-10 through 6 VAC 40-50-80 emer	Added	23:23 V.A.R. 3876	7/1/06-12/29/07
6 VAC 40-50-10 through 6 VAC 40-50-80	Added	24:9 V.A.R. 1103-1104	2/6/08
<b>Title 8. Education</b>			
8 VAC 20-21-10 through 8 VAC 20-21-730	Repealed	23:25 V.A.R. 4179	9/21/07

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

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
8 VAC 20-22-10 through 8 VAC 20-22-760	Added	23:25 V.A.R. 4179-4214	9/21/07
8 VAC 20-160-10	Amended	23:23 V.A.R. 3876	8/27/07
8 VAC 20-160-20	Amended	23:23 V.A.R. 3878	8/27/07
8 VAC 20-160-30	Amended	23:23 V.A.R. 3878	8/27/07
8 VAC 20-160-40	Amended	23:23 V.A.R. 3879	8/27/07
8 VAC 20-160-50	Amended	23:23 V.A.R. 3879	8/27/07
8 VAC 20-160-60	Amended	23:23 V.A.R. 3879	8/27/07
8 VAC 20-190-10	Repealed	24:5 V.A.R. 562	1/1/08
8 VAC 20-500-10	Repealed	24:5 V.A.R. 563	1/1/08
8 VAC 20-541-10 through 8 VAC 20-541-60	Repealed	23:25 V.A.R. 4214	9/21/07
8 VAC 20-542-10 through 8 VAC 20-542-600	Added	23:25 V.A.R. 4214-4270	9/21/07
8 VAC 35-60-10	Added	24:1 V.A.R. 25	8/28/07
8 VAC 35-60-20	Added	24:1 V.A.R. 25	8/28/07
8 VAC 35-60-30	Added	24:1 V.A.R. 25	8/28/07
8 VAC 40-140-10 through 8 VAC 40-140-90	Added	23:22 V.A.R. 3704-3706	7/1/07
<b>Title 9. Environment</b>			
9 VAC 5-20-203	Amended	24:5 V.A.R. 564	12/12/07
9 VAC 5-20-204	Amended	24:5 V.A.R. 565	12/12/07
9 VAC 5-40-20	Amended	24:5 V.A.R. 566	12/12/07
9 VAC 5-50-20	Amended	24:5 V.A.R. 570	12/12/07
9 VAC 5-50-400	Amended	24:5 V.A.R. 573	12/12/07
9 VAC 5-50-410	Amended	24:5 V.A.R. 573	12/12/07
9 VAC 5-60-60	Amended	24:5 V.A.R. 579	12/12/07
9 VAC 5-60-90	Amended	24:5 V.A.R. 579	12/12/07
9 VAC 5-60-92	Added	24:5 V.A.R. 579	12/12/07
9 VAC 5-60-95	Amended	24:5 V.A.R. 579	12/12/07
9 VAC 5-60-100	Amended	24:5 V.A.R. 580	12/12/07
9 VAC 5-91-20	Amended	24:5 V.A.R. 587	12/12/07
9 VAC 5-140-1061	Added	24:6 V.A.R. 679	12/26/07
9 VAC 5-140-1062	Added	24:6 V.A.R. 680	12/26/07
9 VAC 5-140-2061	Added	24:6 V.A.R. 681	12/26/07
9 VAC 5-140-2062	Added	24:6 V.A.R. 682	12/26/07
9 VAC 5-140-3061	Added	24:6 V.A.R. 683	12/26/07
9 VAC 5-140-3062	Added	24:6 V.A.R. 683	12/26/07
9 VAC 5-140-3400	Amended	24:5 V.A.R. 594	12/12/07
9 VAC 20-60-18	Amended	24:9 V.A.R. 1106	2/6/08
9 VAC 20-130-10	Amended	24:4 V.A.R. 480	11/28/07
9 VAC 20-130-40	Amended	24:4 V.A.R. 484	11/28/07
9 VAC 20-130-60	Amended	24:4 V.A.R. 484	11/28/07
9 VAC 20-130-70	Amended	24:4 V.A.R. 484	11/28/07
9 VAC 20-130-90	Amended	24:4 V.A.R. 485	11/28/07
9 VAC 20-130-110	Amended	24:4 V.A.R. 485	11/28/07
9 VAC 20-130-120	Amended	24:4 V.A.R. 486	11/28/07
9 VAC 20-130-120	Erratum	24:6 V.A.R. 889	--
9 VAC 20-130-125	Added	24:4 V.A.R. 488	11/28/07
9 VAC 20-130-125	Erratum	24:6 V.A.R. 889	--
9 VAC 20-130-130	Amended	24:4 V.A.R. 489	11/28/07
9 VAC 20-130-140	Repealed	24:4 V.A.R. 489	11/28/07
9 VAC 20-130-150	Repealed	24:4 V.A.R. 489	11/28/07
9 VAC 20-130-165	Amended	24:4 V.A.R. 489	11/28/07
9 VAC 20-130-175 through 9 VAC 20-130-230	Amended	24:4 V.A.R. 490-493	11/28/07

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

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
9 VAC 20-130-200	Erratum	24:6 V.A.R. 889	--
9 VAC 25-20-10	Amended	24:6 V.A.R. 701	1/1/08
9 VAC 25-20-20	Amended	24:6 V.A.R. 702	1/1/08
9 VAC 25-20-30	Repealed	24:6 V.A.R. 702	1/1/08
9 VAC 25-20-40	Amended	24:6 V.A.R. 702	1/1/08
9 VAC 25-20-50	Amended	24:6 V.A.R. 703	1/1/08
9 VAC 25-20-60	Amended	24:6 V.A.R. 703	1/1/08
9 VAC 25-20-90	Amended	24:6 V.A.R. 704	1/1/08
9 VAC 25-20-100	Amended	24:6 V.A.R. 704	1/1/08
9 VAC 25-20-110	Amended	24:6 V.A.R. 705	1/1/08
9 VAC 25-20-120	Amended	24:6 V.A.R. 706	1/1/08
9 VAC 25-20-130	Amended	24:6 V.A.R. 708	1/1/08
9 VAC 25-20-146	Added	24:6 V.A.R. 708	1/1/08
9 VAC 25-20-147	Added	24:6 V.A.R. 709	1/1/08
9 VAC 25-20-148	Added	24:6 V.A.R. 709	1/1/08
9 VAC 25-20-149	Added	24:6 V.A.R. 709	1/1/08
9 VAC 25-31-100	Amended	24:3 V.A.R. 313	11/14/07
9 VAC 25-31-100	Amended	24:6 V.A.R. 711	1/1/08
9 VAC 25-31-120	Amended	24:3 V.A.R. 309	11/14/07
9 VAC 25-31-165	Amended	24:3 V.A.R. 333	11/14/07
9 VAC 25-31-220	Amended	24:6 V.A.R. 731	1/1/08
9 VAC 25-31-290	Amended	24:6 V.A.R. 735	1/1/08
9 VAC 25-31-460	Amended	24:6 V.A.R. 738	1/1/08
9 VAC 25-31-475	Added	24:6 V.A.R. 738	1/1/08
9 VAC 25-31-485	Added	24:6 V.A.R. 738	1/1/08
9 VAC 25-31-505	Added	24:6 V.A.R. 739	1/1/08
9 VAC 25-32 (Forms)	Amended	24:6 V.A.R. 739	--
9 VAC 25-32 (Forms)	Amended	24:13 V.A.R. 1738	--
9 VAC 25-32-40	Amended	24:6 V.A.R. 739	1/1/08
9 VAC 25-32-60	Amended	24:6 V.A.R. 739	1/1/08
9 VAC 25-32-80	Amended	24:6 V.A.R. 740	1/1/08
9 VAC 25-32-100	Amended	24:6 V.A.R. 743	1/1/08
9 VAC 25-32-140	Amended	24:6 V.A.R. 743	1/1/08
9 VAC 25-32-210	Amended	24:6 V.A.R. 744	1/1/08
9 VAC 25-32-220	Amended	24:6 V.A.R. 745	1/1/08
9 VAC 25-32-240	Amended	24:6 V.A.R. 745	1/1/08
9 VAC 25-32-300	Amended	24:6 V.A.R. 745	1/1/08
9 VAC 25-32-310 through 9 VAC 25-32-760	Added	24:6 V.A.R. 746-781	1/1/08
9 VAC 25-120-10	Amended	24:9 V.A.R. 1107	2/6/08
9 VAC 25-120-20	Amended	24:9 V.A.R. 1107	2/6/08
9 VAC 25-120-50	Amended	24:9 V.A.R. 1108	2/6/08
9 VAC 25-120-60	Amended	24:9 V.A.R. 1108	2/6/08
9 VAC 25-120-70	Amended	24:9 V.A.R. 1108	2/6/08
9 VAC 25-120-80	Amended	24:9 V.A.R. 1109	2/6/08
9 VAC 25-196-20	Amended	24:9 V.A.R. 1124	2/6/08
9 VAC 25-196-40	Amended	24:9 V.A.R. 1124	2/6/08
9 VAC 25-196-60	Amended	24:9 V.A.R. 1124	2/6/08
9 VAC 25-196-70	Amended	24:9 V.A.R. 1125	2/6/08
9 VAC 25-210-10	Amended	24:9 V.A.R. 1132	2/6/08
9 VAC 25-210-60	Amended	24:9 V.A.R. 1136	2/6/08

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

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
9 VAC 25-210-116	Amended	24:9 V.A.R. 1140	2/6/08
9 VAC 25-210-130	Amended	24:9 V.A.R. 1142	2/6/08
9 VAC 25-260-5	Amended	24:4 V.A.R. 536	8/14/07
9 VAC 25-260-30	Amended	24:2 V.A.R. 139	9/11/07
9 VAC 25-260-30	Amended	24:2 V.A.R. 140	9/11/07
9 VAC 25-260-30	Amended	24:7 V.A.R. 908	*
9 VAC 25-260-30	Amended	24:13 V.A.R. 1741	*
9 VAC 25-260-50	Amended	24:4 V.A.R. 536	8/14/07
9 VAC 25-260-187	Added	24:4 V.A.R. 536	8/14/07
9 VAC 25-260-310	Amended	24:4 V.A.R. 536	8/14/07
9 VAC 25-260-480	Amended	24:4 V.A.R. 536	8/14/07
9 VAC 25-660-10	Amended	24:9 V.A.R. 1144	2/6/08
9 VAC 25-660-60	Amended	24:9 V.A.R. 1145	2/6/08
9 VAC 25-660-70	Amended	24:9 V.A.R. 1147	2/6/08
9 VAC 25-660-80	Amended	24:9 V.A.R. 1148	2/6/08
9 VAC 25-660-100	Amended	24:9 V.A.R. 1148	2/6/08
9 VAC 25-670-10	Amended	24:9 V.A.R. 1156	2/6/08
9 VAC 25-670-70	Amended	24:9 V.A.R. 1157	2/6/08
9 VAC 25-670-80	Amended	24:9 V.A.R. 1158	2/6/08
9 VAC 25-670-100	Amended	24:9 V.A.R. 1159	2/6/08
9 VAC 25-680-10	Amended	24:9 V.A.R. 1170	2/6/08
9 VAC 25-680-60	Amended	24:9 V.A.R. 1172	2/6/08
9 VAC 25-680-70	Amended	24:9 V.A.R. 1174	2/6/08
9 VAC 25-680-80	Amended	24:9 V.A.R. 1175	2/6/08
9 VAC 25-680-100	Amended	24:9 V.A.R. 1176	2/6/08
9 VAC 25-690-10	Amended	24:9 V.A.R. 1188	2/6/08
9 VAC 25-690-70	Amended	24:9 V.A.R. 1190	2/6/08
9 VAC 25-690-80	Amended	24:9 V.A.R. 1191	2/6/08
9 VAC 25-690-100	Amended	24:9 V.A.R. 1191	2/6/08
9 VAC 25-720-50	Amended	23:23 V.A.R. 3881	10/22/07
9 VAC 25-720-50	Amended	23:23 V.A.R. 3888	10/22/07
9 VAC 25-720-50	Amended	23:23 V.A.R. 3895	10/22/07
9 VAC 25-720-50	Amended	24:2 V.A.R. 140	11/15/07
9 VAC 25-720-80	Amended	23:23 V.A.R. 3901	10/22/07
9 VAC 25-720-90	Amended	24:2 V.A.R. 147	11/15/07
9 VAC 25-790-10	Amended	24:6 V.A.R. 784	1/1/08
9 VAC 25-790-50	Amended	24:6 V.A.R. 787	1/1/08
9 VAC 25-790-60	Amended	24:6 V.A.R. 787	1/1/08
9 VAC 25-790-120	Amended	24:6 V.A.R. 788	1/1/08
9 VAC 25-790-130	Amended	24:6 V.A.R. 790	1/1/08
9 VAC 25-790-150	Amended	24:6 V.A.R. 790	1/1/08
9 VAC 25-790-180	Amended	24:6 V.A.R. 791	1/1/08
9 VAC 25-790-200	Amended	24:6 V.A.R. 791	1/1/08
9 VAC 25-790-240	Amended	24:6 V.A.R. 791	1/1/08
9 VAC 25-790-540	Amended	24:6 V.A.R. 792	1/1/08
9 VAC 25-790-550	Amended	24:6 V.A.R. 792	1/1/08
9 VAC 25-790-570	Amended	24:6 V.A.R. 795	1/1/08
9 VAC 25-790-580	Amended	24:6 V.A.R. 797	1/1/08
9 VAC 25-790-590	Amended	24:6 V.A.R. 797	1/1/08

\* Effective upon filing notice of U.S. EPA approval with Registrar of Regulations

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

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
9 VAC 25-790-600	Amended	24:6 V.A.R. 798	1/1/08
9 VAC 25-790-660	Amended	24:6 V.A.R. 799	1/1/08
9 VAC 25-790-880	Amended	24:6 V.A.R. 799	1/1/08
<b>Title 11. Gaming</b>			
11 VAC 10-45-10	Amended	24:5 V.A.R. 595	12/12/07
11 VAC 10-45-25	Added	24:5 V.A.R. 596	12/12/07
<b>Title 12. Health</b>			
12 VAC 5-31-2300 through 12 VAC 5-31-2970	Added	24:6 V.A.R. 806-818	1/1/08
12 VAC 5-40-10 through 12 VAC 5-40-190	Repealed	24:6 V.A.R. 806	1/1/08
12 VAC 5-90-80 emer	Amended	24:5 V.A.R. 597	10/24/07-10/23/08
12 VAC 5-125-10 through 12 VAC 5-125-180	Added	23:23 V.A.R. 3904-3919	9/1/07
12 VAC 5-220-10	Amended	24:11 V.A.R. 1350	3/5/08
12 VAC 5-220-110	Amended	24:11 V.A.R. 1353	3/5/08
12 VAC 5-220-130	Amended	24:11 V.A.R. 1354	3/5/08
12 VAC 5-220-200	Amended	24:11 V.A.R. 1354	3/5/08
12 VAC 5-371-150	Amended	24:11 V.A.R. 1357	3/5/08
12 VAC 5-381-10 through 12VAC5-381-40	Amended	24:11 V.A.R. 1358-1361	3/5/08
12 VAC 5-381-60 through 12VAC5-381-100	Amended	24:11 V.A.R. 1361-1362	3/5/08
12 VAC 5-381-120	Amended	24:11 V.A.R. 1362	3/5/08
12 VAC 5-381-140	Amended	24:11 V.A.R. 1362	3/5/08
12 VAC 5-381-150	Amended	24:11 V.A.R. 1362	3/5/08
12 VAC 5-381-240	Amended	24:11 V.A.R. 1363	3/5/08
12 VAC 5-381-280	Amended	24:11 V.A.R. 1363	3/5/08
12 VAC 5-391-10	Amended	24:11 V.A.R. 1364	3/5/08
12 VAC 5-391-30 through 12 VAC 5-391-100	Amended	24:11 V.A.R. 1366-1368	3/5/08
12 VAC 5-391-120	Amended	24:11 V.A.R. 1368	3/5/08
12 VAC 5-391-130	Amended	24:11 V.A.R. 1368	3/5/08
12 VAC 5-391-150	Amended	24:11 V.A.R. 1369	3/5/08
12 VAC 5-391-160	Amended	24:11 V.A.R. 1369	3/5/08
12 VAC 5-391-250	Amended	24:11 V.A.R. 1370	3/5/08
12 VAC 5-391-280	Amended	24:11 V.A.R. 1370	3/5/08
12 VAC 5-410-230	Amended	24:11 V.A.R. 1371	3/5/08
12 VAC 5-421-10	Amended	24:2 V.A.R. 149	10/16/07
12 VAC 5-421-90	Amended	24:2 V.A.R. 157	10/16/07
12 VAC 5-421-100	Amended	24:2 V.A.R. 157	10/16/07
12 VAC 5-421-120	Amended	24:2 V.A.R. 158	10/16/07
12 VAC 5-421-140	Amended	24:2 V.A.R. 158	10/16/07
12 VAC 5-421-160	Amended	24:2 V.A.R. 159	10/16/07
12 VAC 5-421-170	Amended	24:2 V.A.R. 159	10/16/07
12 VAC 5-421-180	Amended	24:2 V.A.R. 159	10/16/07
12 VAC 5-421-190	Amended	24:2 V.A.R. 159	10/16/07
12 VAC 5-421-200	Amended	24:2 V.A.R. 160	10/16/07
12 VAC 5-421-230	Amended	24:2 V.A.R. 160	10/16/07
12 VAC 5-421-250	Amended	24:2 V.A.R. 160	10/16/07
12 VAC 5-421-270	Amended	24:2 V.A.R. 160	10/16/07
12 VAC 5-421-295	Added	24:2 V.A.R. 160	10/16/07
12 VAC 5-421-300	Amended	24:2 V.A.R. 160	10/16/07
12 VAC 5-421-330	Amended	24:2 V.A.R. 161	10/16/07
12 VAC 5-421-340	Amended	24:2 V.A.R. 161	10/16/07
12 VAC 5-421-350	Amended	24:2 V.A.R. 161	10/16/07

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
12 VAC 5-421-360	Amended	24:2 V.A.R. 161	10/16/07
12 VAC 5-421-430	Amended	24:2 V.A.R. 162	10/16/07
12 VAC 5-421-440	Amended	24:2 V.A.R. 162	10/16/07
12 VAC 5-421-450	Amended	24:2 V.A.R. 162	10/16/07
12 VAC 5-421-460	Added	24:2 V.A.R. 162	10/16/07
12 VAC 5-421-500	Amended	24:2 V.A.R. 162	10/16/07
12 VAC 5-421-520	Amended	24:2 V.A.R. 163	10/16/07
12 VAC 5-421-530	Amended	24:2 V.A.R. 163	10/16/07
12 VAC 5-421-550	Amended	24:2 V.A.R. 163	10/16/07
12 VAC 5-421-560	Amended	24:2 V.A.R. 163	10/16/07
12 VAC 5-421-570	Amended	24:2 V.A.R. 163	10/16/07
12 VAC 5-421-580	Amended	24:2 V.A.R. 163	10/16/07
12 VAC 5-421-590	Amended	24:2 V.A.R. 164	10/16/07
12 VAC 5-421-600	Amended	24:2 V.A.R. 164	10/16/07
12 VAC 5-421-620	Amended	24:2 V.A.R. 164	10/16/07
12 VAC 5-421-670	Amended	24:2 V.A.R. 164	10/16/07
12 VAC 5-421-680	Amended	24:2 V.A.R. 164	10/16/07
12 VAC 5-421-700	Amended	24:2 V.A.R. 164	10/16/07
12 VAC 5-421-720	Amended	24:2 V.A.R. 166	10/16/07
12 VAC 5-421-760	Amended	24:2 V.A.R. 166	10/16/07
12 VAC 5-421-765	Added	24:2 V.A.R. 166	10/16/07
12 VAC 5-421-780	Amended	24:2 V.A.R. 166	10/16/07
12 VAC 5-421-790	Amended	24:2 V.A.R. 166	10/16/07
12 VAC 5-421-800	Amended	24:2 V.A.R. 167	10/16/07
12 VAC 5-421-820	Amended	24:2 V.A.R. 167	10/16/07
12 VAC 5-421-830	Amended	24:2 V.A.R. 167	10/16/07
12 VAC 5-421-840	Amended	24:2 V.A.R. 169	10/16/07
12 VAC 5-421-850	Amended	24:2 V.A.R. 169	10/16/07
12 VAC 5-421-860	Amended	24:2 V.A.R. 170	10/16/07
12 VAC 5-421-870	Amended	24:2 V.A.R. 170	10/16/07
12 VAC 5-421-880	Added	24:2 V.A.R. 171	10/16/07
12 VAC 5-421-890	Added	24:2 V.A.R. 171	10/16/07
12 VAC 5-421-900	Added	24:2 V.A.R. 171	10/16/07
12 VAC 5-421-910	Added	24:2 V.A.R. 171	10/16/07
12 VAC 5-421-920	Added	24:2 V.A.R. 171	10/16/07
12 VAC 5-421-930	Added	24:2 V.A.R. 171	10/16/07
12 VAC 5-421-940	Amended	24:2 V.A.R. 172	10/16/07
12 VAC 5-421-950	Amended	24:2 V.A.R. 172	10/16/07
12 VAC 5-421-960	Amended	24:2 V.A.R. 173	10/16/07
12 VAC 5-421-970	Amended	24:2 V.A.R. 173	10/16/07
12 VAC 5-421-990	Amended	24:2 V.A.R. 173	10/16/07
12 VAC 5-421-1000	Amended	24:2 V.A.R. 173	10/16/07
12 VAC 5-421-1010	Amended	24:2 V.A.R. 173	10/16/07
12 VAC 5-421-1020	Amended	24:2 V.A.R. 173	10/16/07
12 VAC 5-421-1030	Amended	24:2 V.A.R. 173	10/16/07
12 VAC 5-421-1040	Amended	24:2 V.A.R. 173	10/16/07
12 VAC 5-421-1070	Amended	24:2 V.A.R. 174	10/16/07
12 VAC 5-421-1090	Amended	24:2 V.A.R. 174	10/16/07
12 VAC 5-421-1120	Amended	24:2 V.A.R. 174	10/16/07
12 VAC 5-421-1200	Amended	24:2 V.A.R. 174	10/16/07
12 VAC 5-421-1260	Amended	24:2 V.A.R. 174	10/16/07

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

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
12 VAC 5-421-1270	Amended	24:2 V.A.R. 174	10/16/07
12 VAC 5-421-1300	Amended	24:2 V.A.R. 174	10/16/07
12 VAC 5-421-1310	Amended	24:2 V.A.R. 174	10/16/07
12 VAC 5-421-1320	Amended	24:2 V.A.R. 175	10/16/07
12 VAC 5-421-1330	Amended	24:2 V.A.R. 175	10/16/07
12 VAC 5-421-1340	Amended	24:2 V.A.R. 175	10/16/07
12 VAC 5-421-1350	Amended	24:2 V.A.R. 175	10/16/07
12 VAC 5-421-1360	Amended	24:2 V.A.R. 175	10/16/07
12 VAC 5-421-1370	Amended	24:2 V.A.R. 176	10/16/07
12 VAC 5-421-1460	Amended	24:2 V.A.R. 176	10/16/07
12 VAC 5-421-1510	Amended	24:2 V.A.R. 176	10/16/07
12 VAC 5-421-1520	Amended	24:2 V.A.R. 176	10/16/07
12 VAC 5-421-1530	Amended	24:2 V.A.R. 177	10/16/07
12 VAC 5-421-1540	Amended	24:2 V.A.R. 177	10/16/07
12 VAC 5-421-1620	Amended	24:2 V.A.R. 177	10/16/07
12 VAC 5-421-1640	Amended	24:2 V.A.R. 177	10/16/07
12 VAC 5-421-1660	Amended	24:2 V.A.R. 177	10/16/07
12 VAC 5-421-1670	Amended	24:2 V.A.R. 178	10/16/07
12 VAC 5-421-1680	Amended	24:2 V.A.R. 178	10/16/07
12 VAC 5-421-1690	Amended	24:2 V.A.R. 178	10/16/07
12 VAC 5-421-1700	Amended	24:2 V.A.R. 178	10/16/07
12 VAC 5-421-1710	Amended	24:2 V.A.R. 179	10/16/07
12 VAC 5-421-1720	Amended	24:2 V.A.R. 179	10/16/07
12 VAC 5-421-1730	Amended	24:2 V.A.R. 179	10/16/07
12 VAC 5-421-1750	Amended	24:2 V.A.R. 179	10/16/07
12 VAC 5-421-1760	Amended	24:2 V.A.R. 179	10/16/07
12 VAC 5-421-1780	Amended	24:2 V.A.R. 179	10/16/07
12 VAC 5-421-1810	Amended	24:2 V.A.R. 180	10/16/07
12 VAC 5-421-1820	Amended	24:2 V.A.R. 180	10/16/07
12 VAC 5-421-1880	Amended	24:2 V.A.R. 180	10/16/07
12 VAC 5-421-1890	Amended	24:2 V.A.R. 180	10/16/07
12 VAC 5-421-1900	Amended	24:2 V.A.R. 180	10/16/07
12 VAC 5-421-1960	Amended	24:2 V.A.R. 181	10/16/07
12 VAC 5-421-2010	Amended	24:2 V.A.R. 181	10/16/07
12 VAC 5-421-2080	Amended	24:2 V.A.R. 181	10/16/07
12 VAC 5-421-2190	Amended	24:2 V.A.R. 181	10/16/07
12 VAC 5-421-2200	Amended	24:2 V.A.R. 181	10/16/07
12 VAC 5-421-2210	Amended	24:2 V.A.R. 181	10/16/07
12 VAC 5-421-2270	Amended	24:2 V.A.R. 181	10/16/07
12 VAC 5-421-2310	Amended	24:2 V.A.R. 182	10/16/07
12 VAC 5-421-2320	Amended	24:2 V.A.R. 182	10/16/07
12 VAC 5-421-2520	Amended	24:2 V.A.R. 182	10/16/07
12 VAC 5-421-2630	Amended	24:2 V.A.R. 182	10/16/07
12 VAC 5-421-2680	Amended	24:2 V.A.R. 182	10/16/07
12 VAC 5-421-2710	Amended	24:2 V.A.R. 182	10/16/07
12 VAC 5-421-2790	Amended	24:2 V.A.R. 182	10/16/07
12 VAC 5-421-2810	Amended	24:2 V.A.R. 182	10/16/07
12 VAC 5-421-2820	Amended	24:2 V.A.R. 183	10/16/07
12 VAC 5-421-2840	Amended	24:2 V.A.R. 183	10/16/07
12 VAC 5-421-2850	Amended	24:2 V.A.R. 183	10/16/07

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
12 VAC 5-421-2870	Amended	24:2 V.A.R. 183	10/16/07
12 VAC 5-421-2880	Amended	24:2 V.A.R. 183	10/16/07
12 VAC 5-421-2930	Amended	24:2 V.A.R. 183	10/16/07
12 VAC 5-421-2990	Amended	24:2 V.A.R. 184	10/16/07
12 VAC 5-421-3040	Amended	24:2 V.A.R. 184	10/16/07
12 VAC 5-421-3120	Amended	24:2 V.A.R. 184	10/16/07
12 VAC 5-421-3200	Amended	24:2 V.A.R. 184	10/16/07
12 VAC 5-421-3210	Amended	24:2 V.A.R. 184	10/16/07
12 VAC 5-421-3230	Amended	24:2 V.A.R. 184	10/16/07
12 VAC 5-421-3310	Amended	24:2 V.A.R. 184	10/16/07
12 VAC 5-421-3370	Amended	24:2 V.A.R. 185	10/16/07
12 VAC 5-421-3380	Amended	24:2 V.A.R. 185	10/16/07
12 VAC 5-421-3450	Amended	24:2 V.A.R. 185	10/16/07
12 VAC 5-421-3510	Amended	24:2 V.A.R. 185	10/16/07
12 VAC 5-421-3560	Amended	24:2 V.A.R. 185	10/16/07
12 VAC 5-421-3580	Amended	24:2 V.A.R. 185	10/16/07
12 VAC 5-421-3590	Amended	24:2 V.A.R. 186	10/16/07
12 VAC 5-421-3620	Amended	24:2 V.A.R. 186	10/16/07
12 VAC 5-421-3660	Amended	24:2 V.A.R. 186	10/16/07
12 VAC 5-421-3700	Amended	24:2 V.A.R. 186	10/16/07
12 VAC 5-421-3750	Amended	24:2 V.A.R. 187	10/16/07
12 VAC 5-421-3760	Amended	24:2 V.A.R. 188	10/16/07
12 VAC 5-421-3800	Amended	24:2 V.A.R. 188	10/16/07
12 VAC 5-421-3815	Added	24:2 V.A.R. 188	10/16/07
12 VAC 5-421-3860	Amended	24:2 V.A.R. 188	10/16/07
12 VAC 5-421-3900	Amended	24:2 V.A.R. 188	10/16/07
12 VAC 5-421-3960	Amended	24:2 V.A.R. 189	10/16/07
12 VAC 5-421-3970	Amended	24:2 V.A.R. 189	10/16/07
12 VAC 5-421-4000	Amended	24:2 V.A.R. 189	10/16/07
12 VAC 5-421-4035	Added	24:2 V.A.R. 190	10/16/07
12 VAC 5-421-4050	Amended	24:2 V.A.R. 191	10/16/07
12 VAC 5-421-4070	Amended	24:2 V.A.R. 191	10/16/07
12 VAC 5-585-70	Amended	24:5 V.A.R. 602	12/17/07
12 VAC 5-585-510	Amended	24:5 V.A.R. 602	12/17/07
12 VAC 5-585-600	Amended	24:5 V.A.R. 607	12/17/07
12 VAC 5-585-610	Amended	24:5 V.A.R. 607	12/17/07
12 VAC 5-585-620	Amended	24:5 V.A.R. 612	12/17/07
12 VAC 5-585-630	Amended	24:5 V.A.R. 614	12/17/07
12 VAC 5-585-760 through 12 VAC 5-585-830	Added	23:25 V.A.R. 4298-4301	10/1/07
12 VAC 30-10-820	Added	24:2 V.A.R. 191	10/31/07
12 VAC 30-60-500 emer	Added	23:26 V.A.R. 4427	8/8/07-8/7/08
12 VAC 30-80-40 emer	Amended	24:3 V.A.R. 377	10/1/07-9/30/08
12 VAC 30-120	Erratum	23:24 V.A.R. 4080	--
12 VAC 30-120-70	Amended	24:13 V.A.R. 1791	7/1/08
12 VAC 30-120-90	Amended	24:13 V.A.R. 1793	7/1/08
12 VAC 30-120-140	Amended	24:13 V.A.R. 1794	7/1/08
12 VAC 30-120-211	Amended	24:13 V.A.R. 1797	7/1/08
12 VAC 30-120-213	Amended	24:13 V.A.R. 1800	7/1/08
12 VAC 30-120-225	Amended	24:13 V.A.R. 1802	7/1/08
12 VAC 30-120-229	Amended	24:13 V.A.R. 1804	7/1/08
12 VAC 30-120-237	Amended	24:13 V.A.R. 1805	7/1/08

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
12 VAC 30-120-247	Amended	24:13 V.A.R. 1807	7/1/08
12 VAC 30-120-370 emer	Amended	23:24 V.A.R. 4029	9/1/07-8/31/08
12 VAC 30-120-380 emer	Amended	23:24 V.A.R. 4032	9/1/07-8/31/08
12 VAC 30-120-700	Amended	24:13 V.A.R. 1808	7/1/08
12 VAC 30-120-710	Amended	24:13 V.A.R. 1812	7/1/08
12 VAC 30-120-754	Amended	24:13 V.A.R. 1813	7/1/08
12 VAC 30-120-758	Amended	24:13 V.A.R. 1815	7/1/08
12 VAC 30-120-762	Amended	24:13 V.A.R. 1815	7/1/08
12 VAC 30-120-770	Amended	24:13 V.A.R. 1816	7/1/08
12 VAC 30-120-900	Amended	24:13 V.A.R. 1818	7/1/08
12 VAC 30-120-910	Amended	24:13 V.A.R. 1820	7/1/08
12 VAC 30-120-920	Amended	24:13 V.A.R. 1821	7/1/08
12 VAC 30-120-970	Amended	24:13 V.A.R. 1823	7/1/08
12 VAC 30-120-1500 through 12 VAC 30-120-1550	Added	24:6 V.A.R. 819-829	12/26/07
12 VAC 30-120-1500	Amended	24:13 V.A.R. 1825	7/1/08
12 VAC 30-120-1510	Amended	24:13 V.A.R. 1827	7/1/08
12 VAC 30-120-1550	Amended	24:13 V.A.R. 1828	7/1/08
12 VAC 30-120-1560	Added	24:13 V.A.R. 1830	7/1/08
12 VAC 30-120-2000	Added	24:13 V.A.R. 1832	7/1/08
12 VAC 30-120-2010	Added	24:13 V.A.R. 1833	7/1/08
12 VAC 30-135-100 through 12 VAC 30-135-360	Added	24:2 V.A.R. 196-218	12/1/07
12 VAC 35-105-115	Added	24:11 V.A.R. 1372	3/5/08
12 VAC 35-115-10 through 12 VAC 35-115-250	Amended	23:25 V.A.R. 4301-4340	9/19/07
12 VAC 35-115-90	Erratum	24:6 V.A.R. 889	--
12 VAC 35-115-145	Added	23:25 V.A.R. 4329	9/19/07
12 VAC 35-115-146	Added	23:25 V.A.R. 4330	9/19/07
12 VAC 35-115-160	Repealed	23:25 V.A.R. 4332	9/19/07
<b>Title 13. Housing</b>			
13 VAC 5-21-10	Amended	24:14 V.A.R. 1894	5/1/08
13 VAC 5-21-20	Amended	24:14 V.A.R. 1894	5/1/08
13 VAC 5-21-31	Amended	24:14 V.A.R. 1895	5/1/08
13 VAC 5-21-41	Amended	24:14 V.A.R. 1895	5/1/08
13 VAC 5-21-45	Amended	24:14 V.A.R. 1895	5/1/08
13 VAC 5-21-51	Amended	24:14 V.A.R. 1895	5/1/08
13 VAC 5-21-61	Amended	24:14 V.A.R. 1896	5/1/08
13 VAC 5-31-20 through 13 VAC 5-31-50	Amended	24:14 V.A.R. 1897-1898	5/1/08
13 VAC 5-31-70 through 13 VAC 5-31-170	Repealed	24:14 V.A.R. 1898-1903	5/1/08
13 VAC 5-31-75	Added	24:14 V.A.R. 1898	5/1/08
13 VAC 5-31-85	Added	24:14 V.A.R. 1900	5/1/08
13 VAC 5-31-200	Amended	24:14 V.A.R. 1904	5/1/08
13 VAC 5-31-210	Amended	24:14 V.A.R. 1904	5/1/08
13 VAC 5-31-215 through 13 VAC 5-31-270	Added	24:14 V.A.R. 1904-1905	5/1/08
13 VAC 5-51-21 through 13 VAC 5-51-51	Amended	24:14 V.A.R. 1907-1910	5/1/08
13 VAC 5-51-81	Amended	24:14 V.A.R. 1910	5/1/08
13 VAC 5-51-85	Amended	24:14 V.A.R. 1921	5/1/08
13 VAC 5-51-91	Amended	24:14 V.A.R. 1924	5/1/08
13 VAC 5-51-130 through 13 VAC 5-51-135	Amended	24:14 V.A.R. 1925-1928	5/1/08
13 VAC 5-51-143	Added	24:14 V.A.R. 1928	5/1/08
13 VAC 5-51-145	Amended	24:14 V.A.R. 1932	5/1/08
13 VAC 5-51-150	Amended	24:14 V.A.R. 1932	5/1/08

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
13 VAC 5-51-152	Repealed	24:14 V.A.R. 1937	5/1/08
13 VAC 5-51-154	Amended	24:14 V.A.R. 1937	5/1/08
13 VAC 5-51-155	Amended	24:14 V.A.R. 1939	5/1/08
13 VAC 5-63-10 through 13 VAC 5-63-50	Amended	24:14 V.A.R. 1941	5/1/08
13 VAC 5-63-70	Amended	24:14 V.A.R. 1941	5/1/08
13 VAC 5-63-80	Amended	24:14 V.A.R. 1941	5/1/08
13 VAC 5-63-100 through 13 VAC 5-63-130	Amended	24:14 V.A.R. 1941	5/1/08
13 VAC 5-63-150	Amended	24:14 V.A.R. 1941	5/1/08
13 VAC 5-63-160	Amended	24:14 V.A.R. 1941	5/1/08
13 VAC 5-63-190 through 13 VAC 5-63-260	Amended	24:14 V.A.R. 1941	5/1/08
13 VAC 5-63-225	Repealed	24:14 V.A.R. 1941	5/1/08
13 VAC 5-63-265	Repealed	24:14 V.A.R. 1941	5/1/08
13 VAC 5-63-267	Added	24:14 V.A.R. 1941	5/1/08
13 VAC 5-63-270	Amended	24:14 V.A.R. 1941	5/1/08
13 VAC 5-63-280	Amended	24:14 V.A.R. 1941	5/1/08
13 VAC 5-63-300 through 13 VAC 5-63-360	Amended	24:14 V.A.R. 1941	5/1/08
13 VAC 5-63-335	Added	24:14 V.A.R. 1941	5/1/08
13 VAC 5-63-400	Amended	24:14 V.A.R. 1941	5/1/08
13 VAC 5-63-430	Amended	24:14 V.A.R. 1941	5/1/08
13 VAC 5-63-432	Repealed	24:14 V.A.R. 1941	5/1/08
13 VAC 5-63-434 through 13 VAC 5-63-450	Amended	24:14 V.A.R. 1941	5/1/08
13 VAC 5-63-470 through 13 VAC 5-63-500	Amended	24:14 V.A.R. 1941	5/1/08
13 VAC 5-63-520	Amended	24:14 V.A.R. 1941	5/1/08
13 VAC 5-63-525	Added	24:14 V.A.R. 1941	5/1/08
13 VAC 5-63-550	Repealed	24:14 V.A.R. 1941	5/1/08
13 VAC 5-91-20	Amended	24:14 V.A.R. 1943	5/1/08
13 VAC 5-91-100	Amended	24:14 V.A.R. 1943	5/1/08
13 VAC 5-91-110	Repealed	24:14 V.A.R. 1944	5/1/08
13 VAC 5-91-115	Added	24:14 V.A.R. 1944	5/1/08
13 VAC 5-91-120	Amended	24:14 V.A.R. 1944	5/1/08
13 VAC 5-91-160	Amended	24:14 V.A.R. 1945	5/1/08
13 VAC 5-91-270	Amended	24:14 V.A.R. 1945	5/1/08
13 VAC 5-95-10	Amended	24:14 V.A.R. 1947	5/1/08
13 VAC 5-95-30	Amended	24:14 V.A.R. 1948	5/1/08
13 VAC 5-112-340	Amended	24:8 V.A.R. 979	1/23/08
13 VAC 10-40-20	Amended	24:7 V.A.R. 911	11/13/07
13 VAC 10-40-60	Amended	24:7 V.A.R. 914	11/13/07
13 VAC 10-40-80	Amended	24:7 V.A.R. 915	11/13/07
13 VAC 10-40-100	Amended	24:7 V.A.R. 916	11/13/07
13 VAC 10-40-110	Amended	24:7 V.A.R. 917	11/13/07
13 VAC 10-40-120	Amended	24:7 V.A.R. 917	11/13/07
13 VAC 10-40-130	Amended	24:7 V.A.R. 917	11/13/07
13 VAC 10-40-170	Amended	24:7 V.A.R. 920	11/13/07
13 VAC 10-40-190	Amended	24:7 V.A.R. 920	11/13/07
13 VAC 10-40-210	Amended	24:7 V.A.R. 921	11/13/07
13 VAC 10-40-230	Amended	24:7 V.A.R. 921	11/13/07
13 VAC 10-180-10	Amended	24:11 V.A.R. 1373	2/4/08
13 VAC 10-180-50	Amended	24:11 V.A.R. 1374	2/4/08
13 VAC 10-180-60	Amended	24:11 V.A.R. 1376	2/4/08
13 VAC 10-180-60	Amended	24:11 V.A.R. 1387	2/4/08
13 VAC 10-180-100	Amended	24:11 V.A.R. 1397	2/4/08

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
<b>Title 14. Insurance</b>			
14 VAC 5-215-20	Amended	23:22 V.A.R. 3768	7/1/07
14 VAC 5-215-30	Amended	23:22 V.A.R. 3768	7/1/07
14 VAC 5-215-50	Amended	23:22 V.A.R. 3769	7/1/07
14 VAC 5-215-60	Amended	23:22 V.A.R. 3770	7/1/07
14 VAC 5-215-80	Amended	23:22 V.A.R. 3770	7/1/07
14 VAC 5-270-10 through 14 VAC 5-270-150	Amended	24:12 V.A.R. 1460-1470	1/1/10
14 VAC 5-270-144	Added	24:12 V.A.R. 1467	1/1/10
14 VAC 5-270-146	Added	24:12 V.A.R. 1468	1/1/10
14 VAC 5-270-148	Added	24:12 V.A.R. 1469	1/1/10
14 VAC 5-270-170	Amended	24:12 V.A.R. 1470	1/1/10
14 VAC 5-270-174	Added	24:12 V.A.R. 1470	1/1/10
14 VAC 5-270-180	Amended	24:12 V.A.R. 1470	1/1/10
14 VAC 5-420-10 through 14 VAC 5-420-60	Added	24:7 V.A.R. 926-931	2/15/08
<b>Title 16. Labor and Employment</b>			
16 VAC 15-21-30	Amended	23:23 V.A.R. 3933	8/23/07
16 VAC 25-90-1910.6	Amended	24:1 V.A.R. 26	12/15/07
16 VAC 25-90-1910.66 Appendix D	Amended	24:1 V.A.R. 26	12/15/07
16 VAC 25-90-1910.302 through 16 VAC 25-90-1910.308	Amended	24:1 V.A.R. 26	12/15/07
16 VAC 25-90-1910.399 Subpart S Appendix A	Amended	24:1 V.A.R. 26	12/15/07
<b>Title 18. Professional and Occupational Licensing</b>			
18 VAC 30-20-80	Amended	24:10 V.A.R. 1284	2/20/08
18 VAC 30-20-170	Amended	24:10 V.A.R. 1284	2/20/08
18 VAC 30-20-171	Amended	24:10 V.A.R. 1285	2/20/08
18 VAC 41-70-10 through 18 VAC 41-70-280	Added	23:25 V.A.R. 4349-4359	9/20/07
18 VAC 50-30-10	Amended	24:3 V.A.R. 416	11/15/07
18 VAC 50-30-40	Amended	24:3 V.A.R. 418	11/15/07
18 VAC 50-30-90	Amended	24:3 V.A.R. 419	11/15/07
18 VAC 50-30-100	Amended	24:3 V.A.R. 419	11/15/07
18 VAC 50-30-120	Amended	24:3 V.A.R. 419	11/15/07
18 VAC 50-30-130	Amended	24:3 V.A.R. 420	11/15/07
18 VAC 50-30-190	Amended	24:3 V.A.R. 421	11/15/07
18 VAC 50-30-200	Amended	24:3 V.A.R. 422	11/15/07
18 VAC 50-30-220	Amended	24:3 V.A.R. 422	11/15/07
18 VAC 60-20-17	Amended	24:3 V.A.R. 424	11/29/07
18 VAC 60-20-71	Amended	23:23 V.A.R. 3934	8/22/07
18 VAC 60-20-81	Added	24:14 V.A.R. 1949	4/16/08
18 VAC 60-20-108	Amended	24:14 V.A.R. 1950	4/16/08
18 VAC 60-20-190	Amended	24:14 V.A.R. 1951	4/16/08
18 VAC 60-20-220	Amended	24:10 V.A.R. 1287	3/10/08
18 VAC 60-20-220	Amended	24:14 V.A.R. 1951	4/16/08
18 VAC 65-10-10 through 18 VAC 65-10-80	Amended	24:2 V.A.R. 226-228	11/15/07
18 VAC 65-10-100	Amended	24:2 V.A.R. 228	11/15/07
18 VAC 65-10-110	Amended	24:2 V.A.R. 228	11/15/07
18 VAC 65-10-120	Amended	24:2 V.A.R. 228	11/15/07
18 VAC 85-20-22	Amended	24:11 V.A.R. 1404	3/5/08
18 VAC 85-20-22	Amended	24:14 V.A.R. 1952	4/16/08
18 VAC 85-20-140	Amended	24:1 V.A.R. 27	10/17/07
18 VAC 85-20-226	Added	24:11 V.A.R. 1404	3/5/08
18 VAC 85-20-235	Amended	23:25 V.A.R. 4360	9/20/07

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

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
18 VAC 85-20-235	Amended	23:25 V.A.R. 4361	9/20/07
18 VAC 85-20-290	Amended	23:23 V.A.R. 3934	8/22/07
18 VAC 85-20-400 through 18 VAC 85-20-420	Adding	23:25 V.A.R. 4362-4363	9/20/07
18 VAC 115-30-150	Amended	24:14 V.A.R. 1953	4/16/08
18 VAC 115-30-160	Amended	24:14 V.A.R. 1953	4/16/08
18 VAC 85-40-35	Amended	24:11 V.A.R. 1404	3/5/08
18 VAC 85-40-61	Amended	24:1 V.A.R. 28	10/17/07
18 VAC 85-40-61	Amended	24:1 V.A.R. 29	10/18/07
18 VAC 85-40-65	Amended	24:1 V.A.R. 28	10/17/07
18 VAC 85-40-67	Added	24:11 V.A.R. 1405	3/5/08
18 VAC 85-50-35	Amended	24:11 V.A.R. 1405	3/5/08
18 VAC 85-50-58	Amended	24:1 V.A.R. 29	10/18/07
18 VAC 85-50-61	Added	24:11 V.A.R. 1405	3/5/08
18 VAC 85-80-26	Amended	24:11 V.A.R. 1406	3/5/08
18 VAC 85-80-72	Amended	24:1 V.A.R. 29	10/18/07
18 VAC 85-80-73	Added	24:11 V.A.R. 1406	3/5/08
18 VAC 85-101-25	Amended	24:11 V.A.R. 1406	3/5/08
18 VAC 85-101-152	Amended	24:1 V.A.R. 30	10/18/07
18 VAC 85-101-153	Added	24:11 V.A.R. 1407	3/5/08
18 VAC 85-110-35	Amended	24:11 V.A.R. 1407	3/5/08
18 VAC 85-110-155	Amended	24:1 V.A.R. 30	10/18/07
18 VAC 85-110-161	Added	24:11 V.A.R. 1407	3/5/08
18 VAC 85-120-130	Amended	24:2 V.A.R. 229	10/31/07
18 VAC 85-130-30	Amended	24:14 V.A.R. 1952	4/16/08
18 VAC 90-20-10	Amended	24:13 V.A.R. 1842	4/2/08
18 VAC 90-20-30	Amended	23:25 V.A.R. 4363	10/1/07
18 VAC 90-20-35	Amended	24:13 V.A.R. 1843	4/2/08
18 VAC 90-20-40 through 18 VAC 90-20-60	Amended	24:13 V.A.R. 1843-1845	4/2/08
18 VAC 90-20-65	Repealed	24:13 V.A.R. 1844	4/2/08
18 VAC 90-20-70	Amended	24:13 V.A.R. 1844	4/2/08
18 VAC 90-20-90	Amended	24:13 V.A.R. 1845	4/2/08
18 VAC 90-20-95	Amended	24:13 V.A.R. 1846	4/2/08
18 VAC 90-20-96	Added	24:13 V.A.R. 1846	4/2/08
18 VAC 90-20-110 through 18 VAC 90-20-140	Amended	24:13 V.A.R. 1846-1848	4/2/08
18 VAC 90-20-151	Added	24:13 V.A.R. 1848	4/2/08
18 VAC 90-20-160	Amended	24:13 V.A.R. 1849	4/2/08
18 VAC 90-20-190	Amended	24:13 V.A.R. 1849	4/2/08
18 VAC 90-20-200	Amended	24:13 V.A.R. 1850	4/2/08
18 VAC 90-20-220	Amended	24:13 V.A.R. 1850	4/2/08
18 VAC 90-20-225	Added	23:25 V.A.R. 4364	10/1/07
18 VAC 90-20-230	Amended	24:13 V.A.R. 1851	4/2/08
18 VAC 90-20-275	Amended	24:13 V.A.R. 1851	4/2/08
18 VAC 90-20-280	Amended	24:13 V.A.R. 1851	4/2/08
18 VAC 90-20-300	Amended	24:13 V.A.R. 1851	4/2/08
18 VAC 90-20-370	Amended	24:13 V.A.R. 1852	4/2/08
18 VAC 90-20-390	Amended	24:13 V.A.R. 1852	4/2/08
18 VAC 90-20-410	Amended	24:13 V.A.R. 1853	4/2/08
18 VAC 90-30-10	Amended	24:10 V.A.R. 1288	2/20/08
18 VAC 90-30-120	Amended	24:10 V.A.R. 1288	2/20/08
18 VAC 90-30-121	Added	24:10 V.A.R. 1289	2/20/08
18 VAC 90-30-240	Added	24:3 V.A.R. 427	11/29/07

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

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
18 VAC 90-40-100	Amended	24:6 V.A.R. 831	1/11/08
18 VAC 90-60-100	Amended	24:3 V.A.R. 429	11/29/07
18 VAC 95-10-10 through 18 VAC 95-10-80	Amended	24:2 V.A.R. 231-232	11/15/07
18 VAC 95-10-100	Amended	24:2 V.A.R. 232	11/15/07
18 VAC 95-10-110	Amended	24:2 V.A.R. 232	11/15/07
18 VAC 95-10-120	Amended	24:2 V.A.R. 232	11/15/07
18 VAC 95-30-10 through 18 VAC 95-30-210	Added	24:6 V.A.R. 832-837	1/2/08
18 VAC 105-20-10	Amended	23:22 V.A.R. 3791	9/24/07
18 VAC 110-20-10	Amended	24:8 V.A.R. 983	1/23/08
18 VAC 110-20-180	Erratum	24:3 V.A.R. 444	--
18 VAC 110-20-321	Added	24:8 V.A.R. 986	1/23/08
18 VAC 110-20-411 through 18 VAC 110-20-416	Repealed	24:8 V.A.R. 986-987	1/23/08
18 VAC 110-30-15	Amended	24:10 V.A.R. 1290	2/20/08
18 VAC 110-40-10 through 18 VAC 110-40-50	Amended	24:3 V.A.R. 430-431	11/14/07
18 VAC 110-50-10	Amended	24:10 V.A.R. 1290	2/20/08
18 VAC 110-50-160	Added	24:10 V.A.R. 1291	2/20/08
18 VAC 110-50-170	Added	24:10 V.A.R. 1291	2/20/08
18 VAC 110-50-180	Added	24:10 V.A.R. 1292	2/20/08
18 VAC 110-50-190	Added	24:10 V.A.R. 1292	2/20/08
18 VAC 112-20-81 emer	Added	24:4 V.A.R. 497	11/1/07-10/31/08
18 VAC 112-20-90 emer	Amended	24:4 V.A.R. 497	11/1/07-10/31/08
18 VAC 112-20-130 emer	Amended	24:4 V.A.R. 498	11/1/07-10/31/08
18 VAC 112-20-131 emer	Amended	24:4 V.A.R. 498	11/1/07-10/31/08
18 VAC 112-20-150 emer	Amended	24:4 V.A.R. 499	11/1/07-10/31/08
18 VAC 115-30-150	Amended	24:14 V.A.R. 1953	4/16/08
18 VAC 115-30-160	Amended	24:14 V.A.R. 1953	4/16/08
18 VAC 120-40-10	Amended	23:24 V.A.R. 4038	9/5/07
18 VAC 120-40-15	Added	23:24 V.A.R. 4039	9/5/07
18 VAC 120-40-20	Amended	23:24 V.A.R. 4039	9/5/07
18 VAC 120-40-60	Repealed	24:3 V.A.R. 433	12/29/07
18 VAC 120-40-80 through 18 VAC 120-40-360	Amended	23:24 V.A.R. 4040-4052	9/5/07
18 VAC 120-40-221	Added	23:24 V.A.R. 4043	9/5/07
18 VAC 120-40-222	Added	23:24 V.A.R. 4043	9/5/07
18 VAC 120-40-295	Added	23:24 V.A.R. 4048	9/5/07
18 VAC 120-40-342	Added	23:24 V.A.R. 4050	9/5/07
18 VAC 120-40-370	Repealed	23:24 V.A.R. 4052	9/5/07
18 VAC 120-40-380	Repealed	23:24 V.A.R. 4052	9/5/07
18 VAC 120-40-385	Added	23:24 V.A.R. 4052	9/5/07
18 VAC 120-40-390	Amended	23:24 V.A.R. 4053	9/5/07
18 VAC 120-40-400	Repealed	23:24 V.A.R. 4053	9/5/07
18 VAC 120-40-410	Amended	23:24 V.A.R. 4053	9/5/07
18 VAC 120-40-411	Added	23:24 V.A.R. 4053	9/5/07
18 VAC 120-40-411.1 through 18 VAC 120-40-411.21	Added	23:24 V.A.R. 4054-4064	9/5/07
18 VAC 120-40-415	Added	23:24 V.A.R. 4064	9/5/07
18 VAC 120-40-415.1	Added	23:24 V.A.R. 4065	9/5/07
18 VAC 120-40-415.2	Added	23:24 V.A.R. 4065	9/5/07
18 VAC 120-40-415.3	Added	23:24 V.A.R. 4065	9/5/07
18 VAC 120-40-420	Amended	23:24 V.A.R. 4066	9/5/07
18 VAC 120-40-430	Amended	23:24 V.A.R. 4066	9/5/07
18 VAC 125-20-170	Amended	24:12 V.A.R. 1471	3/19/08

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

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
18 VAC 125-30-120	Amended	24:12 V.A.R. 1471	3/19/08
18 VAC 130-20-10	Amended	24:6 V.A.R. 838	1/1/08
18 VAC 130-20-30	Amended	24:6 V.A.R. 842	1/1/08
18 VAC 130-20-60	Amended	24:6 V.A.R. 843	1/1/08
18 VAC 130-20-110	Amended	24:6 V.A.R. 844	1/1/08
18 VAC 130-20-170	Amended	24:6 V.A.R. 844	1/1/08
18 VAC 130-20-180	Amended	24:6 V.A.R. 844	1/1/08
18 VAC 130-20-210	Amended	24:6 V.A.R. 846	1/1/08
18 VAC 130-20-220	Amended	24:6 V.A.R. 847	1/1/08
18 VAC 130-20-230	Amended	24:6 V.A.R. 847	1/1/08
18 VAC 135-20-10	Amended	24:11 V.A.R. 1408	4/1/08
18 VAC 135-20-30	Amended	24:11 V.A.R. 1409	4/1/08
18 VAC 135-20-60	Amended	24:11 V.A.R. 1410	4/1/08
18 VAC 135-20-100	Amended	24:11 V.A.R. 1410	4/1/08
18 VAC 135-20-101	Added	24:11 V.A.R. 1412	4/1/08
18 VAC 135-20-105	Amended	24:11 V.A.R. 1413	4/1/08
18 VAC 135-20-160	Amended	24:11 V.A.R. 1413	4/1/08
18 VAC 135-20-170	Amended	24:11 V.A.R. 1414	4/1/08
18 VAC 135-20-180	Amended	24:11 V.A.R. 1414	4/1/08
18 VAC 135-20-190	Amended	24:11 V.A.R. 1416	4/1/08
18 VAC 135-20-210	Amended	24:11 V.A.R. 1417	4/1/08
18 VAC 135-20-220	Amended	24:11 V.A.R. 1417	4/1/08
18 VAC 135-20-280	Amended	24:11 V.A.R. 1417	4/1/08
18 VAC 135-20-300	Amended	24:11 V.A.R. 1418	4/1/08
18 VAC 135-20-345	Added	24:11 V.A.R. 1418	4/1/08
18 VAC 135-20-360	Amended	24:11 V.A.R. 1419	4/1/08
18 VAC 135-20-370	Amended	24:11 V.A.R. 1419	4/1/08
18 VAC 135-20-390	Amended	24:11 V.A.R. 1420	4/1/08
18 VAC 135-30 (Forms)	Amended	24:1 V.A.R. 41	--
18 VAC 135-40 (Forms)	Amended	24:1 V.A.R. 43	--
18 VAC 135-50-10	Amended	23:22 V.A.R. 3794	9/22/07
18 VAC 135-50-20	Amended	23:22 V.A.R. 3795	9/22/07
18 VAC 135-50-220	Amended	23:22 V.A.R. 3795	9/22/07
18 VAC 135-50-400	Amended	23:22 V.A.R. 3795	9/22/07
18 VAC 135-60-60	Amended	24:9 V.A.R. 1230	3/1/08
18 VAC 150-10-10	Amended	23:23 V.A.R. 3937	10/7/07
18 VAC 150-10-20	Amended	23:23 V.A.R. 3937	10/7/07
18 VAC 150-10-30	Amended	23:23 V.A.R. 3937	10/7/07
18 VAC 150-10-40	Amended	23:23 V.A.R. 3938	10/7/07
18 VAC 150-10-50	Amended	23:23 V.A.R. 3938	10/7/07
18 VAC 150-10-60	Amended	23:23 V.A.R. 3938	10/7/07
18 VAC 150-10-70	Amended	23:23 V.A.R. 3938	10/7/07
18 VAC 150-10-80	Amended	23:23 V.A.R. 3938	10/7/07
18 VAC 150-10-100	Amended	23:23 V.A.R. 3939	10/7/07
18 VAC 150-10-110	Amended	23:23 V.A.R. 3939	10/7/07
18 VAC 150-10-120	Amended	23:23 V.A.R. 3939	10/7/07
18 VAC 150-20-30	Amended	24:3 V.A.R. 436	11/29/07
18 VAC 150-20-100	Amended	24:3 V.A.R. 436	11/29/07
18 VAC 150-20-140	Amended	24:3 V.A.R. 437	11/29/07
18 VAC 150-20-220	Added	24:3 V.A.R. 438	11/29/07
18 VAC 150-20-230	Added	24:3 V.A.R. 438	11/29/07

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

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
18 VAC 150-20-240	Added	24:3 V.A.R. 438	11/29/07
<b>Title 19. Public Safety</b>			
19 VAC 30-20-115	Added	24:11 V.A.R. 1421	3/6/08
19 VAC 30-70-6	Amended	24:8 V.A.R. 988	3/1/08
19 VAC 30-70-7	Amended	24:8 V.A.R. 988	3/1/08
19 VAC 30-70-9	Amended	24:8 V.A.R. 989	3/1/08
19 VAC 30-70-10	Amended	24:8 V.A.R. 991	3/1/08
19 VAC 30-70-40	Amended	24:8 V.A.R. 994	3/1/08
19 VAC 30-70-50	Amended	24:8 V.A.R. 995	3/1/08
19 VAC 30-70-60	Amended	24:8 V.A.R. 997	3/1/08
19 VAC 30-70-80	Amended	24:8 V.A.R. 998	3/1/08
19 VAC 30-70-90	Amended	24:8 V.A.R. 1001	3/1/08
19 VAC 30-70-110 through 19 VAC 30-70-660	Amended	24:8 V.A.R. 1001-1070	3/1/08
19 VAC 30-170-15	Amended	24:2 V.A.R. 233	10/1/07
19 VAC 30-170-50	Amended	24:2 V.A.R. 233	10/1/07
19 VAC 30-190-10 through 19 VAC 30-190-140	Added	24:11 V.A.R. 1421-1423	3/6/08
<b>Title 20. Public Utilities and Telecommunications</b>			
20 VAC 5-417-10	Amended	24:4 V.A.R. 513	10/9/07
20 VAC 5-417-50	Amended	24:4 V.A.R. 513	10/9/07
<b>Title 21. Securities and Retail Franchising</b>			
21 VAC 5-10-40	Amended	23:23 V.A.R. 3940	7/1/07
21 VAC 5-20-65	Added	23:23 V.A.R. 3942	7/1/07
21 VAC 5-20-95	Added	23:23 V.A.R. 3942	7/1/07
21 VAC 5-20-280	Amended	23:23 V.A.R. 3943	7/1/07
21 VAC 5-20-330	Amended	23:23 V.A.R. 3947	7/1/07
21 VAC 5-80-65	Added	23:23 V.A.R. 3949	7/1/07
21 VAC 5-80-160	Amended	23:23 V.A.R. 3950	7/1/07
21 VAC 5-80-200	Amended	23:23 V.A.R. 3954	7/1/07
21 VAC 5-110	Erratum	23:24 V.A.R. 4079	--
21 VAC 5-110-65	Added	23:23 V.A.R. 3959	7/1/07
21 VAC 5-110-75	Added	23:23 V.A.R. 3960	7/1/07
<b>Title 22. Social Services</b>			
22 VAC 15-30-310	Amended	24:10 V.A.R. 1295	3/6/08
22 VAC 40-35-10	Amended	23:23 V.A.R. 3962	9/1/07
22 VAC 40-35-80	Amended	23:23 V.A.R. 3965	9/1/07
22 VAC 40-35-90	Amended	23:23 V.A.R. 3965	9/1/07
22 VAC 40-35-100	Amended	23:23 V.A.R. 3966	9/1/07
22 VAC 40-41-10 through 22 VAC 40-41-50	Amended	23:22 V.A.R. 3796-3799	9/1/07
22 VAC 40-41-55	Amended	23:22 V.A.R. 3799	9/1/07
22 VAC 40-41-60	Amended	23:22 V.A.R. 3799	9/1/07
22 VAC 40-72-55	Added	24:5 V.A.R. 616	12/12/07
22 VAC 40-72-367	Added	24:5 V.A.R. 616	12/12/07
22 VAC 40-72-930	Amended	24:1 V.A.R. 38	11/1/07
22 VAC 40-72-960	Amended	24:1 V.A.R. 39	11/1/07
22 VAC 40-375-10 through 22 VAC 40-375-60	Repealed	24:5 V.A.R. 616	12/12/07
22 VAC 40-470-10	Amended	24:9 V.A.R. 1231	2/6/08
22 VAC 40-685-30	Amended	24:9 V.A.R. 1231	2/6/08
22 VAC 40-705-10 emer	Amended	24:14 V.A.R. 1987	3/1/08-2/28/09
22 VAC 40-705-30 emer	Amended	24:14 V.A.R. 1990	3/1/08-2/28/09
22 VAC 40-770-10 through 22 VAC 40-770-160	Repealed	24:2 V.A.R. 234	11/1/07

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

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
22 VAC 40-771-10 through 22 VAC 40-771-160	Added	24:2 V.A.R. 234-242	11/1/07
22 VAC 42-10-10 through 22 VAC 42-10-1000	Repealed	24:6 V.A.R. 849	12/28/07
22 VAC 42-11-10 through 22 VAC 42-11-1090	Added	24:6 V.A.R. 850-885	12/28/07
<b>Title 23. Taxation</b>			
23 VAC 10-10-10 through 23 VAC 10-10-80	Amended	24:12 V.A.R. 1520-1521	4/19/08
23 VAC 10-10-80	Amended	24:12 V.A.R. 1521	4/19/08
23 VAC 10-10-90	Repealed	24:12 V.A.R. 1522	4/19/08
23 VAC 10-210-485	Amended	23:24 V.A.R. 4069	9/6/07
23 VAC 10-210-693 emer	Amended	23:25 V.A.R. 4364	7/26/07-07/25/08
23 VAC 10-210-6041	Amended	23:24 V.A.R. 4068	9/6/07
23 VAC 10-210-6042	Amended	23:24 V.A.R. 4069	9/6/07
23 VAC 10-210-6043	Amended	23:24 V.A.R. 4069	9/6/07
23 VAC 10-240-20 through 23 VAC 10-240-60	Repealed	23:25 V.A.R. 4372-4373	10/04/07
23 VAC 10-240-100	Repealed	23:25 V.A.R. 4373	10/04/07
23 VAC 10-240-130	Repealed	23:25 V.A.R. 4373	10/04/07
23 VAC 10-240-140	Repealed	23:25 V.A.R. 4373	10/04/07
23 VAC 10-240-150	Repealed	23:25 V.A.R. 4373	10/04/07
23 VAC 10-240-200	Repealed	23:25 V.A.R. 4373	10/04/07
23 VAC 10-240-210	Repealed	23:25 V.A.R. 4373	10/04/07
23 VAC 10-240-240	Repealed	23:25 V.A.R. 4373	10/04/07
23 VAC 10-240-270	Repealed	23:25 V.A.R. 4373	10/04/07
23 VAC 10-240-280	Repealed	23:25 V.A.R. 4373	10/04/07
23 VAC 10-240-300	Repealed	23:25 V.A.R. 4374	10/04/07
23 VAC 10-240-310	Repealed	23:25 V.A.R. 4374	10/04/07
23 VAC 10-240-330	Repealed	23:25 V.A.R. 4374	10/04/07
23 VAC 10-240-340	Repealed	23:25 V.A.R. 4374	10/04/07
23 VAC 10-240-360	Repealed	23:25 V.A.R. 4374	10/04/07
23 VAC 10-240-380	Repealed	23:25 V.A.R. 4374	10/04/07
23 VAC 10-240-400	Repealed	23:25 V.A.R. 4375	10/04/07
23 VAC 10-240-420	Repealed	23:25 V.A.R. 4375	10/04/07
23 VAC 10-240-430	Repealed	23:25 V.A.R. 4375	10/04/07
23 VAC 10-240-450	Repealed	23:25 V.A.R. 4375	10/04/07
23 VAC 10-240-460	Repealed	23:25 V.A.R. 4375	10/04/07
<b>Title 24. Transportation and Motor Vehicles</b>			
24 VAC 20-120-10 through 24 VAC 20-120-180	Repealed	24:4 V.A.R. 516	1/1/08
24 VAC 20-121-10 through 24 VAC 20-121-220	Adding	24:4 V.A.R. 516-529	1/1/08
24 VAC 22-20-10	Amended	24:3 V.A.R. 439	12/1/07
24 VAC 22-20-20	Amended	24:3 V.A.R. 440	12/1/07
24 VAC 27-10-10 through 24 VAC 27-10-120	Added	23:24 V.A.R. 4071-4075	9/20/07
24 VAC 30-45-10	Added	24:2 V.A.R. 243	10/1/07
24 VAC 30-45-20	Added	24:2 V.A.R. 243	10/1/07
24 VAC 30-45-30	Added	24:2 V.A.R. 244	10/1/07
24 VAC 30-200-10	Amended	24:4 V.A.R. 529	11/28/07
24 VAC 30-200-20	Amended	24:4 V.A.R. 530	11/28/07
24 VAC 30-200-30	Amended	24:4 V.A.R. 531	11/28/07
24 VAC 30-200-35	Added	24:4 V.A.R. 532	11/28/07
24 VAC 30-200-40	Amended	24:4 V.A.R. 533	11/28/07

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# **PETITIONS FOR RULEMAKING**

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## **TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING**

### **BOARD OF DENTISTRY**

#### **Agency Decision**

Title of Regulation: **18VAC60-20. Regulations Governing the Practice of Dentistry and Dental Hygiene.**

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

Name of Petitioner: John Bitting.

Nature of Petitioner's Request: To amend requirements for administration of conscious sedation.

Agency Decision: Request Denied.

Statement of Reasons for Decision: The board considered the request for changes to regulations for conscious sedation and voted to include the issues raised in its periodic review of regulations.

Agency Contact: Elaine J. Yeatts, Agency Regulatory Coordinator, Department of Health Professions, 9960 Mayland Drive, Suite 300, Richmond, VA 23233, telephone (804) 367-4688, FAX (804) 527-4434, or email elaine.yeatts@dhp.virginia.gov.

VA.R. Doc. No. R08-05; Filed March 7, 2008, 1:54 p.m.

### **BOARD OF NURSING**

#### **Initial Agency Notice**

Title of Regulation: **18VAC90-50. Regulations Governing Certification of Massage Therapists.**

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

Name of Petitioner: JoAnn Agnone.

Nature of Petitioner's Request: To amend regulations to eliminate or reduce the mandated continuing education for massage therapists.

Agency's Plan for Disposition of the Request: The petition for rulemaking will be published in the Register of Regulations and sent to interested parties with a request for comment for 30 days. The board will consider the request at its meeting on May 20, 2008, and determine whether to initiate rulemaking.

Comments may be submitted until April 30, 2008.

Agency Contact: Jay P. Douglas, Executive Director, Board of Nursing, 9960 Mayland Drive, Suite 300, Richmond, VA 23233-1463, telephone (804) 367-4623, FAX (804) 527-4455, or email jay.douglas@dhp.virginia.gov.

VA.R. Doc. No. R08-09; Filed March 5, 2008, 2:51 p.m.

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# **NOTICES OF INTENDED REGULATORY ACTION**

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## **TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING**

### **BOARD OF DENTISTRY**

#### **Withdrawal of Notice of Intended Regulatory Action**

Notice is hereby given that the Board of Dentistry has WITHDRAWN the Notice of Intended Regulatory for 18VAC60-20-50, Regulations Governing the Practice of Dentistry and Dental Hygiene, that was published in 23:10 V.A.R. 3116 June 11, 2007. On March 7, 2008, the board voted to withdraw the notice and to incorporate the issue of informed consent in its periodic review of regulations.

Agency Contact: Elaine Yeatts, Agency Regulatory Coordinator, Department of Health Professions, Perimeter Center, 9960 Mayland Dr., Suite 300, Richmond, VA 23233-1463, telephone (804) 367-4688, FAX (804) 527-4475, or email elaine.yeatts@dhp.virginia.gov.

V.A.R. Doc. No. R07-241; Filed March 14, 2008, 1:33 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 2. AGRICULTURE

### DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

#### Final Regulation

**REGISTRAR'S NOTICE:** The Commissioner of Agriculture and Consumer Services is exempt from the Administrative Process Act pursuant to §2.2-4002 A 13 of the Code of Virginia when promulgating regulations pursuant to §3.1-271.1 of the Code of Virginia. Section 3.1-271.1 of the Code of Virginia provides that such regulation adopted by the Commissioner shall be effective upon filing with the Registrar of Regulations and requires the Registrar to publish the regulation as a final regulation in the Virginia Register of Regulations.

**Title of Regulation:** **2VAC5-390. Rules and Regulations for the Enforcement of the Virginia Seed Law (amending 2VAC5-390-180).**

**Statutory Authority:** §3.1-271 of the Code of Virginia.

**Effective Date:** March 11, 2008.

**Agency Contact:** Robert E. Bailey, Program Manager, Department of Agriculture and Consumer Services, P. O. Box 1163, Richmond, VA 23218, telephone 804-786-1274, FAX 804-786-1571, TTY 800-828-1120, or email robert.bailey@vdacs.virginia.gov.

#### Summary:

*The amendment temporarily reduces the minimum germination rate for peanut seed from 75% to 70% in order to ensure adequate supply of seed for Virginia's producers for the 2008 growing season.*

#### 2VAC5-390-180. Minimum germination standard for peanut seed.

Peanuts for agricultural seed as defined in §3.1-263 of the Code of Virginia shall have a 75% minimum total germination. However, effective March 1, 2006 2008, and continuing until July 1, 2006 2008, the minimum total germination shall be 70%.

V.A.R. Doc. No. R08-1220; Filed March 11, 2008, 2:46 p.m.



# Regulations

from tip to tip of the longest spikes, except as described in subsection B of this section.

B. From July 16 through November 15, it shall be unlawful for any person to harvest, possess, sell or offer for sale more than 10 peeler crabs, per United States standard bushel, or 5.0% of peeler crabs in any other container, that are harvested from waters on the ocean side of Accomack and Northampton counties and measure less than 3-1/4 inches across the shell from tip to tip of the longest spikes.

C. In the enforcement of these peeler crab minimum size limits aboard a vessel, the marine police officer shall select a single container of peeler crabs of his choosing to determine if the contents of that container violate the minimum size and tolerance described in this section. If the officer determines the contents of the container are in violation, then the officer shall return all peeler crabs on board the vessel to the water alive.

2. It shall not be unlawful to sell or to offer for sale those peeler crabs less than three inches across the shell from tip to tip of the longest spikes as authorized in subdivision 1 of this subsection.

B. D. It shall be unlawful for any person to take, catch, harvest, possess, sell or offer for sale, or to destroy in any manner, any soft crab that measures less than 3-1/2 inches across the shell from tip to tip of the longest spikes.

VA.R. Doc. No. R08-1205; Filed February 28, 2008, 3:29 p.m.

## Final Regulation

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

**Title of Regulation:** **4VAC20-610. Pertaining to Commercial Fishing and Mandatory Harvest Reporting (amending 4VAC20-610-30).**

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

**Effective Date:** March 1, 2008.

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

### Summary:

*The amendments (i) prohibit fishermen that hold blue crab licenses from serving as an agent; (ii) limit any person serving as an agent to harvest blue crabs to the use of only one commercial fisherman's crab license; however, an agent may fish multiple crab traps licensed and owned by*

*the same person; and (iii) state there shall be no more than one agent per vessel.*

### 4VAC20-610-30. Commercial Fisherman Registration License; exceptions and requirements of authorized agents.

A. In accordance with §28.2-241 C of the Code of Virginia, only persons who hold a valid Commercial Fisherman Registration License may sell, trade, or barter their harvest, or give their harvest to another, in order that it may be sold, traded, or bartered. Only these licensees may sell their harvests from Virginia tidal waters, regardless of the method or manner in which caught. Exceptions to the requirement to register as a commercial fisherman for selling harvest are authorized for the following persons or firms only:

1. Persons taking menhaden under the authority of licenses issued pursuant to §28.2-402 of the Code of Virginia.
2. Persons independently harvesting and selling, trading, or bartering no more than three gallons of minnows per day who are not part of, hired by, or engaged in a continuing business enterprise.
  - a. Only minnow pots, a cast net or a minnow seine less than 25 feet in length may be used by persons independently harvesting minnows.
  - b. All other marine species taken during the process of harvesting minnows shall be returned to the water immediately.

#### B. Requirements of authorized agents.

*Any 1. No person whose Commercial Fisherman Registration License or fishing gear license is not currently revoked or rescinded by the Marine Resources Commission pursuant to §28.2-232 of the Code of Virginia is authorized to possess the registration license of a commercial fisherman in order to serve as an agent for fishing the commercial fisherman's gear and selling the harvest.*

*2. No commercial fisherman shall use more than one person as an agent at any time.*

*The 3. Any person serving as an agent shall possess the registration license and gear license of the commercial fisherman while fishing.*

*4. When transporting or selling a commercial fisherman's harvest, the agent shall possess either the registration license of that commercial fisherman or a bill of lading indicating that fisherman's name, address, Commercial Fisherman Registration License number, date and amount of product to be sold.*

*5. Any person licensed to harvest blue crabs commercially shall not be eligible to also serve as an agent.*

6. Any person serving as an agent to harvest blue crabs for another licensed fisherman shall be limited to the use of only one commercial fisherman's crab license; however, an agent may fish multiple crab traps licensed and owned by the same person.

7. There shall be no more than one person, per vessel, serving as an agent for a commercial crab licensee.

8. Prior to using an agent in any crab fishery, the licensee shall register that person with the commission, and shall receive approval for use of that agent, prior to the commencement of any harvesting activity.

9. Failure to abide by any of the provisions of this section shall constitute a violation of this regulation.

C. In accordance with §28.2-241 H of the Code of Virginia, only persons with a valid Commercial Fisherman Registration License may purchase gear licenses. Beginning with licenses for the 1993 calendar year and for all years thereafter, gear licenses will be sold only upon presentation of evidence of a valid Commercial Fisherman Registration License.

Exceptions to the prerequisite requirement are authorized for the following gears only and under the conditions described below:

1. Menhaden purse seine licenses issued pursuant to §28.2-402 of the Code of Virginia may be purchased without holding a Commercial Fisherman Registration License.

2. Commercial gear licenses used for recreational purposes and issued pursuant to §28.2-226.2 of the Code of Virginia may be purchased without holding a Commercial Fisherman Registration License.

D. Exceptions to the two-year delay may be granted by the commissioner if he finds any of the following:

1. The applicant for an exception (i) has demonstrated, to the satisfaction of the commissioner, that the applicant has fished a significant quantity of commercial gear in Virginia waters during at least two of the previous five years; and (ii) can demonstrate, to the satisfaction of the commissioner, that a significant hardship caused by unforeseen circumstances beyond the applicant's control has prevented the applicant from making timely application for registration. The commissioner may require the applicant to provide such documentation as he deems necessary to verify the existence of hardship.

2. The applicant is purchasing another commercial fisherman's gear, and the seller of the gear holds a Commercial Fisherman Registration License and the seller surrenders that license to the commission at the time the gear is sold.

3. An immediate member of the applicant's family, who holds a current registration, has died or is retiring from the

commercial fishery and the applicant intends to continue in the fishery.

Any applicant denied an exception may appeal the decision to the commission. The applicant shall provide a request to appeal to the commission 30 days in advance of the meeting at which the commission will hear the request. The commission will hear requests at their March, June, September, and December meetings.

Under no circumstances will an exception be granted solely on the basis of economic hardship.

V.A.R. Doc. No. R08-1209; Filed February 28, 2008, 2:16 p.m.

## Final Regulation

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

**Title of Regulation:** **4VAC20-620. Pertaining to Summer Flounder (amending 4VAC20-620-50, 4VAC20-620-70).**

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

**Effective Date:** March 1, 2008.

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

### Summary:

*This amendment (i) establishes a minimum size limit of 19 inches for Summer Flounder; and (ii) modifies the recreational fishing closure to July 21 through July 30.*

### 4VAC20-620-50. Minimum size limits.

A. The minimum size for Summer Flounder harvested by commercial fishing gear shall be 14 inches, total length.

B. The minimum size of Summer Flounder harvested by recreational fishing gear, including but not limited to hook and line, rod and reel, spear and gig, shall be ~~18 1/2~~ 19 inches, total length, except that the minimum size of Summer Flounder harvested in the Potomac River tributaries shall be the same as established by the Potomac River Fisheries Commission for the mainstem Potomac River.

C. Length shall be measured in a straight line from tip of nose to tip of tail.

D. It shall be unlawful for any person to possess any Summer Flounder smaller than the designated minimum size limit.

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E. Nothing in this chapter shall prohibit the landing of Summer Flounder in Virginia that were legally harvested in the Potomac River.

## 4VAC20-620-70. Recreational fishing season.

A. The recreational fishing season for the Chesapeake Bay and its tributaries, excluding the Potomac River tributaries, and the coastal area shall be closed January 1 through March 31 and July 23 21 through July 28 30.

B. The recreational fishing season for the Potomac River tributaries shall be the same as established by the Potomac River Fisheries Commission for the mainstem Potomac River.

C. It shall be unlawful for any person fishing recreationally to take, catch, or possess any Summer Flounder during any closed recreational fishing season.

D. Nothing in this chapter shall prohibit the landing of Summer Flounder in Virginia that were legally harvested in the Potomac River.

V.A.R. Doc. No. R08-1212; Filed February 28, 2008, 9:29 a.m.

## Final Regulation

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

## Title of Regulation: 4VAC20-700. Pertaining to Crab Pots (amending 4VAC20-700-20).

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

Effective Date: March 1, 2008.

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

### Summary:

*This amendment requires that all crab pots in any area shall contain two unobstructed cull rings, regardless of cull ring size.*

## 4VAC20-700-20. Cull ring requirements.

A. It shall be unlawful for any person to place, set or fish any crab pot in Virginia's tidal waters ~~which that~~ does not contain at least two unobstructed cull rings of size and location within the pot as ~~hereinafter~~ described ~~in this subsection~~, except as provided in ~~subsections~~ ~~subsection~~ B and C of this section. One cull ring shall be at least 2-5/16 inches inside diameter, and the other cull ring shall be at least 2-3/16 inches inside diameter. These cull rings shall be located one each in opposite exterior side panels of the upper chamber of the pot.

~~B. The required 2 5/16 inches inside diameter cull ring may be obstructed in crab pots set on the seashore of Accomack and Northampton Counties or within the crab dredge areas, as set forth in 4VAC20 90 10 et seq., or within Pocomoke or Tangier Sound.~~

~~C. B. Peeler pots with a mesh size less than 1-1/2 inches shall be exempt from the cull ring requirement.~~

V.A.R. Doc. No. R08-1206; Filed February 28, 2008, 9:19 a.m.

## Final Regulation

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

**Title of Regulation:** 4VAC20-750. Pertaining to Crab Dredge License Sales (amending 4VAC20-750-10, 4VAC20-750-30).

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

**Effective Date:** March 1, 2008.

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

### Summary:

*This amendment limits the number of crab dredge licenses to those commercial registered fishermen who reported harvest from this fishery on or before December 17, 2007, and reported blue crab harvest from this fishery for both the 2005/06 and 2006/07 seasons.*

## 4VAC20-750-10. Purpose.

The purpose of this chapter is to limit the number of vessels in the crab dredge fishery to 225 licensees in the crab dredge fishery to those licensees who have been active in recent seasons, as any additional effort will negatively impact the low spawning stock.

## 4VAC20-750-30. Limit on sale of licenses and license purchase requirements.

**A. Licenses Effective December 1, 2008,** licenses for the use of a crab dredge shall be limited to 225, and the purchase of these licenses in 2004 and in future years shall be limited to those registered commercial fishermen who were eligible to purchase this license in 2003. Any person receiving a crab dredge license by lawful transfer in 2004 or future years also establishes his eligibility to purchase a crab dredge license in future years; however, any person either failing to register as a commercial fisherman in any year or transferring his crab

dredge license to another registered commercial fisherman shall forfeit his eligibility to purchase a crab dredge license in future years those licensees who reported, prior to the control date of December 17, 2007, harvest from this fishery for both the 2005/06 and 2006/07 seasons.

B. In any year, when it is determined that the number of persons eligible to purchase a crab dredge license is less than 225, the commission, by random drawing of qualified applicants, shall add persons to the list of those eligible to purchase a crab dredge license. Any registered commercial fisherman who completes an application for the crab dredge license lottery and submits that application in a timely manner shall be considered as a qualified applicant.

C. Any person who establishes and maintains his eligibility for a crab dredge license shall not be required to purchase a crab dredge license in order to remain eligible for a crab dredge license in future years.

V.A.R. Doc. No. R08-1207; Filed February 28, 2008, 3:20 p.m.

## Final Regulation

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

**Title of Regulation:** **4VAC20-751. Pertaining to the Setting and Mesh Size of Gill Nets (amending 4VAC20-751-20; adding 4VAC20-751-15).**

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

**Effective Date:** March 1, 2008.

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

### Summary:

*The amendments (i) define "unattended gill net" as a gill net set in Virginia tidal waters, described in 4VAC20-751-20 E, that is located more than one mile from the licensee of that gill net, and (ii) establish placement requirements of gill nets from June 1 through October 15.*

### **4VAC20-751-15. Definitions.**

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

"Unattended gill net" means any gill net set in Virginia tidal waters, described in 4VAC20-751-20 E, that is located more than one mile from the licensee of that gill net.

### **4VAC20-751-20. Gill net mesh sizes, restricted areas, and season.**

A. From January 1 through March 25 of each year, it shall be unlawful for any person to place, set, or fish any gill net with a stretched mesh size between 3-3/4 inches and six inches within the restricted areas as set forth below, except that during the month of February any legally licensed fisherman may place, set, or fish any gill net with a stretched mesh size from five inches to six inches within the restricted areas described in this subsection. From March 26 through June 15 of each year, it shall be unlawful for any person to place, set, or fish any gill net with a stretched mesh size greater than six inches within the restricted areas set forth below, except as described in 4VAC20-252-135:

1. In James River, those tidal waters upstream of a line connecting Willoughby Spit and Old Point Comfort;
2. In Back River, those tidal waters upstream of a line connecting Factory Point and Plumtree Point;
3. In Poquoson River, those tidal waters upstream of a line connecting Marsh Point and Tue Point;
4. In York River, those tidal waters upstream of a line connecting Tue Point and Guinea Marshes;
5. In Mobjack Bay, those tidal waters upstream of a line connecting Guinea Marshes and New Point Comfort;
6. In Milford Haven, those tidal waters upstream of a line connecting Rigby Island and Sandy Point;
7. In Piankatank River, those tidal waters upstream of a line connecting Cherry Point and Stingray Point; and
8. In Rappahannock River, those tidal waters upstream of a line connecting Stingray Point to Windmill Point.

B. During the period May 1 through June 30, it shall be unlawful for any person to have aboard any vessel or to place, set, or fish more than 8,400 feet of gill net.

C. During the period May 1 through June 30, it shall be unlawful for any person to have aboard any vessel or to place, set, or fish any gill net in the Chesapeake Bay or in Virginia's portion of the Territorial Sea, that is made, set or fished in a tied-down manner, by connecting the net's head rope and foot rope with lines, which cause the net to form a pocket of webbing.

D. During the period June 1 through June 30, it shall be unlawful for any person to have aboard any vessel or to place, set, or fish any gill net with a stretched mesh greater than six inches in the Virginia portion of the Territorial Sea, south of a line connecting Smith Island Light and the three-mile limit line.

E. From June 1 through October 15, it shall be unlawful for any person to place any anchored, weighted, or unattended

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gill net within 500 yards of the mean high-water mark, on the ocean side of Northampton and Accomack counties, north of a line, beginning at the southern most point of Smith Island and thence extending due east to the three-mile limit line.

V.A.R. Doc. No. R08-1208; Filed February 28, 2008, 9:25 a.m.

## Final Regulation

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

**Title of Regulation:** **4VAC20-950. Pertaining to Black Sea Bass (amending 4VAC20-950-47, 4VAC20-950-48, 4VAC20-950-48.1).**

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

**Effective Date:** March 1, 2008.

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

### Summary:

*The amendments (i) establish the 2008 commercial black sea bass directed fishery quota shall be 355,152 pounds and the bycatch fishery quota shall be 40,000 pounds; (ii) establish an individual fishery quota shall be equal to an individual's current percentage share of the directed fishery quota; and (iii) state that commercial black sea bass shares of the directed fishery shall not be transferred in any quantity less than 200 pounds.*

### 4VAC20-950-47. Commercial harvest quotas.

A. The 2007 2008 commercial black sea bass directed fishery quota is 425,300 355,152 pounds. When it has been announced that the directed fishery quota has been projected as reached and the directed fishery has been closed, it shall be unlawful for any directed commercial black sea bass fishery permittee to possess aboard any vessel or land in Virginia any black sea bass.

B. The 2007 2008 commercial black sea bass bycatch fishery quota is 40,000 pounds. When it has been announced that the bycatch fishery quota has been projected as reached and the bycatch fishery has been closed, it shall be unlawful for any bycatch commercial black sea bass fishery permittee to possess aboard any vessel or land in Virginia any black sea bass. In the event the bycatch fishery quota is exceeded, the amount the quota overage shall be deducted from the following year's bycatch fishing quota.

### 4VAC20-950-48. Individual fishery quotas; bycatch limit; at sea harvesters; exceptions.

A. Each person possessing a directed fishery permit shall be assigned an individual fishery quota, in pounds, for each calendar year. Except as provided in subsection F of this section, a person's individual fishery quota shall be equal to that person's percentage of the total landings of black sea bass in Virginia from July 1, 1997, through December 31, 2001, multiplied by the directed commercial fishery black sea bass quota for the calendar year. Any directed fishery permittee shall be limited to landings in the amount of his individual fishery quota, in pounds, in any calendar year and it shall be unlawful for any permittee to exceed his individual fishery quota. In addition to the penalties prescribed by law, any overages of an individual's fishery quota shall be deducted from that permittee's individual fishery quota for the following year.

B. In the determination of a person's percentage of total landings, the commission shall use the greater amount of landings from either the National Marine Fisheries Service Dealer Weigh-out Reports or National Marine Fisheries Service Vessel Trip Reports that have been reported and filed as of November 26, 2002. If a person's percentage of the total landings of black sea bass is determined by using the Vessel Trip Reports as the greater amount, then the person shall provide documentation to the Marine Resources Commission to verify the Vessel Trip Reports as accurate. This documentation may include dealer receipts of sales or other pertinent documentation, and such documentation shall be submitted to the commission by December 1, 2004. In the event the commission is not able to verify the full amount of the person's Vessel Trip Reports for the qualifying period, the commission shall use the greater amount of landings, from either the Dealer Weigh-Out Reports or the verified portion of the Vessel Trip Reports to establish that person's share of the quota.

C. It shall be unlawful for any person permitted for the bycatch fishery to possess aboard a vessel, or to land in Virginia, in any one day, more than 200 pounds of black sea bass, except that any person permitted in the bycatch fishery may possess aboard a vessel, or land in Virginia, more than 200 pounds of black sea bass, in any one day, provided the total weight of black sea bass on board the vessel does not exceed 10%, by weight, of the total weight of summer flounder, scup, Loligo squid and Atlantic mackerel on board the vessel. When it is projected and announced that 85% of the bycatch fishery quota has been taken, it shall be unlawful for any person permitted for the bycatch fishery to possess aboard a vessel, or to land in Virginia, more than 200 pounds of black sea bass, except that any person permitted in the bycatch fishery may possess aboard a vessel, or land in Virginia, more than 200 pounds of black sea bass, in any one day, but not more than 1,000 pounds, provided the total weight of black sea bass aboard the vessel does not exceed

10%, by weight, of the total weight of summer flounder, scup, Loligo squid and Atlantic mackerel on board the vessel.

D. It shall be unlawful for any person to transfer black sea bass from one vessel to another while at sea.

E. The commission sets aside 10,000 pounds of the annual commercial fishery black sea bass quota for distribution to all qualified applicants granted an exception by the commission from the requirements of 4VAC20-950-46 B based upon medical conditions, or other hardship, which limited the applicant's ability to fish for black sea bass during the qualifying period. In granting an exception, the commission will give preference to those applicants who can demonstrate the greater levels of participation in the black sea bass fishery during and after the qualifying period or document an apprenticeship or helper status in the black sea bass fishery. Any applicant who is granted an exception by the commission shall receive a portion of the 10,000 pounds; however, no portion shall exceed the lowest individual fishery quota, in pounds, at the beginning of the season. There shall be no transfer of quota received by applicants to the exception process for a period of five years after receipt of that quota. Any portion of the 10,000 pounds not allotted by the commission to the qualified applicants as of November 1 shall be added to the annual bycatch quota described in 4VAC20-950-47 B.

F. The 2007 directed fishery quota shall be equal to an individual's current share of that quota multiplied by 385,889 pounds. Further, a percentage of 39,411 pounds shall be distributed to each directed fishery permit holder that is equal to each permittee's average percentage of the 2004-2006 harvest quota of black sea bass. An individual fishery quota, as described in subsection A of this section, shall be equal to an individual's current percentage share of the directed fishery quota, as described in 4VAC20-950-47 A.

## **4VAC20-950-48.1. Individual transferable quotas.**

A. Shares of the directed fishery quota, in pounds, held by any permitted fisherman in the directed fishery may be transferred to another person, and such transfer shall allow the transferee to harvest, possess and land black sea bass in Virginia in a quantity equal to the shares of the directed fishery quota transferred. Any transfer of black sea bass shall be limited by the following conditions.

1. Commercial black sea bass shares of the directed fishery quota shall not be transferred in any quantity less than the lowest quantity held, as of January 1 of the current year, by any person permitted for the directed fishery 200 pounds.
2. No person permitted for the directed fishery may hold more than 20% of the annual directed fishery quota.
3. No transfer of shares of the black sea bass directed fishery quota shall be authorized unless such transfer is

documented on a form provided by the commission and approved by the commissioner.

B. Transfers of all or a portion of person's share of the directed fishery quota may be permanent or temporary. Transferred quota shall only be used by the transferee for black sea bass landed in Virginia. Permanent transfers of shares of directed fishery quota shall grant to the transferee that transferred share of the quota for future years, and the transferor loses that same transferred share of the directed fishery quota in future years. Temporary transfers of shares of the directed fishery quota shall allow the transferee to harvest that transferred share of the directed fishery quota during the year in which the transfer is approved. Thereafter, any transferred share of the directed fishery quota reverts back to the transferor.

V.A.R. Doc. No. R08-1213; Filed February 28, 2008, 3:10 p.m.

## **TITLE 9. ENVIRONMENT**

### **STATE WATER CONTROL BOARD**

#### **Proposed Regulation**

Title of Regulation: **9VAC25-260. Water Quality Standards** (amending **9VAC25-260-10**, **9VAC25-260-20**, **9VAC25-260-30**, **9VAC25-260-50**, **9VAC25-260-90**, **9VAC25-260-140**, **9VAC25-260-170**, **9VAC25-260-185**, **9VAC25-260-310**, **9VAC25-260-350**, **9VAC25-260-360**, **9VAC25-260-380**, **9VAC25-260-390**, **9VAC25-260-400**, **9VAC25-260-410**, **9VAC25-260-415**, **9VAC25-260-420**, **9VAC25-260-430**, **9VAC25-260-440**, **9VAC25-260-450**, **9VAC25-260-460**, **9VAC25-260-470**, **9VAC25-260-480**, **9VAC25-260-490**, **9VAC25-260-500**, **9VAC25-260-510**, **9VAC25-260-520**, **9VAC25-260-530**, **9VAC25-260-540**, repealing **9VAC25-260-55**, **9VAC25-260-290**, **9VAC25-260-320**).

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:**

May 1, 2008 - 7 p.m. - Department of Environmental Quality, West Central Regional Office, Conference Room 600, 3019 Peters Creek Road, Roanoke, VA

May 8, 2008 - 7 p.m. - Department of Environmental Quality, Tidewater Regional Office, Conference Rooms 1, 2 and 3, 5636 Southern Boulevard, Virginia Beach, Roanoke, VA

May 2, 2008 - 10 am - Department of Environmental Quality, Piedmont Regional Office, Training Room, 4949-A Cox Road, Glen Allen, Roanoke, VA

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Public Comments: Public comments may be submitted until 5 p.m. on May 30, 2008.

Agency Contact: Jean W. Gregory, Department of Environmental Quality, P.O. Box 1105, 629 East Main Street, Richmond, VA 23218, telephone (804) 698-4113, FAX (804) 698-4116, or email [jwggregory@deq.virginia.gov](mailto:jwggregory@deq.virginia.gov).

Basis: Federal and state mandates in the Clean Water Act at §303(c), 40 CFR Part 131, and §62.1-44.15(3a) of the Code of Virginia require that water quality standards be adopted, modified or cancelled every three years. These are the most relevant laws and regulations. The promulgating entity is the State Water Control Board.

The Clean Water Act authorizes restoration and maintenance of the chemical, physical, and biological integrity of the nation's waters. The Clean Water Act at §303(c)(1) requires that the states hold public hearings for the purpose of reviewing applicable water quality standards and, as appropriate, modifying and adopting standards.

The federal regulations at 40 CFR Part 131 authorize requirements and procedures for developing, reviewing, revising and approving water quality standards by the states as authorized by §303(c) of the Clean Water Act. 40 CFR Part 131 specifically requires the states to adopt criteria to protect designated uses.

The State Water Control Law (i) authorizes protection and restoration of the quality of state waters, (ii) safeguarding the clean waters from pollution, (iii) prevention and reduction of pollution, and (iv) promotion of water conservation. The State Water Control Law (§62.1-44.15(3a) of the Code of Virginia) requires the board to establish standards of quality and to modify, amend or cancel any such standards or policies. It also requires the board to hold public hearings from time to time for the purpose of reviewing the water quality standards and, as appropriate, adopting, modifying or canceling such standards.

The authority to adopt standards as provided by the provisions in the previously referenced citations is mandated, although the specific standards to be adopted or modified are discretionary to the Environmental Protection Agency and the state.

Purpose: The rulemaking is essential to the protection of health, safety or welfare of the citizens of the Commonwealth because proper water quality standards protect water quality and living resources of Virginia's waters for consumption of fish and shellfish, recreational uses and conservation in general.

These standards will be used in setting Virginia Pollutant Discharge Elimination System Permit limits and for evaluating the waters of the Commonwealth for inclusion in the Clean Water Act §305(b) report and on the §303(d) list. Waters not meeting standards will require development of a total maximum daily load under the Clean Water Act at §303(e). The Water Quality Standards are the cornerstone for all these other programs. It is the goal to provide the citizens of the Commonwealth with a technical regulation that is protective of water quality in surface waters, reflects recent scientific information, reflects agency procedures, and is reasonable and practical.

The environment will benefit because implementation of these amendments will result in better water quality in the Commonwealth for recreation, consumption of fish and shellfish, and protection of aquatic life.

A specific goal of these amendments was to address several problems related to the clean up plans (known as total maximum daily loads or TMDLs) for impaired waters that became evident to the agency in the last several years. For example, the existing bacteria criteria resulted in unreasonable and unattainable end points. This makes many TMDLs impractical to implement and, for stakeholders, undermines the feasibility of achieving standards and the credibility of the program. Staff has done some preliminary modeling efforts and found that the slight adjustment from 126 CFU to 206 CFU provides more reasonable, but still very challenging, bacteria reduction targets in some watersheds. For example, at the current level many watersheds must eliminate 100% of the bacteria loading to the watershed, including natural input from wildlife. As illustrated in the following table, the suggested increase in the criteria allows for reasonable, but challenging, attainment compared to unrealistic bacteria loading caps.

## Percent Reductions in Bacteria Loading from Source Categories

### Needed to Achieve Existing Criteria vs. Proposed Criteria

SOURCE CATEGORY	Lower Pigg River		Chestnut Creek		Northeast Creek	
	Existing	Proposed	Existing	Proposed	Existing	Proposed
Straight Pipes/Failing On-Site Systems	100	100	100	100	100	100
Livestock	100	80	65	0	100	98
Agricultural Runoff	100	0	98	76	100	86
Residential/Urban Runoff	100	0	98	78	100	100
Wildlife	30	0	0	0	92	86

Under the proposed criteria, a more cost-effective mix of approaches can be relied upon to achieve standards. Generally, direct inputs of bacteria, from straight pipes and livestock in streams, are primary implementation targets because of human health concerns and relative ease of corrective action. Reductions from runoff are more difficult to control and expensive to treat due to the large areas affected and diffuse nature.

The addition of several special site specific standards will prevent several unreasonable TMDLs from moving forward. For example, the special standard proposed in 9 VAC 25-260-310 gg is a new benthic numerical criterion for the Little Calfpasture River that reflects a subcategory of aquatic life uses due to the presence of Goshen Dam. It is common that aquatic life uses will be modified below dams. However, the standards currently do not reflect this and the result was a TMDL that cannot be reasonably implemented without removal of the dam. If the standard is adopted, the TMDL will not need to include removal of the dam as an option. By adopting this and the other special standards, the goal of solving some of the problems related to unreasonable and unattainable TMDLs will be achieved.

Substance:

Dissolved Oxygen, pH in Class VII, Swamp Waters  
9VAC25-260-50

Virginia has some unique aquatic ecosystems in eastern and southeastern Virginia that are naturally low in dissolved oxygen (D.O.) and pH and the aquatic biota have adapted to these conditions. While the regulation includes a separate classification for these waters (Class VII Swamp Waters), many waters have been listed as impaired under §303(d) of the Clean Water Act for D.O. and pH because they were listed prior to having specific information about the natural conditions of these waters. To address this concern, a narrative exemption from the dissolved oxygen and pH

criteria is proposed for these waters when it is determined that conditions are natural and not due to human-induced sources. It was decided that the most protective approach would be to use a narrative criterion to recognize the natural fluctuations of these waters rather than to develop numerical criteria for each swamp. This approach is supported by the Department of Game and Inland Fisheries and the US Fish and Wildlife Service. In addition to the narrative, the proposal includes an adjustment to the existing Class VII pH criterion from 4.3 – 9.0 to 3.7-8.0 to better reflect natural conditions.

The proposal also includes the deletion of section 55 (implementation procedure for dissolved oxygen criteria in waters naturally low in dissolved oxygen). This section was designed to address natural dissolved oxygen impairments for the stratified waters of the Bay, stratified lakes and swamp waters. The Bay and lakes have been addressed via other rulemakings and since we are now addressing the swamp waters via a narrative criterion, the section is no longer needed.

Table of Parameters (Toxics) 9VAC25-260-140

The Table of Parameters has been updated and 93 of the human health parameters have been recalculated using the EPA 2000 Human Health Methodology. The new methodology results in human health criteria that are 60-80% more stringent.

Also included in the Table of Parameters is a new fish tissue criterion for methyl mercury of 0.30 mg/kg. Mercury is methylated quickly in the environment and bioaccumulated in the fatty tissue of fish. EPA determined the best way to protect designated uses was to develop a fish tissue criterion rather than a water column number. This is agreeable to DEQ since we monitor fish tissue for many bioaccumulative substances, including mercury. This is the first fish tissue criterion for Virginia.

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Nonylphenol is a new criterion proposed that is an organic chemical produced in large quantity in the United States. It is toxic to aquatic life, causing reproductive effects in aquatic organisms. It is used as a chemical intermediate and is often found in wastewater treatment plant effluent as a breakdown product from surfactants and detergents.

Diazinon is a new criterion proposed and is toxic to aquatic life, particularly invertebrates. Diazinon is frequently found in wastewater treatment plant effluent and urban and agricultural runoff.

A revision to the existing aquatic life criteria for cadmium is proposed based on more recent EPA guidance. The cadmium proposed criteria is more stringent than the existing criteria.

A revision to the existing aquatic life criteria for tributyltin is made based on more recent EPA guidance. The tributyltin revised criteria is less stringent than the existing.

## Bacteria for Recreational Waters 9VAC25-260-170

Staff is proposing two alternatives for the geometric mean criteria for bacteria. The purpose of this is to receive public input on the pros and cons of both values. Only one value will be adopted into the final regulation. The first value is 126 colony forming units (CFU)/100 ml of water, which is the existing criterion and is based on a risk level of 0.8% (8 out of 1,000 swimmers may get gastrointestinal illness). The second value is 206 and is based on a risk level of 1.0% (10 out of 1,000 swimmers may get gastrointestinal illness). It is the risk level that will be the focus of public comment. Note that the risk level for Virginia coastal beaches is, and always has been, 1.9% (19 out of 1,000 swimmers – this is not a change from existing regulation). A risk level of 8-10 is considered protective of primary contact recreation in freshwater and is acceptable to the EPA.

The bacteria section has also been clarified to list the geometric mean as the main criteria to protect primary contact recreational uses as this is considered the environmentally relevant endpoint. Where there is insufficient data to calculate the geometric mean, then no more than 10% of the total samples in the assessment period shall exceed a maximum value (e.g., 235 or 384 for E. coli). This is a change from the existing regulation, which lists both the geometric mean and the single sample maximum as the main criteria. Also, the presentation of two values (e.g., 235 or 384) is because these values are mathematically derived from the geometric means, which are presented as two alternatives. Only one single sample maximum criterion will be adopted based on the risk level decided upon for the geometric mean (e.g., 0.8% or 1.0%).

Also included in the regulation are single sample maxima criteria for use in establishing beach advisories and closures in freshwater and saltwater. Two values (e.g., 235 or 384) are presented here as well because these values are mathematically derived from the geometric means, which are

presented as two alternatives. Only one will be adopted as previously stated.

## Special Standards 9VAC25-260-310

There are several new special site specific standards proposed. The first is a special pH standard for Lake Curtis to maintain the fishery, the second is a special manganese criterion for one intake location on the Kerr Reservoir to protect the aesthetic qualities of the water supply, and another is a new benthic numerical criterion for the Little Calfpasture River that reflects a subcategory of benthic aquatic life uses due to the presence of Goshen Dam.

## River Basin Section Tables 9VAC25-260-390 – 9VAC25-260-540

There are revisions to trout streams designations, additions of new Class VII Swamp Waters, deletions of several pH nonlimestone stream special standards, and other miscellaneous corrections.

**Issues:** The primary advantage to the public is that the updated numerical toxics criteria are based on better scientific information to protect water quality. The disadvantage is that the public may see the change to the bacteria criteria as an attempt to "lower the bar" on water quality. However, the goal is to set realistic, protective goals in water quality management and to maintain the most scientifically defensible criteria in the water quality standards regulation. EPA has also provided guidance that these criteria are "approvable" under the Clean Water Act.

The advantage to the agency or the Commonwealth that will result from the adoption of these amendments will be more accurate and scientifically defensible permit limits, assessments and clean-up plans (TMDLs). These are discussed under the "purpose" section where the goals of the proposal, the environmental benefits, and the problems the proposal is intended to solve are discussed.

The regulated community will find the amendments pertinent to the regulators' operations, particularly where the numerical criteria are more stringent since that may require additional capital or operating costs (see Economic Impact).

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

**Localities Particularly Affected:** Localities particularly affected were considered those where a specific amendment was proposed to change a classification, designated use, or criteria that was not statewide in nature. There is no expected monetary impact.

**Counties:** Alleghany, Amelia, Bath, Caroline, Charles City, Charlotte, Chesterfield, Dinwiddie, Essex, Frederick, Halifax, Hanover, Henrico, Isle of Wight, King George, King & Queen, King William, Mecklenburg, New Kent, Nottoway,

Roanoke, Rockingham, Rockbridge, Richmond, Shenandoah, Southampton, Stafford, Westmoreland

Towns: Branchville, Blackstone, Burkeville, Clarkesville, Crewe, Montross

Cities: Chesapeake, Lexington, Roanoke, Salem, Suffolk

**Public Participation:** In addition to any other comments, the agency is seeking comments on the costs and benefits of the proposal and the potential impacts of this regulatory proposal. Also, the agency is seeking information on impacts on small businesses as defined in §2.2-4007.1 of the Code of Virginia. Information may include (i) projected reporting, recordkeeping and other administrative costs, (ii) probable effect of the regulation on affected small businesses, and (iii) description of less intrusive or costly alternative methods of achieving the purpose of the regulation.

Anyone wishing to submit written comments may do so by mail, email or fax to Jean Gregory, P.O. Box 1105, Richmond, VA 23218, (804) 698-4113, fax (804) 698-4116 and email jwggregory@deq.virginia.gov. Written comments (including emails) must include the name and address of the commenter. In order to be considered, comments must be received by the last date of the public comment period (5 p.m. on May 30, 2008).

Three public hearings will be held and notice of the public hearings appear on the Virginia Regulatory Town Hall website ([www.townhall.virginia.gov](http://www.townhall.virginia.gov)), and can be found in the Virginia Register of Regulations at the beginning of this proposal. Both oral and written comments may be submitted at that time.

A formal hearing will be held at a time and place to be determined if a request for a formal hearing is received by the contact person within 30 days of publication of the notice of public comment period in the Virginia Register of Regulations. The request for formal hearing is to include the information set forth in 9VAC25-230-130 B of the board's Procedural Rule No. 1.

**The Department of Planning and Budget's Economic Impact Analysis:**

**Summary of the Proposed Amendments to Regulation.** The State Water Control Law (Code of Virginia §62.1-44.15(3a)) requires the State Water Control Board (Board) to establish standards of quality for state waters. In addition, federal and state mandates in the Clean Water Act 303(c), 40 CFR 131 and the State Water Control Law require that the Board review water quality standards every three years and adopt, modify, or cancel standards as appropriate.

As a result of the most recent triennial review, the Board's proposed changes include: (1) revised pH criteria for Class VII swamp waters from 4.3-9.0 to 3.7-8.0 and an expanded narrative criteria to recognize that in these waters, dissolved

oxygen (DO) and pH can naturally fluctuate outside of these values, (2) deletion of a protocol for developing site specific temperature criteria, (3) revisions to the human health and aquatic life criteria for surface water including the addition of two new aquatic life criteria (nonylphenol and diazinon), (4) a possible increase in the E.coli geometric and single sample mean criteria for freshwater (the change will be made depending upon public reaction during the public comment period) and a revision of the regulation to make the geometric mean criteria the main standard for evaluation, (5) deletion of the disinfection waiver for sewage discharge, (6) deletion of the section on tidal water sampling, (7) deletion of a special standard for chlorides, and (8) a revision to the criteria for the specific sites of the Mattaponi Chesapeake Bay segment, Lake Curtis in Stafford County, John H. Kerr Reservoir, and a section of the Little Calfpasture River.

**Result of Analysis.** The benefits likely exceed the costs for one or more proposed changes. For one proposed change, costs likely exceed the benefits. There is insufficient data to accurately compare the magnitude of the benefits versus the costs for other changes.

**Estimated Economic Impact.** Class VII Swamp Waters. Under the current regulation, the pH criteria for Class VII swamp waters is 4.3-9.0. The current regulation also recognizes that the natural quality of swamp waters may fall outside of the ranges for pH (and dissolved oxygen) and allows, on a case-by-case basis, criteria for specific Class VII waters to be developed that reflect the natural quality of the water body. In addition, Virginia Pollutant Discharge Elimination System limitations in Class VII waters are currently required to meet a pH criteria of 6.0-9.0. Under the proposed amendments, the pH criteria for Class VII swamp waters would be 3.7-8.0, and water quality standards would not be considered violated when fluctuations outside of the ranges for pH and dissolved oxygen (DO) are determined by the Board to be natural and not due to human-induced sources. The proposed amendment specifies that the Board may develop site-specific criteria for Class VII waters that reflect the natural quality of the water body when the evidence is sufficient to demonstrate that the site specific criteria rather than narrative criterion will fully protect aquatic life. In addition, under the proposed amendment, Virginia Pollutant Discharge Elimination System limitations in Class VII waters do not have to meet a pH range, but "shall not cause significant changes to the naturally occurring dissolved oxygen and pH fluctuations in these waters." In sum, this proposed amendment changes the pH criteria for Class VII waters and allows the Board to use a narrative criterion instead of a site-specific numerical criterion to judge if the Class VII standards are violated when the pH or DO levels are outside of the water quality criteria. This amendment affects not only those waters currently classified as Class VII waters, but also those waters that the amendments propose be classified as Class VII waters.

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Swamp waters are waters with naturally occurring low pH and low DO. These conditions are caused by both low flow velocity that prevents mixing and reaeration of stagnant, shallow waters and the decomposition of vegetation that lowers DO concentrations and causes tannic acids to color the water and lower the pH. Every year, the Department of Environmental Quality (Department) extensively tests Virginia's rivers, lakes, and tidal waters for pollutants. Waters that do not meet the required water quality standards are considered "impaired waters" and the Department must develop plans to restore and maintain the water quality for the impaired waters. The plans are called Total Maximum Daily Loads (TMDLs), a term referring to the total pollutant a waterbody can assimilate and still meet standards. Under the current regulation, many swamp waters are considered impaired and therefore require TMDLs even though the "impairment" is natural. Under current regulation, in order to eliminate the incorrect impairment listings, the Department is required to develop site specific criteria. Upon reviewing the large fluctuations in the DO concentrations (sometimes close to zero) and working closely with the Department of Game and Inland Fisheries and the U.S. Fish and Wildlife Service, however, the Department decided that a narrative criterion was more protective than site specific criteria.

These amendments will allow the regulation to more accurately represent the conditions in swamp waters and give the Board flexibility in determining whether a water body is impaired. There are two potential benefits. First, it is possible that the situation of the aquatic species in the swamp waters will improve, or at least, not deteriorate. The ecological conditions of the swamp waters, including the lower pH and lower DO concentrations, have forced the aquatic species inhabiting the swamps to adapt. If the Department allowed higher DO concentrations or higher pH levels to occur in a swamp, other species that cannot tolerate the usual swamp conditions could migrate into the swamp from a connecting flowing river and out-compete (and overwhelm) the swamp species. On the whole, this could alter the unique swamp community of aquatic life. Although this hypothetical situation is difficult to quantify, it is still potentially an important benefit of this amendment.

The other benefit lies in the removal of a number of naturally-impaired swamp waters from the impaired waters list. The Department estimates that between this amendment and the special standards that this amendment proposes (discussed below), approximately 42 TMDLs will be removed from the TMDL development effort. Removing 42 TMDLs will provide a net cost-savings of \$600,000.<sup>1</sup> Since the "impairment" of these waters is natural, the Department argues that it is not an efficient use of state resources—and is often infeasible—to alter the pH and dissolved oxygen levels to meet the water quality criteria.

There is no environmental cost to removing these waters from the impaired waters list, since it will only affect those waters

determined by the Board to be naturally impaired. The removal will not exempt the waters from the usual water quality monitoring and related treatment processes. The revision of the pH criteria for swamp waters could inflict a cost on those entities discharging into Class VII waters; however, when the Department called the facilities that were likely to be impacted by this amendment, the facilities responded that this amendment would not require them to alter their current monitoring process. Therefore, the benefits likely outweigh the costs for this proposed amendment.

## Site Specific Temperature Criteria

The Board is proposing to delete the protocol for developing site-specific temperature criteria from the regulation. Under current regulation, the temperature limits set forth in 9VAC 25-260-50 through 9VAC25-260-80 may be suspended in certain locations either by Site Specific Temperature Criteria or where a thermal variance demonstration is performed in accordance with §316(a) of the Clean Water Act. Under the proposed amendment, the technical protocol for developing site specific criteria will no longer be regulated. Site specific temperature criteria can still be done, however, under the general allowance for site specific numerical criteria in 9VAC 25-260-140 D (Site specific modifications). Since the protocol for site-specific temperature criteria has never been used<sup>2</sup>, the cost should not be significant. The benefit of the repeal is to delete a protocol that the Department feels is more appropriate as guidance than regulation. Since both the costs and the benefits of this proposed change are small and not easily quantifiable, the net impact of this proposal is not clear, but will likely be very small.

## Human Health and Aquatic Life Criteria for Surface Water

The Board is proposing changes to 93 of the human health criteria for surface water. The criteria were recalculated using the EPA 2000 Human Health Methodology, which results in human health criteria that are 60-80 percent more stringent. In addition, the Board is proposing adding a fish tissue criterion for methyl mercury of 0.30 mg/kg, a revision to the aquatic life criterion for cadmium, lead, tributyltin, and two new aquatic life criteria: nonylphenol and diazinon.

The human health criteria are becoming more stringent for two reasons. First, new research has suggested to the scientific community and to EPA that the general public eats almost three times as much fish than was previously estimated; therefore concentration rates of certain chemicals in fish must decrease in order to ensure that humans are not ingesting unsafe amounts. Second, some of the criteria include a Relative Source Contribution factor. This means that for some of the chemicals, EPA determined that humans are potentially exposed to these chemicals not only from contaminated water and fish, but also from other media.

The human health criteria are being altered because of scientific research indicating that humans should not be

exposed to the chemicals in the amounts that we are currently being exposed, given the amount of fish that we eat and the other ways that we ingest the chemicals. Therefore, the benefit of the proposed changes to the human health criteria, according to EPA, the Board, and the scientific community, is to better protect the public. According to the Department, of the 103 facilities in Virginia that qualify for potential impacts as a result of the proposed changes in limits, 25 discharge the relevant pollutants, and 15 facilities have discharge levels for the specific pollutants that are within close range of the limits being proposed. The Department made every effort to contact these Virginia Pollutant Discharge Elimination System (VPDES) permit-based facilities (i.e., permittees) and found that most of them already employ more stringent controls on the pollutants of interest than those that would be needed under the proposed criteria. According to the Department, for most permittees, human health criteria are not the binding constraints; it is the aquatic life criteria that drive most of the monitoring and control processes. The remaining facilities could not provide an estimate of the changes in management and/or operation to comply with the revised changes, but did not believe that the costs would be very high. Therefore, the proposed changes in the human health criteria are not predicted to impose very high costs on facilities, or offer much benefit in terms of water quality, since facilities will not be significantly changing much in their discharge procedure.

Mercury mixes quickly into the environment and is bioaccumulated in the fatty tissue of fish. EPA determined that the best way to protect designated uses is to develop a fish tissue criterion rather than a water column number. Again, the benefits of the new criteria lie in better protection of the public and the environment. High levels of mercury in children can lead to retardation, cerebral palsy, deafness, and blindness; in adults, mercury poisoning can affect fertility and blood pressure regulation and can cause memory loss, tremors, and vision loss. According to the Department, this new criterion will not create any increase in state monitoring costs, since they already monitor fish tissue for many bioaccumulative substances, including mercury. This addition should not impose any cost to permittees, since it represents a change in measurement procedure, not in the permitted levels of mercury.<sup>3</sup>

Revisions to the existing aquatic life criteria for tributyltin, cadmium, and lead, and the addition of nonylphenol and diazinon are proposed based on more recent EPA guidance.<sup>4</sup> The proposed tributyltin criterion is less restrictive than the existing criterion and the proposed criteria for cadmium and lead are both more stringent than existing criteria. The Department anticipated that the new tributyltin criterion could potentially affect permittees in the Norfolk/Hampton Roads area, that the new cadmium criterion could affect four permittees in Virginia, and that the new lead criterion could affect five permittees in Virginia. Upon holding discussions with the permittees, however, the Department found that the

facilities were not likely to need to change their procedures based on the new criteria; the facilities either have permit limits that are below existing detection limits, or are already in compliance with more stringent criteria that are driving the discharge procedure. Therefore, there are no clear benefits or costs to the proposed changes to existing criteria.

Nonylphenol is an organic chemical that can have adverse effects on the reproductive life of aquatic organisms. It is used as a chemical intermediate and is often found in wastewater treatment plant effluent as a breakdown product from surfactants and detergents. Diazinon is also toxic to aquatic life, particularly invertebrates. The chemical is frequently found in wastewater treatment plant effluent and urban and agricultural runoff. Both of these chemicals are toxic to aquatic life; therefore, the benefit of imposing limits lies in maintaining the health of Virginia's water and aquatic organisms. The Department anticipates that there will be a cost associated with adding these criteria; however, facilities were not yet able to quantify the costs. The Department anticipates more comment from facilities during the public comment period before the final regulation is adopted.

### Bacteria Criteria for Recreational (Fresh) Waters

Under current regulation, the geometric mean criterion for E.Coli in freshwater is 126 colony forming units (CFU)/100 ml of water. This criterion is based on an illness rate of 0.8% (eight out of 1000 swimmers may get gastrointestinal illness). The Board has proposed an alternative criteria of 206 CFU/100 ml of water that is based on an illness rate of 1.0% (ten out of 1000 swimmers may get gastrointestinal illness). The criteria will be changed depending upon public input into the costs and benefits of both values. Both criteria meet federal standards; EPA has recently published guidance that considers an illness rate of 8-10 per 1000 people for primary contact recreation in freshwater acceptable.

One benefit of changing the criteria is that facilities—mostly public sector entities—will not have to spend as much trying to reach the more stringent bacteria criteria. One public sector wastewater utility representative estimated that his city would save approximately \$20 million over the long-term on one body of water with the change in the criteria.<sup>5</sup> The Department feels that this change may also make private facilities more willing to increase their participation in the voluntary aspects of the TMDL implementation plans. According to the Department, some stakeholders have said that the existing bacteria criteria results in unreasonable and unattainable end points that undermine the feasibility of achieving standards and the credibility of the program. At the current level, some watersheds must eliminate 100 percent of the bacteria loading to the watershed, including the removal of some naturally occurring bacteria. The unreasonable and unattainable end points can also make TMDLs impractical to implement and the Department anticipates savings in state resources, including staff time, under this amendment. The

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cost of the amendment is, of course, that swimmers in freshwater in Virginia will have a slightly higher probability of contracting gastrointestinal illness after engaging in freshwater-based recreational activities. However, the wastewater utility representative and the Department agree that most freshwater bodies in the Commonwealth cannot meet, or have not yet met, the current criteria. This amendment, therefore, should not change the probability of illness for Virginia citizens from its current level. Although the information that the Department anticipates receiving during the public comment period should be closely analyzed, it is likely that the benefits significantly outweigh the costs of the proposed amendment to change the bacteria criteria.

Under current regulation, the bacteria criteria are expressed as a geometric mean and as a single sample maximum. The proposed amendment lists the geometric mean as the main criteria to protect primary contact recreational uses. If there is insufficient data to compute the geometric mean, however, no more than ten percent of the total samples in the assessment period shall exceed a maximum value, which is the single sample maximum value. This change is being made because, according to EPA, the geometric mean is the environmentally relevant endpoint. The benefits of this change are having criteria that are environmentally relevant, more protective, and more consistent. In practice, this should not affect the monitoring practices of facilities, since a facility's sampling frequency and permit limits are determined by the Department in the permit. Therefore, there are neither costs nor benefits to this amendment.

## Disinfection Waivers

Under current regulation, the Board, with the advice of the Virginia Department of Health, may issue disinfection waivers to allow reduced or no disinfection of a sewage discharge on a seasonal or year-round basis. These determinations are made on a case-by-case basis and the Board must provide a 45-day public notice period and an opportunity for public hearing. Under the proposed amendments, permittees with disinfection waivers—or those pursuing disinfection waivers—will have to get a variance that must be approved by EPA. This change is occurring because EPA has issued guidance on temporary use changes (disinfection waivers are temporary use changes), and the Department feels it best to be in line with EPA guidance. In addition, a court decision ruled that a change in water quality standards cannot be effective until EPA approves it, so the Department would anyway need to start getting EPA approval for disinfection waivers. Still, this amendment will add cost both for the state and the permittee. Gaining EPA approval uses staff time that will impose a cost on the state. In addition, although the permittee may submit data that was gathered for each previous waiver and let that partially serve as a variance submittal, the original information will need repackaging and perhaps some instream bacterial level monitoring. If a permittee does not have the ability to do this

monitoring or properly write up the report, the permittee may be forced to hire a consultant, which can cost anywhere from a few thousand dollars, to \$15,000. (Most consultants charge \$8-10 K/year for each round of water quality sampling.)<sup>6</sup> The Department estimates that there are five facilities currently with waivers. The Department realizes that, in the end, the small town permittees with waivers will not be able to pay consultants, so Department staff will provide the necessary assistance in taking pictures, writing memos or reports, issuing the permit, and sending it to EPA for approval. Although many of these costs will be one-time costs in order to move from a disinfection waiver to a variance, the overall costs of this proposed amendment are likely to exceed the benefits. Most of the costs are likely to be borne by existing Department staff.

## Tidal Water Sampling

The current regulation requires that tidal water samples for determining compliance with standards shall be collected at slack before flood tide or slack before ebb tide ("slack water" sampling). Under the proposed amendment, there will be no specification on the timing of tide water sampling. According to the Department, slack water occurs for approximately 30-60 minutes, four times per day, at different times each day and at different times for each place. While slack water times can be somewhat predicted in advance, they will vary from predictions based on wind conditions each day. It is also time consuming and difficult when collecting data to tell if it is slack water or not. According to the Department, because of a lack of resources, this regulation has never been exactly followed for the Chesapeake Bay Program and rarely exactly followed in other programs. Therefore, this amendment reflects what is currently happening in practice and will not significantly affect either procedure or the type/quality of data being collected.

## Special Standards

The Board proposes to cancel the special standard that chlorides not exceed 40 mg/l at any time. The special standard was originally added in response to a proposed discharge that might affect tobacco farming in the area; tobacco farmers believed that chlorides had an adverse effect on tobacco at 35 mg/l. The proposed discharge never occurred, however, so the special standard was never applied. Therefore, the special standard has no effect on current water quality standards and can be deleted. There are neither costs nor benefits to this change.

The Board also proposes several new special site specific standards. First, a pH criterion of 5.0-8.0 is proposed to apply to the tidal freshwater Mattaponi Chesapeake Bay segment. Second, a special pH standard for Lake Curtis is proposed to maintain the fishery. Third, a manganese criterion for one intake location on the Kerr Reservoir is proposed to protect the aesthetic qualities of the water supply. Third, a new benthic numerical criterion is proposed for the Little

Calfpasture River, which, according to the Department, reflects a subcategory of benthic aquatic life uses due to the presence of the Goshen Dam. Finally, the maximum temperature for seasonally stockable trout waters of 31° C is proposed that will apply May 1 through October 31. The benefit of the changes is to make criteria better reflect natural conditions and to prevent what the Department considers “unreasonable” TMDLs from moving forward. For example, it is common that aquatic life uses are modified below dams. Current standards for the Little Calfpasture River in the area of the Goshen Dam, however, do not reflect the environmental conditions inevitable to the area around a dam, and the result is a TMDL which, according to the Department, cannot be reasonably implemented without removal of the Dam. The monetary benefit of these changes to the site-specific criteria is included in the \$600,000 that the Department anticipates to save by removing unnecessary TMDLs (approximately \$14-\$15 K per TMDL). There should not be any environmental cost, since the water bodies will simply reflect their natural conditions (given the existence of the Goshen Dam), nor will there be any cost to discharge facilities, as they indicated that they would not need to change their processes.<sup>7</sup> Therefore, the benefits should outweigh the costs for these amendments.

The Board has also made a number of changes to the River Basin Tables, including making the pH requirements less stringent for certain water bodies (limestone streams have naturally higher pH conditions) and adding certain water bodies into the Class VII swamp water category. The costs and benefits of these changes have been covered above. For all of these changes, either the benefits outweigh the costs or there are neither quantifiable benefits nor costs to the change.

**Businesses and Entities Affected.** According to the Department, there are 103 facilities that could be affected by the proposed amendments. Fifty-three of the facilities are municipal localities and 50 are businesses. Only 15 entities are “most likely” to be affected by proposed changes, based on their discharge and permit limits.

**Localities Particularly Affected.** The localities that are considered particularly affected are those containing a water body for which a specific, non-statewide amendment is being proposed to change a classification, designated use, or criteria. The counties included in this list are: Alleghany, Amelia, Bath, Caroline, Charles City, Charlotte, Chesterfield, Dinwiddie, Essex, Frederick, Halifax, Hanover, Henrico, Isle of Wight, King George, King & Queen, King William, Mecklenburg, New Kent, Nottoway, Roanoke, Rockingham, Rockbridge, Richmond, Shenandoah, Southampton, Stafford, and Westmoreland. The towns are: Branchville, Blackstone, Burkeville, Clarkesville, Crewe, and Montross. The cities are: Chesapeake, Lexington, Roanoke, Salem, and Suffolk.

There is no expected monetary impact on these localities.

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

**Effects on the Use and Value of Private Property.** If the change in bacteria criteria offers significant cost savings to specific permittees, they could see the value of their business rise. If the addition of diazinon and nonylphenol to the aquatic life criteria, or the disallowance of the disinfection waiver, create significant cost for certain permittees, then they could see a fall in the value of their business.

**Small Businesses: Costs and Other Effects.** All of the 15 facilities most likely to be impacted by the proposed changes qualify as small businesses. If after reviewing the proposed regulation, these facilities determine that the addition of nonylphenol and diazinon to the aquatic life criteria imposes significant cost, then that will be a cost borne by small businesses. In addition, the disallowance of disinfection waivers could also impose the cost of consultant fees on small businesses who seek an EPA variance, although the Department believes that Department staff will complete the tasks for which permittees might have had to hire a consultant. Finally, small businesses might save resources if the E.coli criterion for freshwater is made less stringent.

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

**Real Estate Development Costs.** If the increased stringency of the human health or aquatic life criteria increases the cost of developing land, then this amendment could increase the costs of real estate development. Similarly, if the Department makes the bacteria criteria for freshwater less stringent, and this decreases the cost of developing land, then this amendment could decrease costs for real estate developers.

**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, Section 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,

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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.

<sup>1</sup> Source: Department of Environmental Quality

<sup>2</sup> Source: Department of Environmental Quality

<sup>3</sup> Source: Department of Environmental Quality

<sup>4</sup> For information on the EPA research and criteria, see the EPA guidance documents at: <http://www.epa.gov/waterscience/criteria/tributyltin/tbt-final.pdf>, <http://www.epa.gov/waterscience/criteria/aqualife/cadmium/>, <http://www.epa.gov/waterscience/criteria/wqcriteria.html>

<sup>5</sup> For more information, see

[http://www.deq.virginia.gov/wqs/documents/TR\\_BACT\\_CSQ\\_PRESENT\\_12\\_06\\_001.pdf](http://www.deq.virginia.gov/wqs/documents/TR_BACT_CSQ_PRESENT_12_06_001.pdf)

<sup>6</sup> Source: Department of Environmental Quality

<sup>7</sup> Source: Department of Environmental Quality

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 most important potential changes to the water quality standards are a narrative criterion to recognize that certain waters in the Commonwealth are naturally low in dissolved oxygen and pH (swamp waters), and updates to the toxics and bacteria criteria and special standards to reflect site specific conditions. There are changes in many other sections of the regulation during this review. These include the updates to the Chesapeake Bay nutrient related criteria, updates to stream classifications in the river basin section tables, deletions of sections that are unused or no longer needed, and miscellaneous updates and clarifications.*

## **9VAC25-260-10. Designation of uses.**

A. All state waters, including wetlands, are designated for the following uses: recreational uses, e.g., swimming and boating; the propagation and growth of a balanced, indigenous population of aquatic life, including game fish, which might reasonably be expected to inhabit them; wildlife; and the production of edible and marketable natural resources, e.g., fish and shellfish.

B. Subcategories of the propagation and growth of a balanced indigenous population of aquatic life, including game fish designated use for waters in the Chesapeake Bay and its tidal tributaries are listed in this subsection.

1. Migratory Fish Spawning and Nursery Designated Use: waters in the Chesapeake Bay and its tidal tributaries that protect the survival, growth and propagation of the early life stages of a balanced, indigenous population of anadromous, semi-anadromous, catadromous and tidal-

fresh resident fish species inhabiting spawning and nursery grounds. This designated use extends from the end of tidal waters to the downriver end of spawning and nursery habitats that have been determined through a composite of all targeted anadromous and semi-anadromous fish species' spawning and nursery habitats (see boundaries in U.S. Environmental Protection Agency, 2004, Technical Support Document for Identification of Chesapeake Bay Designated Uses and Attainability 2004 Addendum, Chesapeake Bay Program Office, Annapolis, Maryland). This designated use extends horizontally from the shoreline of the body of water to the adjacent shoreline, and extends down through the water column to the bottom water-sediment interface. This use applies February 1 through May 31 and applies in addition to the open-water use described in this subsection.

2. Shallow-water Submerged Aquatic Vegetation Designated Use: waters in the Chesapeake Bay and its tidal tributaries that support the survival, growth and propagation of submerged aquatic vegetation (rooted, underwater bay grasses). This use applies April 1 through October 31 in tidal-fresh, oligohaline and mesohaline Chesapeake Bay Program segments, and March 1 through November 30 in polyhaline Chesapeake Bay Program segments and applies in addition to the open-water use described in this subsection.

3. Open Water Aquatic Life Designated Use: waters in the Chesapeake Bay and its tidal tributaries that protect the survival, growth and propagation of a balanced, indigenous population of aquatic life inhabiting open-water habitats. This designated use applies year-round but the vertical boundaries change seasonally. October 1 through May 31, the open water aquatic life use extends horizontally from the shoreline at mean low water, to the adjacent shoreline, and extending through the water column to the bottom water-sediment interface. June 1 through September 30, if a pycnocline is present and, in combination with bottom bathymetry and water column circulation patterns, presents a barrier to oxygen replenishment of deeper waters, this designated use extends down into the water column only as far as the upper boundary of the pycnocline. June 1 through September 30, if a pycnocline is present but other physical circulation patterns (such as influx of oxygen rich oceanic bottom waters) provide for oxygen replenishment of deeper waters, the open-water aquatic life designated use extends down into the bottom water-sediment interface (see boundaries in U.S. Environmental Protection Agency, 2004 Technical Support Document for Identification of Chesapeake Bay Designated Uses and Attainability 2004 Addendum, Chesapeake Bay Program Office, Annapolis, Maryland). This designated use includes the migratory fish spawning and nursery and shallow-water submerged aquatic vegetation uses.

4. Deep Water Aquatic Life Designated Use: waters in the Chesapeake Bay and its tidal tributaries that protect the survival and growth of a balanced, indigenous population of aquatic life inhabiting deep-water habitats. This designated use extends to the tidally influenced waters located between the upper and lower boundaries of the pycnocline where, in combination with bottom bathymetry and water circulation patterns, a pycnocline is present and presents a barrier to oxygen replenishment of deeper waters. In some areas, the deep-water designated use extends from the upper boundary of the pycnocline down to the bottom water-sediment interface (see boundaries in U.S. Environmental Protection Agency, 2004 Technical Support Document for Identification of Chesapeake Bay Designated Uses and Attainability 2004 Addendum, Chesapeake Bay Program Office, Annapolis, Maryland). This use applies June 1 through September 30.

5. Deep Channel Seasonal Refuge Designated Use: waters in the Chesapeake Bay and its tidal tributaries that protect the survival of a balanced, indigenous population of benthic infauna and epifauna inhabiting deep-channel habitats. This designated use extends to the tidally influenced waters at depths greater than the lower boundary of the pycnocline in areas where, in combination with bottom bathymetry and water circulation patterns, the pycnocline presents a barrier to oxygen replenishment of deeper waters (see boundaries in U.S. Environmental Protection Agency, 2004 Technical Support Document for Identification of Chesapeake Bay Designated Uses and Attainability 2004 Addendum, Chesapeake Bay Program Office, Annapolis, Maryland). This use applies June 1 through September 30.

C. In designating uses of a water body and the appropriate criteria for those uses, the board shall take into consideration the water quality standards of downstream waters and shall ensure that its water quality standards provide for the attainment and maintenance of the water quality standards of downstream waters.

D. The board may adopt subcategories of a use and set the appropriate criteria to reflect varying needs of such subcategories of uses, for instance, to differentiate between cold water (trout streams) and warm water fisheries.

E. At a minimum, uses are deemed attainable if they can be achieved by the imposition of effluent limits required under §§301(b) §§301(b)(1)(A) and (B) and 306 of the Clean Water Act and cost-effective and reasonable best management practices for nonpoint source control.

F. Prior to adding or removing any use, or establishing subcategories of a use, the board shall provide notice and an opportunity for a public hearing under the Administrative Process Act (§2.2-4000 et seq. of the Code of Virginia).

G. The board may adopt seasonal uses as an alternative to reclassifying a water body or segment thereof to uses requiring less stringent water quality criteria. If seasonal uses are adopted, water quality criteria should be adjusted to reflect the seasonal uses; however, such criteria shall not preclude the attainment and maintenance of a more protective use in another season.

H. The board may remove a designated use which is not an existing use, or establish subcategories of a use, if the board can demonstrate that attaining the designated use is not feasible because:

1. Naturally occurring pollutant concentrations prevent the attainment of the use;
2. Natural, ephemeral, intermittent or low flow conditions or water levels prevent the attainment of the use unless these conditions may be compensated for by the discharge of sufficient volume of effluent discharges without violating state water conservation requirements to enable uses to be met;
3. Human caused conditions or sources of pollution prevent the attainment of the use and cannot be remedied or would cause more environmental damage to correct than to leave in place;
4. Dams, diversions or other types of hydrologic modifications preclude the attainment of the use, and it is not feasible to restore the water body to its original condition or to operate such modification in a way that would result in the attainment of the use;
5. Physical conditions related to the natural features of the water body, such as the lack of a proper substrate, cover, flow, depth, pools, riffles, and the like, unrelated to water quality, preclude attainment of aquatic life protection uses; or
6. Controls more stringent than those required by §§301(b) and 306 of the Clean Water Act would result in substantial and widespread economic and social impact.

I. The board may not remove designated uses if:

1. They are existing uses, unless a use requiring more stringent criteria is added; or
2. Such uses will be attained by implementing effluent limits required under §§301(b) §§301(b)(1)(A) and (B) and 306 of the Clean Water Act and by implementing cost-effective and reasonable best management practices for nonpoint source control.

J. Where existing water quality standards specify designated uses less than those which are presently being attained, the board shall revise its standards to reflect the uses actually being attained.

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K. The board must conduct a use attainability analysis whenever:

1. The board designates or has designated uses that do not include the uses specified in §101(a)(2) of the Clean Water Act; or
2. The board wishes to remove a designated use that is specified in §101(a)(2) of the Clean Water Act or to adopt subcategories of uses specified in §101(a)(2) of the Clean Water Act which require less stringent criteria.

L. The board is not required to conduct a use attainability analysis under this chapter whenever designating uses which include those specified in subsection A of this section.

## **9VAC25-260-20. General criteria.**

A. State waters, including wetlands, shall be free from substances attributable to sewage, industrial waste, or other waste in concentrations, amounts, or combinations which contravene established standards or interfere directly or indirectly with designated uses of such water or which are inimical or harmful to human, animal, plant, or aquatic life.

Specific substances to be controlled include, but are not limited to: floating debris, oil, scum, and other floating materials; toxic substances (including those which bioaccumulate); substances that produce color, tastes, turbidity, odors, or settle to form sludge deposits; and substances which nourish undesirable or nuisance aquatic plant life. Effluents which tend to raise the temperature of the receiving water will also be controlled. Conditions within mixing zones established according to 9VAC25-260-20 B do not violate the provisions of this subsection.

B. The board may use mixing zone concepts in evaluating limitations for Virginia Pollutant Discharge Elimination System permits.

1. Mixing zones evaluated or established by the board in fresh water shall not:

a. Prevent movement of or cause lethality to passing and drifting aquatic organisms through the water body in question;

b. Constitute more than one half of the width of the receiving watercourse nor constitute more than one third of the area of any cross section of the receiving watercourse;

c. Extend downstream at any time a distance more than five times the width of the receiving watercourse at the point of discharge.

2. Mixing zones evaluated or established by the board in open ocean, estuarine and transition zone waters (see 9VAC25-260-140 C) shall not:

a. Prevent movement of or cause lethality to passing and drifting aquatic organisms through the water body in question;

b. Extend more than five times in any direction the average depth along a line extending 1/3 of the way across the receiving water from the discharge point to the opposite shore.

3. A subsurface diffuser shall be required for any new or expanded freshwater discharge greater than or equal to 0.5 MGD to open ocean, estuarine and transition zone waters (see 9VAC25-260-140 C) and the acute and chronic criteria shall be met at the edge of the zone of initial mixing. The zone of initial mixing is the area where mixing of ambient water and effluent is driven by the jet effect and/or momentum of the effluent. Beyond this zone the mixing is driven by ambient turbulence.

4. Mixing zones shall not be allowed by the board for effluents discharged to wetlands, swamps, marshes, lakes or ponds.

5. An allocated impact zone may be allowed within a mixing zone. This zone is the area of initial dilution of the effluent with the receiving water where the concentration of the effluent will be its greatest in the water column. Mixing within these allocated impact zones shall be as quick as practical and shall be sized to prevent lethality to passing and drifting aquatic organisms. The acute aquatic life criteria are not required to be attained in the allocated impact zone.

6. Mixing zones shall be evaluated or established such that acute criteria are met outside the allocated impact zone and chronic criteria are met at the edge of the mixing zone.

7. No mixing zone shall be used for, or considered as, a substitute for minimum treatment technology required by the Clean Water Act and other applicable state and federal laws.

8. The board shall not approve a mixing zone that violates the federal Endangered Species Act of 1973 (16 USCA §§1531-1543) or the Virginia Endangered Species Act, Article 6 (§29.1-563 et seq.) of Chapter 5 of Title 29.1 of the Code of Virginia.

9. Mixing zones shall not be allowed for the bacteria criteria in 9VAC25-260-170.

10. The board may waive the requirements of subdivisions **B** 1 b and c, **B** 2 b, **B** 3 and **B** 4 of this subsection on a case-by-case basis if:

a. The board determines that a complete mix assumption is appropriate; or

b. A discharger provides an acceptable demonstration of:

- (1) Information defining the actual boundaries of the mixing zone in question; and
- (2) Information and data demonstrating no violation of subdivisions B 1 a, 2 a and B 7 of this subsection by the mixing zone in question.

~~1011.~~ The size of a thermal mixing zone shall be determined on a case-by-case basis. This determination shall be based upon a sound rationale and be supported by substantial biological, chemical, physical, and engineering evidence and analysis. Any such determination shall show to the board's satisfaction that no adverse changes in the protection and propagation of balanced indigenous populations of fish, aquatic life, and wildlife may reasonably be expected to occur. A satisfactory showing made in conformance with §316(a) of the Clean Water Act shall be deemed as compliance with the requirements of this section.

~~1112.~~ Notwithstanding the above, no new or expanded mixing zone shall:

- a. Be allowed in waters listed in 9VAC25-260-30 A 3 c;
- b. Be allowed in waters defined in 9VAC25-260-30 A 2 for new or ~~increased~~ existing discharges unless the requirements outlined in 9VAC25-260-30 A 2 are satisfied.

## **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.

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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 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.

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.

## **9VAC25-260-50. Numerical criteria for dissolved oxygen, pH, and maximum temperature.\*\*\***

CLASS**** <sup>*</sup>	DESCRIPTION OF WATERS	DISSOLVED OXYGEN (mg/l)****		pH	Max. Temp. (°C)
		Min.	Daily Avg.		
I	Open Ocean	5.0	--	6.0-9.0	--
II	Estuarine Waters (Tidal Water-Coastal Zone to Fall Line)	4.0	5.0	6.0-9.0	--
III	Nontidal Waters (Coastal and Piedmont Zones)	4.0	5.0	6.0-9.0	32
IV	Mountainous Zones Waters	4.0	5.0	6.0-9.0	31
V	Stockable Trout Waters	5.0	6.0	6.0-9.0	21
VI	Natural Trout Waters	6.0	7.0	6.0-9.0	20
VII	Swamp Waters	*	*	4.3-9.0* 3.7-8.0*	**

\*This classification recognizes that the natural quality of these waters may fall fluctuate outside of the ranges values for D.O. and pH set forth above as water quality criteria; therefore, on a case by case basis, in Class I through VI waters. The natural quality of these waters is the water quality found or expected in the absence of human-induced pollution. Water quality standards will not be considered violated when conditions are determined by the board to be natural and not due to human-induced sources. The board may develop site specific criteria for specific Class VII waters can be developed that reflect the natural quality of the waterbody when the evidence is sufficient to demonstrate that the site specific criteria rather than narrative criterion will fully protect aquatic life uses. Virginia Pollutant Discharge Elimination System limitations in Class VII waters shall meet pH of 6.0-9.0 not cause significant changes to the naturally occurring dissolved oxygen and pH fluctuations in these waters.

\*\*Maximum temperature will be the same as that for Classes I through VI waters as appropriate.

\*\*\*The water quality criteria in this section do not apply below the lowest flow averaged (arithmetic mean) over a period of seven consecutive days that can be statistically expected to occur once every 10 climatic years (a climatic year begins April 1 and ends March 31). See 9VAC25-260-310 and 9VAC25-260-380 through 9VAC25-260-540 for site specific adjustments to these criteria.

\*\*\*\*See 9VAC25-260-55 for implementation of these criteria in waters naturally low in dissolved oxygen.

\*\*\*\*\*For a thermally stratified man-made lake or reservoir in Class III, IV, V or VI waters that are listed in 9VAC25-260-187, these dissolved oxygen criteria apply only to the epilimnion in the lacustrine portion of the water body. When these waters are not stratified, the dissolved oxygen criteria apply throughout the water column.

**9VAC25-260-55. Implementation procedure for dissolved oxygen criteria in waters naturally low in dissolved oxygen. (Repealed.)**

A. The board shall implement this procedure when assessing dissolved oxygen data in preparation of Clean Water Act

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~~§§305(b) and 303(d) reports in accordance with §62.1-44.19.5 of the Water Quality Monitoring Information and Restoration Act. The board recognizes that dissolved oxygen concentrations may seasonally fall below the criteria established in 9VAC25-260-50 due to nonanthropogenic sources and physical and chemical processes resulting from:~~

- ~~1. Density stratification and depth in Class II waters that prevent mixing and reaeration of the deep waters;~~
- ~~2. Temperature stratification and depth in lakes and reservoirs in Class III, IV, V and VI waters that prevent mixing and reaeration of the deep waters; or~~
- ~~3. Minimal flow velocity and decomposition of vegetation that prevent mixing and reaeration of stagnant, shallow waters.~~

~~B. In preparation of the Clean Water Act §§305(b) and 303(d) reports, the board shall list waters as naturally impaired in accordance with §62.1-44.19.5 C of the Code of Virginia when the board determines that the low dissolved oxygen concentrations result from nonanthropogenic sources and the physical and chemical processes described in subsection A of this section. The board shall make this determination based upon an evaluation of aquatic life, habitat (including anadromous fish spawning areas), monitoring data, computer modeling results or other accepted scientific principles. The board shall also conduct a watershed assessment to document anthropogenic sources that individually or cumulatively cause low dissolved oxygen concentrations including locating and identifying all point and nonpoint sources of pollution and identifying any man-made activities (such as water withdrawals) that cause low flow conditions and result in low dissolved oxygen levels.~~

~~C. The proposed determinations in subsection B of this section shall be subject to public comment on draft §303(d) reports.~~

~~D. The final determinations in subsection B of this section shall be made available to the public in final §303(d) reports.~~

~~E. Following a determination made under subsection B of this section, the board shall initiate a rulemaking to set site specific criteria that reflect the natural quality of that water body or segment.~~

## **9VAC25-260-90. Site-specific temperature requirements Thermal variances.**

~~A. The temperature limits set forth in 9VAC25-260-50 through 9VAC25-260-80 may be superseded in certain locations by Site Specific Temperature Criteria or in the case where a thermal variance demonstration is performed in accordance with §316(a) of the Clean Water Act. The protocol for development of site specific temperature requirements is found in subsection A of this section. Information regarding §316(a) demonstrations is found in subsection B of this section.~~

~~B. Protocol for Developing Site Specific Temperature Criteria. For any specified time of year there shall be two upper limiting temperatures for a location based on temperature requirements of important sensitive species found at the location at that time. These limiting temperatures are:~~

- ~~1. A maximum weekly average temperature that:
  - ~~a. In the warmer months is determined by adding to the physiological optimum temperature (usually the optimum for growth) for the most sensitive important species (and appropriate life stage) that normally is found at that location and time; a factor calculated as one third of the difference between the ultimate upper incipient lethal temperature and the optimum temperature for that species;~~
  - ~~b. In the cooler months is an elevated temperature that would still ensure that important species would survive if the temperature suddenly dropped to the normal ambient temperature;~~
  - ~~c. During reproduction seasons meets specific site requirements for successful migration, spawning, egg incubation, fry rearing, and other reproductive functions of important species; and~~
  - ~~d. At a specific site is found necessary to preserve normal species diversity or prevent undesirable growths of nuisance organisms.~~~~
- ~~2. A time dependent maximum temperature for short exposures.~~

~~Baseline thermal conditions shall be measured at a site where there is no unnatural thermal addition from any source, which site is in reasonable proximity to the thermal discharge (within five miles), and which has similar hydrography to that of the receiving waters at the point of discharge.~~

~~Criteria development should be in accordance with Water Quality Criteria 1972: A Report of the Committee on Water Quality Criteria and Quality Criteria for Water, U.S. Environmental Protection Agency.~~

~~C. §316(a) Determinations. A successful demonstration accepted by the board concerning thermal discharge limits carried out under §316(a) of the Clean Water Act shall constitute compliance with the temperature requirements of these standards. A successful demonstration must assure the protection and propagation of a balanced indigenous population of aquatic species and wildlife in or on the water into which the discharge is made. When making a determination concerning thermal discharge limits under §316(a) of the Clean Water Act, the board shall provide notice and opportunity for a public hearing.~~

## **9VAC25-260-140. Criteria for surface water.**

A. Instream water quality conditions shall not be ~~acutely<sup>2</sup>~~ or ~~chronically<sup>3</sup>~~ ~~chronically<sup>2</sup>~~ toxic except as allowed in 9VAC25-260-20 B (mixing zones). The following are definitions of acute and chronic toxicity conditions:

"Acute toxicity" means an adverse effect that usually occurs shortly after exposure to a pollutant. Lethality to an organism is the usual measure of acute toxicity. Where death is not easily detected, immobilization is considered equivalent to death.

"Chronic toxicity" means an adverse effect that is irreversible or progressive or occurs because the rate of injury is greater than the rate of repair during prolonged exposure to

a pollutant. This includes low level, long-term effects such as reduction in growth or reproduction.

B. The following table is a list of numerical water quality criteria for specific parameters.

~~When information has become available from the Environmental Protection Agency to calculate additional aquatic life or human health criteria not contained in the table, the board may employ these values in establishing effluent limitations or other limitations pursuant to 9VAC25-260-20 A necessary to protect designated uses until the board has completed the regulatory standards adoption process.~~

Table of Parameters<sup>6,7</sup>

PARAMETER CAS Number	USE DESIGNATION					
	AQUATIC LIFE				HUMAN HEALTH	
	FRESHWATER	SALTWATER	Acute <sup>1</sup>	Chronic <sup>2</sup>	Public Water Supply <sup>3</sup>	All Other Surface Waters <sup>4</sup>
Acenaphthene (µg/l) 83329					1,200 <u>670</u>	2,700 990
Acrolein (µg/l) 107028					320 6.1	780 9.3
Acrylonitrile (µg/l) 107131					0.59 0.51	6.6 2.5
Known or suspected carcinogen; human health criteria at risk level $10^{-5}$ .						
Aldrin (µg/l) 309002	3.0		1.3		0.0013 <u>0.00049</u>	0.0014 <u>0.00050</u>
Known or suspected carcinogen; human health criteria at risk level $10^{-5}$ .						
Ammonia (µg/l) 766-41-7						
Chronic criterion is a 30-day average concentration not to be exceeded more than once every three (3) years on the average. (see 9VAC25-260-155)						
Anthracene (µg/l) 120127					9,600 <u>8,300</u>	110,000 <u>40,000</u>

# Regulations

PARAMETER CAS Number	USE DESIGNATION					
	AQUATIC LIFE				HUMAN HEALTH	
	FRESHWATER	SALTWATER	Acute <sup>1</sup>	Chronic <sup>2</sup>	Public Water Supply <sup>3</sup>	All Other Surface Waters <sup>4</sup>
Antimony ( $\mu\text{g/l}$ ) 7440360					44 <u>5.6</u>	4,300 <u>640</u>
Arsenic ( $\mu\text{g/l}$ ) <sup>5</sup> 7440382	340	150	69	36	10	
Bacteria (see 9VAC25-260-160 and 170)						
Barium ( $\mu\text{g/l}$ ) 7440393					2,000	
Benzene ( $\mu\text{g/l}$ ) 71432  Known or suspected carcinogen; human health criteria at risk level $10^{-5}$					<u>42</u> <u>22</u>	<u>710</u> <u>510</u>
Benzidine ( $\mu\text{g/l}$ ) 92875  Known or suspected carcinogen; human health criteria at risk level $10^{-5}$					0.0012 <u>0.00086</u>	0.0054 <u>0.0020</u>
Benzo (a) anthracene ( $\mu\text{g/l}$ ) 56553  Known or suspected carcinogen; human health criteria at risk level $10^{-5}$					0.044 <u>0.038</u>	<u>0.49</u> <u>0.18</u>
Benzo (b) fluoranthene ( $\mu\text{g/l}$ ) 205992  Known or suspected carcinogen; human health criteria at risk level $10^{-5}$					0.044 <u>0.038</u>	<u>0.49</u> <u>0.18</u>
Benzo (k) fluoranthene ( $\mu\text{g/l}$ ) 207089  Known or suspected carcinogen; human health criteria at risk level $10^{-5}$					0.044 <u>0.038</u>	<u>0.49</u> <u>0.18</u>
Benzo (a) pyrene ( $\mu\text{g/l}$ ) 50328  Known or suspected carcinogen; human health criteria at risk level $10^{-5}$					0.044 <u>0.038</u>	<u>0.49</u> <u>0.18</u>

# Regulations

PARAMETER CAS Number	USE DESIGNATION					
	AQUATIC LIFE				HUMAN HEALTH	
	FRESHWATER		SALTWATER		Public Water Supply <sup>3</sup>	All Other Surface Waters <sup>4</sup>
	Acute <sup>1</sup>	Chronic <sup>2</sup>	Acute <sup>1</sup>	Chronic <sup>2</sup>		
Bis2-Chloroethyl Ether 111444  Known or suspected carcinogen; human health criteria at risk level $10^{-5}$					0.34 0.30	44 5.3
Bis2-Chloroisopropyl Ether ( $\mu\text{g/l}$ ) <u>39638329</u> 108601					1,400	170,000 <u>65,000</u>
<u>Bis2-Ethylhexyl Phthalate (<math>\mu\text{g/l}</math>)</u> 117817  <u>Known or suspected carcinogen;</u> <u>human health criteria at risk level</u> <u><math>10^{-5}</math>. Synonym = Di-2-Ethylhexyl</u> <u>Phthalate.</u>					12	22
Bromoform ( $\mu\text{g/l}$ ) 75252  Known or suspected carcinogen; human health criteria at risk level $10^{-5}$ .					44 43	3,600 1,400
Butyl benzyl phthalate ( $\mu\text{g/l}$ ) 85687					3,000 1,500	5,200 1,900

# Regulations

PARAMETER CAS Number	USE DESIGNATION					
	AQUATIC LIFE				HUMAN HEALTH	
	FRESHWATER	SALTWATER	Acute <sup>1</sup>	Chronic <sup>2</sup>	Public Water Supply <sup>3</sup>	All Other Surface Waters <sup>4</sup>
Cadmium ( $\mu\text{g/l}$ ) <sup>5</sup> 7440439	<u>3.9</u> <u>2.0</u> <u>WER=1;</u> <u>CaCO<sub>3</sub> =</u> <u>100</u>	<u>4.1</u> <u>0.25</u> <u>WER=1;</u> <u>CaCO<sub>3</sub> =</u> <u>100</u>	40	8.8	5	
Freshwater values are a function of total hardness as calcium carbonate (CaCO <sub>3</sub> ) mg/l and the WER. The minimum hardness allowed for use in the equation below shall be 25 and the maximum hardness shall be 400 even when the actual ambient hardness is less than 25 or greater than 400.						
Freshwater acute criterion ( $\mu\text{g/l}$ ) <u>WER [e<sup>{1.128[\ln(\text{hardness})] - 3.828}\}</sup></u> ] <u>WER [e<sup>{1.0166[\ln(\text{hardness})] - 3.924}\}</sup></u> ] (CFa)						
Freshwater chronic criterion ( $\mu\text{g/l}$ ) <u>WER [e<sup>{0.7852[\ln(\text{hardness})] - 3.490}\}</sup></u> ] <u>WER [e<sup>{0.7409[\ln(\text{hardness})] - 4.719}\}</sup></u> ] (CFc)						
WER = Water Effect Ratio = 1 unless <u>shown determined</u> otherwise under 9VAC25-260-140 F and listed in 9VAC25-260-310						
e = natural antilogarithm						
ln = natural logarithm						
<u>CF = conversion factor a (acute)</u> <u>or c (chronic)</u>						
<u>CFa= 1.136672-[ (ln</u> <u>hardness)(0.041838)]</u>						
<u>CFc= 1.101672-[ (ln</u> <u>hardness)(0.041838)]</u>						
<u>Acute criteria are 24-hour</u> <u>averages not to be exceeded more</u> <u>than once every three years on</u> <u>the average.</u>						

# Regulations

PARAMETER CAS Number	USE DESIGNATION					
	AQUATIC LIFE				HUMAN HEALTH	
	FRESHWATER		SALTWATER		Public Water Supply <sup>3</sup>	All Other Surface Waters <sup>4</sup>
	Acute <sup>1</sup>	Chronic <sup>2</sup>	Acute <sup>1</sup>	Chronic <sup>2</sup>		
Carbon tetrachloride (µg/l) 56235  Known or suspected carcinogen; human health criteria at risk level $10^{-5}$ .					<u>2.5</u> <u>2.3</u>	<u>44</u> <u>16</u>
Chlordane (µg/l) 57749  Known or suspected carcinogen; human health criteria at risk level $10^{-5}$ .	2.4	0.0043	0.09	0.0040	<u>0.021</u> <u>0.0080</u>	<u>0.022</u> <u>0.0081</u>
Chloride (µg/l) 16887006  Human Health criterion to maintain acceptable taste and aesthetic quality and applies at the drinking water intake.  <u>Chloride criteria do not apply in</u> <u>Class II transition zones (see</u> <u>subsection C of this section).</u>	860,000	230,000			250,000	
Chlorine, Total Residual (µg/l) 7782505  In DGIF class i and ii trout waters <u>(9VAC25-260-subsections 390-</u> <u>540) (9VAC25-260-390 through</u> <u>9VAC25-260-540)</u> or waters with threatened or endangered species are subject to the halogen ban <u>(subsection 110) (9VAC25-260-</u> <u>110).</u>	19  See 9VAC25- 260-110	11  See 9VAC25- 260-110				
Chlorine Produced Oxidant (µg/l) 7782505			13	7.5		
Chlorobenzene (µg/l) 108907					<u>680</u> <u>130</u>	<u>21,000</u> <u>1,600</u>
Chlorodibromomethane (µg/l) 124481  Known or suspected carcinogen; human health criteria at risk level $10^{-5}$ .					<u>4.4</u> <u>4.0</u>	<u>340</u> <u>130</u>

# Regulations

PARAMETER CAS Number	USE DESIGNATION					
	AQUATIC LIFE				HUMAN HEALTH	
	FRESHWATER		SALTWATER		Public Water Supply <sup>3</sup>	All Other Surface Waters <sup>4</sup>
	Acute <sup>1</sup>	Chronic <sup>2</sup>	Acute <sup>1</sup>	Chronic <sup>2</sup>		
Chloroform ( $\mu\text{g/l}$ ) 67663  <del>Known or suspected carcinogen; however, non-carcinogen calculation used and is protective of carcinogenic effects. Use 30Q5 as default design flow (see footnote 6).</del>					350 <u>340</u>	<u>29,000</u> <u>11,000</u>
2-Chloronaphthalene ( $\mu\text{g/l}$ ) 91587					1,700 1,000	4,300 <u>1,600</u>
2-Chlorophenol ( $\mu\text{g/l}$ ) 95578					420 <u>81</u>	<u>400</u> <u>150</u>
Chlorpyrifos ( $\mu\text{g/l}$ ) 2921882	0.083	0.041	0.011	0.0056		

# Regulations

PARAMETER CAS Number	USE DESIGNATION				
	AQUATIC LIFE			HUMAN HEALTH	
	FRESHWATER		SALTWATER		Public Water Supply <sup>3</sup>
	Acute <sup>1</sup>	Chronic <sup>2</sup>	Acute <sup>1</sup>	Chronic <sup>2</sup>	
Chromium III ( $\mu\text{g/l}$ ) <sup>5</sup> 16065831  Freshwater values are a function of total hardness as calcium carbonate ( $\text{CaCO}_3$ ) $\text{CaCO}_3$ mg/l and the WER. The minimum hardness allowed for use in the equation below shall be 25 and the maximum hardness shall be 400 even when the actual ambient hardness is less than 25 or greater than 400.  Freshwater acute criterion ( $\mu\text{g/l}$ ) $\mu\text{g/l}$ WER $[e^{(0.8190[\ln(\text{hardness})]+3.7256)}]$ (CF <sub>a</sub> )  Freshwater chronic criterion ( $\mu\text{g/l}$ ) WER $[e^{(0.8190[\ln(\text{hardness})]+0.6848)}]$ (CF <sub>c</sub> )  WER = Water Effect Ratio = 1 unless shown determined otherwise under 9VAC25-260-140.F and listed in 9VAC25-260-310  e = natural antilogarithm ln=natural logarithm <u>CF = conversion factor a (acute) or c (chronic)</u> CF <sub>a</sub> = 0.316 CF <sub>c</sub> =0.860	570  (WER=1; ( $\text{CaCO}_3$ = 100))	74  (WER=1; ( $\text{CaCO}_3$ = 100))			100 (total Cr)
Chromium VI ( $\mu\text{g/l}$ ) <sup>5</sup> 18540299	16	11	1,100	50	
Chrysene ( $\mu\text{g/l}$ ) 218019  Known or suspected carcinogen; human health criteria at risk level $10^{-5}$ .					0.044 <u>0.0038</u>  0.49 <u>0.018</u>

# Regulations

PARAMETER CAS Number	USE DESIGNATION					
	AQUATIC LIFE				HUMAN HEALTH	
	FRESHWATER	SALTWATER	Acute <sup>1</sup>	Chronic <sup>2</sup>	Public Water Supply <sup>3</sup>	All Other Surface Waters <sup>4</sup>
Copper ( $\mu\text{g/l}$ ) <sup>5</sup> 7440508  Freshwater values are a function of total hardness as calcium carbonate ( $\text{CaCO}_3$ ) $\text{CaCO}_3$ mg/l and the WER. The minimum hardness allowed for use in the equation below shall be 25 and the maximum hardness shall be 400 even when the actual ambient hardness is less than 25 or greater than 400.  Freshwater acute criterion ( $\mu\text{g/l}$ ) WER $[e^{\{0.9422[\ln(\text{hardness})]-1.700\}}]$ (CF <sub>a</sub> )  Freshwater chronic criterion ( $\mu\text{g/l}$ ) WER $[e^{\{0.8545[\ln(\text{hardness})]-1.702\}}]$ (CF <sub>c</sub> )  WER = Water Effect Ratio = 1 unless shown determined otherwise under 9VAC25-260-140 F and listed in 9VAC25-260-340.  e = natural antilogarithm ln = natural logarithm <u>CF = conversion factor a (acute) or c (chronic)</u> CF <sub>a</sub> = 0.960 CF <sub>c</sub> = 0.960  Acute saltwater criterion is a 24-hour average not to be exceeded more than once every three years on the average.	13 <u>WER=1;</u> $\text{CaCO}_3 = 100$	9.0 <u>WER=1;</u> $\text{CaCO}_3 = 100$	9.3 <u>WER=1</u> <u>X WER</u>	6.0 <u>WER=1</u> <u>X WER</u>	1,300	
Cyanide, Free ( $\mu\text{g/l}$ ) 57125	22	5.2	1.0	1.0	<u>700</u> <u>140</u>	<u>220,000</u> <u>16,000</u>

# Regulations

PARAMETER CAS Number	USE DESIGNATION					
	AQUATIC LIFE				HUMAN HEALTH	
	FRESHWATER		SALTWATER		Public Water Supply <sup>3</sup>	All Other Surface Waters <sup>4</sup>
	Acute <sup>1</sup>	Chronic <sup>2</sup>	Acute <sup>1</sup>	Chronic <sup>2</sup>		
DDD (µg/l) 72548  Known or suspected carcinogen; human health criteria at risk level $10^{-5}$ .					<u>0.0083</u> <u>0.0031</u>	<u>0.0084</u> <u>0.0031</u>
DDE (µg/l) 72559  Known or suspected carcinogen; human health criteria at risk level $10^{-5}$ .					<u>0.0059</u> <u>0.0022</u>	<u>0.0059</u> <u>0.0022</u>
DDT (µg/l) 50293  Known or suspected carcinogen; human health criteria at risk level $10^{-5}$ .  Total concentration of DDT and metabolites shall not exceed aquatic life criteria.	1.1	0.0010	0.13	0.0010	<u>0.0059</u> <u>0.0022</u>	<u>0.0059</u> <u>0.0022</u>
Demeton (µg/l) 8065483		0.1		0.1		
<u>Diazinon</u> <u>333415</u>	<u>0.17</u>	<u>0.17</u>	<u>0.82</u>	<u>0.82</u>		
Dibenz (a, h) anthracene (µg/l) 53703  Known or suspected carcinogen; human health criteria at risk level $10^{-5}$ .	-	-	-	-	<u>0.044</u> <u>0.038</u>	<u>0.49</u> <u>0.18</u>
Dibutyl phthalate (µg/l) 84742					<u>2,700</u> <u>2,000</u>	<u>12,000</u> <u>4,500</u>
<u>Dichloromethane</u> (µg/l) <u>75092</u>  Known or suspected carcinogen; human health criteria at risk level $10^{-5}$  Synonym = Methylene Chloride					47	16,000
1,2-Dichlorobenzene (µg/l) 95501					<u>2,700</u> <u>420</u>	<u>17,000</u> <u>1,300</u>

# Regulations

PARAMETER CAS Number	USE DESIGNATION					
	AQUATIC LIFE				HUMAN HEALTH	
	FRESHWATER		SALTWATER		Public Water Supply <sup>3</sup>	All Other Surface Waters <sup>4</sup>
	Acute <sup>1</sup>	Chronic <sup>2</sup>	Acute <sup>1</sup>	Chronic <sup>2</sup>		
1,3-Dichlorobenzene (µg/l) 541731					400 <u>320</u>	2,600 <u>960</u>
1,4 Dichlorobenzene (µg/l) 106467					400 <u>63</u>	2,600 <u>190</u>
3,3 Dichlorobenzidine 91941  Known or suspected carcinogen; human health criteria at risk level $10^{-5}$ .					0.4 <u>0.21</u>	0.77 <u>0.28</u>
Dichlorobromomethane (µg/l) 75274  Known or suspected carcinogen; human health criteria at risk level $10^{-5}$ .					5.6 <u>5.5</u>	460 <u>170</u>
1,2 Dichloroethane (µg/l) 107062  Known or suspected carcinogen; human health criteria at risk level $10^{-5}$ .					3.8	990 <u>370</u>
1,1 Dichloroethylene (µg/l) 75354					310 <u>330</u>	17,000 7,100
1,2-trans-dichloroethylene (µg/l) 156605					700 <u>140</u>	140,000 10,000
2,4 Dichlorophenol (µg/l) 120832					93 <u>77</u>	790 <u>290</u>
2,4 Dichlorophenoxy acetic acid (2,4-D) (µg/l) 94757					100	
1,2-Dichloropropane (µg/l) 78875  Known or suspected carcinogen; human health criteria at risk level $10^{-5}$ .					5.2 <u>5.0</u>	390 <u>150</u>
1,3-Dichloropropene (µg/l) 542756  Known or suspected carcinogen; human health criteria at risk level $10^{-5}$ .					10 <u>3.4</u>	1,700 <u>210</u>

# Regulations

PARAMETER CAS Number	USE DESIGNATION					
	AQUATIC LIFE				HUMAN HEALTH	
	FRESHWATER		SALTWATER		Public Water Supply <sup>3</sup>	All Other Surface Waters <sup>4</sup>
	Acute <sup>1</sup>	Chronic <sup>2</sup>	Acute <sup>1</sup>	Chronic <sup>2</sup>		
Dieldrin ( $\mu\text{g/l}$ ) 60571  Known or suspected carcinogen; human health criteria at risk level $10^{-5}$ .	0.24	0.056	0.71	0.0019	<u>0.0014</u> <u>0.00052</u>	<u>0.0014</u> <u>0.00054</u>
Diethyl Phthalate ( $\mu\text{g/l}$ ) 84662					<u>23,000</u> <u>17,000</u>	<u>120,000</u> <u>44,000</u>
Di-2-Ethylhexyl Phthalate ( $\mu\text{g/l}$ ) 117817  Known or suspected carcinogen; human health criteria at risk level $10^{-5}$ . Synonym = Bis(2-Ethylhexyl) Phthalate.					48	59
2,4 Dimethylphenol ( $\mu\text{g/l}$ ) 105679					<u>540</u> <u>380</u>	<u>2,300</u> <u>850</u>
Dimethyl Phthalate ( $\mu\text{g/l}$ ) 131113					<u>313,000</u> <u>270,000</u>	<u>2,900,000</u> <u>1,100,000</u>
Di-n-Butyl Phthalate ( $\mu\text{g/l}$ ) 84742					<u>2,700</u> <u>2,000</u>	<u>12,000</u> <u>4,500</u>
2,4 Dinitrophenol ( $\mu\text{g/l}$ ) 51285					<u>70</u> <u>69</u>	<u>14,000</u> <u>5,300</u>
2-Methyl-4,6-Dinitrophenol ( $\mu\text{g/l}$ ) 534521					<u>13.4</u> <u>13</u>	<u>765</u> <u>280</u>
2,4 Dinitrotoluene ( $\mu\text{g/l}$ ) 121142  Known or suspected carcinogen; human health criteria at risk level $10^{-5}$					1.1	<u>94</u> <u>34</u>

# Regulations

PARAMETER CAS Number	USE DESIGNATION					
	AQUATIC LIFE				HUMAN HEALTH	
	FRESHWATER		SALTWATER		Public Water Supply <sup>3</sup>	All Other Surface Waters <sup>4</sup>
	Acute <sup>1</sup>	Chronic <sup>2</sup>	Acute <sup>1</sup>	Chronic <sup>2</sup>		
Dioxin (2, 3, 7, 8-tetrachlorodibenzo-p-dioxin) (ppq) Dioxin 2, 3, 7, 8-tetrachlorodibenzo-p-dioxin ( $\mu\text{g/l}$ ) 1746016  Criteria are based on a risk level of $10^{-5}$ and potency of $1.75 \times 10^{-4}$ ( $\text{mg/kg day}$ ) <sup>+</sup> . To calculate an average effluent permit limit, use mean annual stream flow.					<u>1.2</u> <u>5.0</u> <u>E-8</u>	<u>1.2</u> <u>5.1 E-8</u>
1,2-Diphenylhydrazine ( $\mu\text{g/l}$ ) 122667  Known or suspected carcinogen; human health criteria at risk level $10^{-5}$					<u>0.40</u> <u>0.36</u>	<u>5.4</u> <u>2.0</u>
Dissolved Oxygen ( $\text{mg/l}$ ) ( $\mu\text{g/l}$ ) See (See 9VAC25-260-50 and 9VAC25-260-55.)						
Alpha-Endosulfan ( $\mu\text{g/l}$ ) 959988  <u>Total concentration alpha and beta-endosulfan shall not exceed aquatic life criteria.</u>	0.22	0.056	0.034	0.0087	<u>±10</u> <u>62</u>	<u>240</u> <u>89</u>
Beta-Endosulfan ( $\mu\text{g/l}$ ) 33213659  <u>Total concentration alpha and beta-endosulfan shall not exceed aquatic life criteria.</u>	0.22	0.056	0.034	0.0087	<u>±10</u> <u>62</u>	<u>240</u> <u>89</u>
Endosulfan Sulfate ( $\mu\text{g/l}$ ) 1031078					<u>±10</u> <u>62</u>	<u>240</u> <u>89</u>
Endrin ( $\mu\text{g/l}$ ) 72208	0.086	0.036	0.037	0.0023	<u>0.76</u> <u>0.059</u>	<u>0.84</u> <u>0.060</u>
Endrin Aldehyde ( $\mu\text{g/l}$ ) 7421934					<u>0.76</u> <u>0.29</u>	<u>0.84</u> <u>0.30</u>
Ethylbenzene ( $\mu\text{g/l}$ ) 100414					<u>3,100</u> <u>530</u>	<u>29,000</u> <u>2,100</u>
Fecal Coliform (see 9VAC25-260-160 and 9VAC25-260-170)						

# Regulations

PARAMETER CAS Number	USE DESIGNATION					
	AQUATIC LIFE				HUMAN HEALTH	
	FRESHWATER		SALTWATER		Public Water Supply <sup>3</sup>	All Other Surface Waters <sup>4</sup>
	Acute <sup>1</sup>	Chronic <sup>2</sup>	Acute <sup>1</sup>	Chronic <sup>2</sup>		
Fluoranthene (µg/l) 206440					<u>300</u> <u>130</u>	<u>370</u> <u>140</u>
Fluorene (µg/l) 86737					<u>1,300</u> <u>1,100</u>	<u>14,000</u> <u>5,300</u>
Foaming Agents (µg/l) Criterion measured as methylene blue active substances. Criterion to maintain acceptable taste, odor, or aesthetic quality of drinking water and applies at the drinking water intake.					500	
Guthion (µg/l) 86500		0.01		0.01		
Heptachlor (µg/l) 76448  Known or suspected carcinogen; human health criteria at risk level 10 <sup>-5</sup> .	0.52	0.0038	0.053	0.0036	<u>0.0021</u> <u>0.00079</u>	<u>0.0021</u> <u>0.00079</u>
Heptachlor Epoxide (µg/l) 1024573  Known or suspected carcinogen; human health criteria at risk level 10 <sup>-5</sup> .	0.52	0.0038	0.053	0.0036	<u>0.0010</u> <u>0.00039</u>	<u>0.0011</u> <u>0.00039</u>
Hexachlorobenzene (µg/l) 118741  Known or suspected carcinogen; human health criteria at risk level 10 <sup>-5</sup> .					<u>0.0075</u> <u>0.0028</u>	<u>0.0077</u> <u>0.0029</u>
Hexachlorobutadiene (µg/l) 87683  Known or suspected carcinogen; human health criteria at risk level 10 <sup>-5</sup> .					4.4	<u>500</u> <u>180</u>
Hexachlorocyclohexane Alpha-BHC (µg/l) 319846  Known or suspected carcinogen; human health criteria at risk level 10 <sup>-5</sup> .					<u>0.039</u> <u>0.026</u>	<u>0.13</u> <u>0.049</u>

# Regulations

PARAMETER CAS Number	USE DESIGNATION					
	AQUATIC LIFE				HUMAN HEALTH	
	FRESHWATER		SALTWATER		Public Water Supply <sup>3</sup>	All Other Surface Waters <sup>4</sup>
	Acute <sup>1</sup>	Chronic <sup>2</sup>	Acute <sup>1</sup>	Chronic <sup>2</sup>		
Hexachlorocyclohexane Beta-BHC ( $\mu\text{g/l}$ ) 319857  Known or suspected carcinogen; human health criteria at risk level $10^{-5}$ .					<u>0.14</u> <u>0.091</u>	<u>0.46</u> <u>0.17</u>
Hexachlorocyclohexane ( $\mu\text{g/l}$ ) (Lindane)  Gamma-BHC 58899  Known or suspected carcinogen; human health criteria at risk level $10^{-5}$ .	0.95		0.16		<u>0.19</u> <u>0.98</u>	<u>0.63</u> <u>1.8</u>
Hexachlorocyclopentadiene ( $\mu\text{g/l}$ ) 77474					<u>240</u> <u>40</u>	<u>17,000</u> <u>1,100</u>
Hexachloroethane ( $\mu\text{g/l}$ ) 67721  Known or suspected carcinogen; human health criteria at risk level $10^{-5}$ .					<u>49</u> <u>14</u>	<u>89</u> <u>33</u>
Hydrogen sulfide ( $\mu\text{g/l}$ ) 7783064		2.0		2.0		
Indeno (1,2,3,-cd) pyrene ( $\mu\text{g/l}$ ) 193395  Known or suspected carcinogen; human health criteria at risk level $10^{-5}$ .					<u>0.044</u> <u>0.038</u>	<u>0.49</u> <u>0.18</u>
Iron ( $\mu\text{g/l}$ ) 7439896  Criterion to maintain acceptable taste, odor or aesthetic quality of drinking water and applies at the drinking water intake.					300	
Isophorone ( $\mu\text{g/l}$ ) 78591  Known or suspected carcinogen; human health criteria at risk level $10^{-5}$ .					<u>360</u> <u>350</u>	<u>26,000</u> <u>9,600</u>

# Regulations

PARAMETER CAS Number	USE DESIGNATION				
	AQUATIC LIFE				HUMAN HEALTH
	FRESHWATER		SALTWATER		Public Water Supply <sup>3</sup>
	Acute <sup>1</sup>	Chronic <sup>2</sup>	Acute <sup>1</sup>	Chronic <sup>2</sup>	
Kepone ( $\mu\text{g/l}$ ) 143500		zero		zero	
Lead ( $\mu\text{g/l}$ ) <sup>5</sup> 7439921	<u>120</u> <u>94</u> <u>WER=1;</u> $\text{CaCO}_3 = 100$	<u>44</u> <u>11</u> <u>WER=1;</u> $\text{CaCO}_3 = 100$	<u>240</u> <u>WER=1</u> <u>230</u> <u>X</u> <u>WER</u>	<u>9.3</u> <u>WER=1</u> <u>8.8</u> <u>X</u> <u>WER</u>	15
Freshwater values are a function of total hardness as calcium carbonate ( $\text{CaCO}_3$ ) $\text{mg/l}$ and the water effect ratio. The minimum hardness allowed for use in the equation below shall be 25 and the maximum hardness shall be 400 even when the actual ambient hardness is less than 25 or greater than 400.  Freshwater acute criterion ( $\mu\text{g/l}$ ) $\text{WER} [e^{\frac{1.273[\ln(\text{hardness})] - 1.084}{}}]$ $\text{WER} [e^{\frac{1.273[\ln(\text{hardness})] - 1.084}{}}] (\text{CF}_a)$  Freshwater chronic criterion ( $\mu\text{g/l}$ ) $\text{WER} [e^{\frac{1.273[\ln(\text{hardness})] - 3.259}{}}]$ $\text{WER} [e^{\frac{1.273[\ln(\text{hardness})] - 3.259}{}}] (\text{CF}_c)$  WER = Water Effect Ratio = 1 unless shown determined otherwise under 9VAC25-260-140 F and listed in 9VAC25-260-310  e = natural antilogarithm ln = natural logarithm CF = conversion factor a (acute) or c (chronic)  $\text{CF}_a = 1.46203 - [\ln(\text{hardness})(0.145712)]$ $\text{CF}_c = 1.46203 - [\ln(\text{hardness})(0.145712)]$					
Malathion ( $\mu\text{g/l}$ ) 121755		0.1		0.1	

# Regulations

PARAMETER CAS Number	USE DESIGNATION					
	AQUATIC LIFE				HUMAN HEALTH	
	FRESHWATER		SALTWATER		Public Water Supply <sup>3</sup>	All Other Surface Waters <sup>4</sup>
	Acute <sup>1</sup>	Chronic <sup>2</sup>	Acute <sup>1</sup>	Chronic <sup>2</sup>		
Manganese ( $\mu\text{g/l}$ ) 7439965  Criterion to maintain acceptable taste, odor or aesthetic quality of drinking water and applies at the drinking water intake.					50	
Mercury ( $\mu\text{g/l}$ ) <sup>5</sup> 7439976	1.4	0.77	1.8	0.94	0.050	0.051
Methyl Bromide ( $\mu\text{g/l}$ ) 74839					48 <u>47</u>	4,000 <u>1,500</u>
<u>Methyl Mercury (Fish Tissue</u> <u>Criterion mg/kg</u> <u>22967926</u>					<u>0.30</u>	<u>0.30</u>
<u>Methylene Chloride (<math>\mu\text{g/l}</math></u> <u>75092</u>  <u>Known or suspected carcinogen;</u> <u>human health criteria at risk level</u> <u><math>10^{-5}</math> Synonym = Dichloromethane</u>					46	5,900
Methoxychlor ( $\mu\text{g/l}$ ) 72435		0.03		0.03	100	
Mirex ( $\mu\text{g/l}$ ) 2385855		zero		zero		
Monochlorobenzene ( $\mu\text{g/l}$ ) 408907					680	21,000

# Regulations

PARAMETER CAS Number	USE DESIGNATION					
	AQUATIC LIFE				HUMAN HEALTH	
	FRESHWATER	SALTWATER	Acute <sup>1</sup>	Chronic <sup>2</sup>	Public Water Supply <sup>3</sup>	All Other Surface Waters <sup>4</sup>
Nickel ( $\mu\text{g/l}$ ) <sup>5</sup> ( $\mu\text{g/l}$ ) <sup>5</sup> 744002  Freshwater values are a function of total hardness as calcium carbonate ( $\text{CaCO}_3$ ) $\text{CaCO}_3$ mg/l and the WER. The minimum hardness allowed for use in the equation below shall be 25 and the maximum hardness shall be 400 even when the actual ambient hardness is less than 25 or greater than 400.  Freshwater acute criterion ( $\mu\text{g/l}$ ) $\mu\text{g/l}$ WER $[e^{\{0.8460[\ln(\text{hardness})] + 1.312\}}]$ (CF <sub>a</sub> )  Freshwater chronic criterion ( $\mu\text{g/l}$ ) WER $[e^{\{0.8460[\ln(\text{hardness})] - 0.8840\}}]$ (CF <sub>c</sub> )  WER = Water Effect Ratio = 1 unless shown determined otherwise under 9VAC25-260-140 F and listed in 9VAC25-250-310  e = natural antilogarithm ln = natural logarithm CF = conversion factor a (acute) or c (chronic) (CF <sub>a</sub> ) CF <sub>a</sub> = 0.998 (CF <sub>c</sub> ) CF <sub>c</sub> = 0.997	180  <del>WER=1;</del> CaCO <sub>3</sub> = 100	20  <del>WER=1;</del> CaCO <sub>3</sub> = 100	74 X  <del>WER</del>  <del>WER=1</del>	8.2 X  <del>WER</del>  <del>WER=1</del>	610	4,600
Nitrate as N ( $\mu\text{g/l}$ ) 14797558					10,000	
Nitrobenzene ( $\mu\text{g/l}$ ) 98953					17	1,900 690
N-Nitrosodimethylamine ( $\mu\text{g/l}$ ) 62759  Known or suspected carcinogen; human health criteria at risk level 10 <sup>-5</sup> .					0.0069	84 30

# Regulations

PARAMETER CAS Number	USE DESIGNATION					
	AQUATIC LIFE				HUMAN HEALTH	
	FRESHWATER		SALTWATER		Public Water Supply <sup>3</sup>	All Other Surface Waters <sup>4</sup>
	Acute <sup>1</sup>	Chronic <sup>2</sup>	Acute <sup>1</sup>	Chronic <sup>2</sup>		
N-Nitrosodiphenylamine ( $\mu\text{g/l}$ ) 86306  Known or suspected carcinogen; human health criteria at risk level $10^{-5}$ .					<u>50</u> <u>33</u>	160 <u>60</u>
N-Nitrosodi-n-propylamine ( $\mu\text{g/l}$ ) 621647  Known or suspected carcinogen; human health criteria at risk level $10^{-5}$ .					<u>0.05</u> <u>0.050</u>	<u>44</u> <u>5.1</u>
<u>Nonylphenol</u> <u>1044051</u>	<u>28</u>	<u>6.6</u>	<u>7.0</u>	<u>1.7</u>		
Parathion ( $\mu\text{g/l}$ ) 56382	0.065	0.013				
PCB 1260 ( $\mu\text{g/l}$ ) <u>11096825</u>		0.014		0.030		
PCB 1254 ( $\mu\text{g/l}$ ) <u>11097691</u>		0.014		0.030		
PCB 1248 ( $\mu\text{g/l}$ ) <u>12672296</u>		0.014		0.030		
PCB 1242 ( $\mu\text{g/l}$ ) <u>53469219</u>		0.014		0.030		
PCB 1232 ( $\mu\text{g/l}$ ) <u>11141165</u>		0.014		0.030		
PCB 1221 ( $\mu\text{g/l}$ ) <u>11104282</u>		0.014		0.030		
PCB 1016 ( $\mu\text{g/l}$ ) <u>12674112</u>		0.014		0.030		
PCB Total ( $\mu\text{g/l}$ ) 1336363  Known or suspected carcinogen; human health criteria at risk level $10^{-5}$		<u>0.014</u>		<u>0.030</u>	<u>0.0017</u> <u>0.00064</u>	<u>0.0017</u> <u>0.00064</u>

# Regulations

PARAMETER CAS Number	USE DESIGNATION					
	AQUATIC LIFE				HUMAN HEALTH	
	FRESHWATER		SALTWATER		Public Water Supply <sup>3</sup>	All Other Surface Waters <sup>4</sup>
	Acute <sup>1</sup>	Chronic <sup>2</sup>	Acute <sup>1</sup>	Chronic <sup>2</sup>		
Pentachlorophenol ( $\mu\text{g/l}$ ) 87865  Known or suspected carcinogen; human health criteria risk level at $10^{-5}$	8.7  pH = 7.0	6.7  pH = 7.0	13	7.9	<u>2.8</u> <u>2.7</u>	<u>82</u> <u>30</u>
Freshwater acute criterion ( $\mu\text{g/l}$ ) $e^{(1.005(\text{pH})-4.869)}$						
Freshwater chronic criterion ( $\mu\text{g/l}$ ) $e^{(1.005(\text{pH})-5.134)}$						
pH See 9VAC25-260-50						
Phenol ( $\mu\text{g/l}$ ) 108952					<u>21,000</u> <u>10,000</u>	<u>4,600,000</u> <u>860,000</u>
Phosphorus (Elemental $\mu\text{g/l}$ ) Elemental ( $\mu\text{g/l}$ ) 7723140				0.10		
Pyrene ( $\mu\text{g/l}$ ) 129000					<u>960</u> <u>830</u>	<u>41,900</u> <u>4,000</u>
Radionuclides						
Gross Alpha Particle Activity ( $\text{pCi/L}$ )					15	<u>15</u>
Beta Particle & Photon Activity (mrem/yr)					4	4
(formerly man-made radio nuclides)					8	8
<del>Strontium-90 (<math>\text{pCi/L}</math>)</del>					<del>20,000</del>	<del>20,000</del>
<del>Tritium (<math>\text{pCi/L}</math>)</del>					<del>5</del>	<del>30</del>
<u>Combined Radium 226 and 228</u> ( $\text{pCi/L}$ )						
Uranium ( $\mu\text{g/L}$ )						

# Regulations

PARAMETER CAS Number	USE DESIGNATION					
	AQUATIC LIFE				HUMAN HEALTH	
	FRESHWATER	CHRONIC <sup>2</sup>	SALTWATER	CHRONIC <sup>2</sup>	Public Water Supply <sup>3</sup>	All Other Surface Waters <sup>4</sup>
Selenium ( $\mu\text{g/l}$ ) <sup>5</sup> 7782492  WER shall not be used for freshwater acute and chronic criteria. Freshwater criteria expressed as total recoverable.	20	5.0	<u>300</u> <u>WER=1</u> <u>290 X</u> <u>WER</u>	<u>71</u> <u>WER=1</u> <u>X WER</u>	170	<u>11,000</u> <u>4,200</u>
Silver ( $\mu\text{g/l}$ ) <sup>5</sup> 7440224  Freshwater values are a function of total hardness as calcium carbonate ( $\text{CaCO}_3$ ) mg/l and the WER. The minimum hardness allowed for use in the equation below shall be 25 and the maximum hardness shall be 400 even when the actual ambient hardness is less than 25 or greater than 400.  Freshwater acute criterion ( $\mu\text{g/l}$ ) WER [ $e^{\{1.72[\ln(\text{hardness})]-6.52\}}$ ] ( $CF_a$ )  WER = Water Effect Ratio = 1 unless shown determined otherwise under 9VAC25-260-140 F and listed in 9VAC25-260-310  $e$ = natural antilogarithm $\ln$ = natural logarithm <u>CF</u> = conversion factor a (acute) or c (chronic) $(CF_a \rightarrow CF_a = 0.85)$	3.4 <u>WER=1;</u> $\text{CaCO}_3 = 100$		<u>2.0</u> <u>WER=1</u> <u>1.9 X</u> <u>WER</u>			
Sulfate ( $\mu\text{g/l}$ ) Criterion to maintain acceptable taste, odor or aesthetic quality of drinking water and applies at the drinking water intake.					250,000	
Temperature See 9VAC25-260-50						

# Regulations

PARAMETER CAS Number	USE DESIGNATION					
	AQUATIC LIFE				HUMAN HEALTH	
	FRESHWATER		SALTWATER		Public Water Supply <sup>3</sup>	All Other Surface Waters <sup>4</sup>
	Acute <sup>1</sup>	Chronic <sup>2</sup>	Acute <sup>1</sup>	Chronic <sup>2</sup>		
1,1,2,2-Tetrachloroethane (µg/l) 79345  Known or suspected carcinogen; human health criteria at risk level $10^{-5}$ )					1.7	<u>410</u> <u>40</u>
Tetrachloroethylene (µg/l) 127184  Known or suspected carcinogen; human health criteria at risk level $10^{-5}$ )					<u>8.0</u> <u>6.9</u>	<u>89</u> <u>33</u>
Thallium (µg/l) 7440280					<u>4.7</u> <u>0.24</u>	<u>6.3</u> <u>0.47</u>
Toluene (µg/l) 108883					<u>6,800</u> <u>510</u>	<u>200,000</u> <u>6,000</u>
Total Dissolved Solids (µg/l) Criterion to maintain acceptable taste, odor or aesthetic quality of drinking water and applies at the drinking water intake.					500,000	
Toxaphene (µg/l) 8001352  <u>The chronic aquatic life criteria have been calculated to also protect wildlife from harmful effects through ingestion of contaminated tissue.</u>  Known or suspected carcinogen; human health criteria at risk level $10^{-5}$ )	0.73	0.0002	0.21	0.0002	<u>0.0073</u> <u>0.0028</u>	<u>0.0075</u> <u>0.0028</u>
Tributyltin (µg/l) 60105	0.46	<u>0.063</u> <u>0.072</u>	<u>0.38</u> <u>0.42</u>	<u>0.001</u> <u>0.0074</u>		
1, 2, 4 Trichlorobenzene (µg/l) 120821					<u>260</u> <u>35</u>	<u>940</u> <u>70</u>
1,1,2-Trichloroethane (µg/l) 79005  Known or suspected carcinogen; human health criteria at risk level $10^{-5}$ )					<u>6.0</u> <u>5.9</u>	<u>420</u> <u>160</u>

# Regulations

PARAMETER CAS Number	USE DESIGNATION					
	AQUATIC LIFE				HUMAN HEALTH	
	FRESHWATER		SALTWATER		Public Water Supply <sup>3</sup>	All Other Surface Waters <sup>4</sup>
	Acute <sup>1</sup>	Chronic <sup>2</sup>	Acute <sup>1</sup>	Chronic <sup>2</sup>		
Trichloroethylene ( $\mu\text{g/l}$ ) <u>79016</u>  Known or suspected carcinogen; human health criteria at risk level $10^{-5}$ .					<u>27</u> <u>25</u>	<u>810</u> <u>300</u>
2, 4, 6 –Trichlorophenol <u>88062</u>  Known or suspected carcinogen; human health criteria at risk level $10^{-5}$ .					<u>24</u> <u>14</u>	<u>65</u> <u>24</u>
2–(2, 4, 5 –Trichlorophenoxy propionic acid (Silvex) ( $\mu\text{g/l}$ ) <u>93721</u>					50	
Vinyl Chloride ( $\mu\text{g/l}$ ) <u>75014</u>  Known or suspected carcinogen; human health criteria at risk level $10^{-5}$ .					<u>0.23</u> <u>0.25</u>	<u>6+</u> <u>24</u>

PARAMETER CAS Number	USE DESIGNATION					
	AQUATIC LIFE				HUMAN HEALTH	
	FRESHWATER	SALTWATER	Acute <sup>1</sup>	Chronic <sup>2</sup>	Public Water Supply <sup>3</sup>	All Other Surface Waters <sup>4</sup>
Zinc ( $\mu\text{g/l}$ ) <sup>5</sup> <u>744066</u>  Freshwater values are a function of total hardness as calcium carbonate ( $\text{CaCO}_3$ ) mg/l and the WER. The minimum hardness allowed for use in the equation below shall be 25 and the maximum, hardness shall be 400 even when the actual ambient hardness is less than 25 or greater than 400.  Freshwater acute criterion ( $\mu\text{g/l}$ ) $\mu\text{g/l}$ WER [ $e^{\{0.8473[\ln(\text{hardness})]+0.884\}}$ ] ( $\text{CF}_a$ )  Freshwater chronic criterion ( $\mu\text{g/l}$ ) $\mu\text{g/l}$ WER [ $e^{\{0.8473[\ln(\text{hardness})]+0.884\}}$ ] ( $\text{CF}_c$ )  WER = Water Effect Ratio = 1 unless shown determined otherwise under 9VAC25-260-140 F and listed in 9VAC25-260-310  e = base e exponential function. ln = log normal function $\text{CF}_a = 0.978$ $\text{CF}_c = 0.986$	120 <del>WER=1;</del> $\text{CaCO}_3 = 100$	120 <del>WER=1;</del> $\text{CaCO}_3 = 100$	90 <del>WER=1</del> <u>X WER</u>	81 <del>WER=1</del> <u>X WER</u>	<u>9,100</u> <u>7,400</u>	<u>69,000</u> <u>26,000</u>

<sup>1</sup> One hour average concentration not to be exceeded more than once every 3 years on the average, unless otherwise noted.

<sup>2</sup> Four-day average concentration not to be exceeded more than once every 3 years on the average, unless otherwise noted.

<sup>3</sup> Criteria have been calculated to protect human health from toxic effects through drinking water and fish consumption, unless otherwise noted and apply in segments designated as PWS in 9VAC25-260-390-540.

<sup>4</sup> Criteria have been calculated to protect human health from toxic effects through fish consumption, unless otherwise noted and apply in all other surface waters not designated as PWS in 9VAC25-260-390-540.

<sup>5</sup> Acute and chronic saltwater and freshwater aquatic life criteria apply to the biologically available form of the metal and apply as a function of the pollutant's water effect ratio (WER) as defined in 9VAC25-260-140 F (WER X criterion). Metals measured as dissolved shall be considered to be biologically available, or, because local receiving water characteristics may otherwise affect the biological availability of the metal, the biologically available equivalent measurement of the metal can be further defined by determining a Water Effect Ratio (WER) and multiplying the numerical value shown in 9VAC25-260-140 B by the WER. Refer to 9VAC25-260-140 F. Values displayed above in the table are examples and correspond to a WER of 1.0. Metals criteria have been adjusted to convert the total recoverable fraction to dissolved fraction using a conversion factor. Criteria that change with hardness have the conversion factor listed in the table above.

<sup>6</sup> —The flows listed below are default design flows for calculating steady state waste load allocations unless statistically valid methods are employed which demonstrate compliance with the duration and return frequency of the water quality criteria.

# Regulations

## Aquatic Life:

Acute criteria	1Q10
Chronic criteria	7Q10
Chronic criteria (ammonia)	30Q10

## Human Health:

Noncarcinogens	30Q5
Carcinogens	Harmonic mean ( <del>An exception to this is for the carcinogen dioxin. The applicable stream flow for dioxin is the mean annual stream flow.</del> )

The following are defined for this section:

"1Q10" means the lowest flow averaged over a period of one day which on a statistical basis can be expected to occur once every 10 climatic years.

"7Q10" means the lowest flow averaged over a period of seven consecutive days that can be statistically expected to occur once every 10 climatic years.

"30Q5" means the lowest flow averaged over a period of 30 consecutive days that can be statistically expected to occur once every five climatic years.

"30Q10" means the lowest flow averaged over a period of 30 consecutive days that can be statistically expected to occur once every 10 climatic years.

"Averaged" means an arithmetic mean.

"Climatic year" means a year beginning on April 1 and ending on March 31.

<sup>7</sup>The criteria listed in this table are two significant digits. For other criteria that are referenced to other sections of this regulation in this table, all numbers listed as criteria values are significant.

C. Application of freshwater and saltwater numerical criteria. The numerical water quality criteria listed in subsection B of this section (excluding dissolved oxygen, pH, temperature) shall be applied according to the following classes of waters (see 9VAC25-260-50) and boundary designations:

CLASS OF WATERS	NUMERICAL CRITERIA
I and II (Estuarine Waters)	Saltwater criteria apply
II (Transition Zone)	More stringent of either the freshwater or saltwater criteria apply
II (Tidal Freshwater), III, IV, V, VI and VII	Freshwater criteria apply

The following ~~described~~ describes the boundary designations for Class II, (estuarine, transition zone and tidal freshwater waters) by river basin:

1. Rappahannock Basin. Tidal freshwater is from the fall line of the Rappahannock River to ~~Buoy 37 near Tappahannock, Virginia, the upstream boundary of the transition zone~~ including all tidal tributaries that enter the tidal freshwater Rappahannock River.

~~Transition zone is from Buoy 37 to Buoy 11 near Morattico, Virginia, including all tidal tributaries that enter the transition zone of the Rappahannock River.~~

~~Transition zone upstream boundary – 38° 4' 56.59"/-76° 58' 47.93" (430 feet east of Hutchinson Swamp) to 38° 5' 23.33"/-76° 58' 24.39" (0.7 miles upstream of Peepee Creek).~~

~~Transition zone downstream boundary - 37° 58' 45.80"/-76° 55' 28.75" (1,000 feet downstream of Jenkins Landing) to 37° 59' 20.07/-76° 53' 45.09" (0.33 miles upstream of Mulberry Point). All tidal waters that enter the transition zone are themselves transition zone waters.~~

Estuarine waters are from ~~Buoy 11 the downstream boundary of the transition zone to the mouth of the Rappahannock River (Buoy 6)~~, including all tidal tributaries that enter the estuarine waters of the Rappahannock River.

2. York Basin. Tidal freshwater is from the fall line of the Mattaponi River at ~~N37° 47' 20.03"/W77° 6' 15.16" (800 feet upstream of the Route 360 bridge in Aylett)~~ to ~~Clifton, Virginia the upstream boundary of the Mattaponi River transition zone~~, and from the fall line of the Pamunkey River at ~~N37° 41' 22.64" /W77° 12' 50.83" (2,000 feet upstream of Totopotomoy Creek)~~ to ~~Sweet Hall Landing, Virginia the upstream boundary of the Pamunkey River transition zone~~, including all tidal tributaries that enter the tidal freshwaters of the Mattaponi and Pamunkey Rivers.

~~Transition Mattaponi River transition zone upstream boundary of the Mattaponi River is from Clifton, Virginia to the York River and the transition zone of the Pamunkey River is from Sweet Hall Landing, Virginia, to the York~~

## Regulations

River – N37° 39' 29.65"/W76° 52' 53.29" (1,000 feet upstream of Mitchell Hill Creek) to N37° 39' 24.20"/W76° 52' 55.87" (across from Courthouse Landing). Mattaponi River transition zone downstream boundary – N37° 32' 19.76"/W76° 47' 29.41" (old Lord Delaware Bridge, west side) to N37° 32' 13.25"/W76° 47' 10.30" (old Lord Delaware Bridge, east side).

Pamunkey River transition zone upstream boundary – N37° 32' 36.63"/W76° 58' 29.88" (Cohoke Marsh, 0.9 miles upstream of Turkey Creek) to N37° 32' 36.51"/W76° 58' 36.48" (0.75 miles upstream of creek at Cook Landing). Pamunkey River transition zone downstream boundary – N37° 31' 57.90"/W76° 48' 38.22" (old Eltham Bridge, west side) to N37° 32' 6.25"/W76° 14' 18.82" (old Eltham Bridge, east side).

The transition zone for the York River is from West Point, Virginia, to Buoy 13 near Peropotank Bay. All tidal tributaries that enter the transition zones of the Mattaponi, and Pamunkey, and York Rivers are themselves in the transition zone.

Estuarine waters are from Buoy 13 the downstream boundary of the transition zones of the Mattaponi and Pamunkey Rivers to the mouth of the York River (Tue Marsh Light) including all tidal tributaries that enter the estuarine waters of the York River.

3. James Basin. Tidal Freshwater is from the fall line of the James River in the City of Richmond upstream of Mayo Bridge to the confluence of the Chickahominy River (Buoy 70) upstream boundary of the transition zone, including all tidal tributaries that enter the tidal freshwater James River.

Transition James River transition zone is from Buoy 70 to Buoy 47 near Jamestown Island including all tidal tributaries that enter the transition zone of the James River upstream boundary – N37° 14' 28.25"/W76° 56' 44.47" (at Tettington) to N37° 13' 38.56"/W76° 56' 47.13" 0.3 miles downstream of Sloop Point.

Chickahominy River transition zone upstream boundary – N37° 25' 44.79"/W77° 1' 41.76" (Holly Landing).

Transition zone downstream boundary – N37° 12' 7.23/W76° 37' 34.70" (near Carters Grove Home, 1.25 downstream of Grove Creek) to N37° 9' 17.23/W76° 40' 13.45" (0.7 miles upstream of Hunnicutt Creek). All tidal waters that enter the transition zone are themselves transition zone waters.

Estuarine waters are from Buoy 47 the downstream transition zone boundary to the mouth of the James River (Buoy 25) including all tidal tributaries that enter the estuarine waters of the James River.

4. Potomac Basin. Tidal Freshwater includes all tidal tributaries that enter the Potomac River from its fall line at

the Chain Bridge (N38° 55' 46.28"/W77° 6' 59.23") to Buoy 43 the upstream transition zone boundary near Quantico, Virginia.

Transition zone includes all tidal tributaries that enter the Potomac River from Buoy 43 N38° 31' 27.05"/W77° 17' 7.06" (midway between Shipping Point and Quantico Pier) to Buoy 33 near Dahlgren, Virginia N38° 23' 22.78"/W77° 1' 45.50" (one mile southeast of Mathias Point).

Estuarine waters includes all tidal tributaries that enter the Potomac River from Buoy 33 the downstream transition zone boundary to the mouth of the Potomac River (Buoy 44B).

5. Chesapeake Bay, Atlantic Ocean, and small coastal basins. Estuarine waters include the Atlantic Ocean tidal tributaries, and the Chesapeake Bay and its small coastal basins from the Virginia state line to the mouth of the bay (a line from Cape Henry drawn through Buoys 3 and 8 to Fishermans Island), and its tidal tributaries, excluding the Potomac tributaries and those tributaries listed above.

6. Chowan River Basin. Tidal freshwater includes the Northwest River and its tidal tributaries from the Virginia-North Carolina state line to the free flowing portion, the Blackwater River and its tidal tributaries from the Virginia-North Carolina state line to the end of tidal waters at approximately state route 611 at river mile 20.90, the Nottoway River and its tidal tributaries from the Virginia-North Carolina state line to the end of tidal waters at approximately Route 674, and the North Landing River and its tidal tributaries from the Virginia-North Carolina state line to the Great Bridge Lock.

Transition zone includes Back Bay and its tributaries in the City of Virginia Beach to the Virginia-North Carolina state line.

D. Site-specific modifications to numerical water quality criteria.

1. The board may consider site-specific modifications to numerical water quality criteria in subsection B of this section where the applicant or permittee demonstrates that the alternate numerical water quality criteria are sufficient to protect all designated uses (see 9VAC25-260-10) of that particular surface water segment or body.

2. Any demonstration for site-specific human health criteria shall be restricted to a reevaluation of the bioconcentration or bioaccumulation properties of the pollutant. The exceptions to this restriction are for site-specific criteria for taste, odor, and aesthetic compounds noted by double asterisks in subsection B of this section and nitrates.

3. Site specific temperature requirements are found in 9VAC25-260-90.

# Regulations

4. Procedures for promulgation and review of site-specific modifications to numerical water quality criteria resulting from subdivisions 1 and 2 of this subsection.

- a. Proposals describing the details of the site-specific study shall be submitted to the board's staff for approval prior to commencing the study.
- b. Any site-specific modification shall be promulgated as a regulation in accordance with the Administrative Process Act. All site-specific modifications shall be listed in 9VAC25-260-310 (Special standards and requirements).

## E. Variances to water quality standards.

1. A variance from numeric criteria may be granted to a discharger if it can be demonstrated that one or more of the conditions in 9VAC25-260-10 G H limit the attainment of one or more specific designated uses.

a. Variances shall apply only to the discharger to whom they are granted and shall be reevaluated and either continued, modified or revoked at the time of permit issuance. At that time the permittee shall make a showing that the conditions for granting the variance still apply.

b. Variances shall be described in the public notice published for the permit. The decision to approve a variance shall be subject to the public participation requirements of the Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation, 9VAC25-31 (Permit Regulation).

c. Variances shall not prevent the maintenance and protection of existing uses or exempt the discharger or regulated activity from compliance with other appropriate technology or water quality-based limits or best management practices.

d. Variances granted under this section shall not apply to new discharges.

e. Variances shall be submitted by the department's Division of Scientific Research or its successors to the Environmental Protection Agency for review and approval/disapproval.

f. A list of variances granted shall be maintained by the department's Division of Scientific Research or its successors.

2. None of the variances in this subsection shall apply to the halogen ban section (9VAC25-260-110) or temperature criteria in 9VAC25-260-50 if superseded by §316(a) of the Clean Water Act requirements. No variances in this subsection shall apply to the criteria that are designed to protect human health from carcinogenic and noncarcinogenic toxic effects (subsection B of this section) with the exception of the metals, and the taste, odor, and

aesthetic compounds noted by double asterisks and nitrates, listed in subsection B of this section.

## F. Water effect ratio.

1. A water effects ratio (WER) shall be determined by measuring the effect of receiving water (as it is or will be affected by any discharges) on the bioavailability or toxicity of a metal by using standard test organisms and a metal to conduct toxicity tests simultaneously in receiving water and laboratory water. The ratio of toxicities of the metal(s) in the two waters is the WER (toxicity in receiving water divided by toxicity in laboratory water = WER). Once an acceptable WER for a metal is established, the numerical value for the metal in subsection B of this section is multiplied by the WER to produce an instream concentration that will protect designated uses. This instream concentration shall be utilized in permitting decisions.

2. The WER shall be assigned a value of 1.0 unless the applicant or permittee demonstrates to the department's satisfaction in a permit proceeding that another value is appropriate, or unless available data allow the department to compute a WER for the receiving waters. The applicant or permittee is responsible for proposing and conducting the study to develop a WER. The study may require multiple testing over several seasons. The applicant or permittee shall obtain the department's Division of Scientific Research or its successor approval of the study protocol and the final WER.

3. The Permit Regulation at 9VAC25-31-230 C requires that permit limits for metals be expressed as total recoverable measurements. To that end, the study used to establish the WER may be based on total recoverable measurements of the metals.

4. The Environmental Protection Agency views the WER in any particular case as a site-specific criterion. Therefore, the department's Division of Scientific Research or its successor shall submit the results of the study to the Environmental Protection Agency for review and approval/disapproval within 30 days of the receipt of certification from the state's Office of the Attorney General. Nonetheless, the WER is established in a permit proceeding, shall be described in the public notice associated with the permit proceeding, and applies only to the applicant or permittee in that proceeding. The department's action to approve or disapprove a WER is a case decision, not an amendment to the present regulation.

The decision to approve or disapprove a WER shall be subject to the public participation requirements of the Permit Regulation, 9VAC25-31-260 et seq. A list of final WERs will be maintained by the department's Division of Scientific Research or its successor.

5. A WER shall not be used for the freshwater and saltwater chronic mercury criteria or the freshwater acute and chronic selenium criteria.

## **9VAC25-260-170. Bacteria; other recreational waters.**

A. In surface waters, except shellfish waters and certain waters identified in subsections B and C of this section, the following bacteria criteria (colony forming units (CFU)/100 ml) shall apply to protect primary contact recreational uses in surface waters, except waters identified in subsection B of this section:

1. Fecal coliform bacteria shall not exceed a geometric mean of 200 fecal coliform bacteria per 100 ml of water for two or more samples over a calendar month nor shall more than 10% of the total samples taken during any calendar month exceed 400 fecal coliform bacteria per 100 ml of water. This criterion shall not apply for a sampling station after the bacterial indicators described in subdivision 2 of this subsection have a minimum of 12 data points or after June 30, 2008, whichever comes first.

2. E. coli and enterococci bacteria per 100 ml of water shall not exceed the following:

	Geometric Mean <sup>1</sup>	Single Sample Maximum <sup>2</sup>
Freshwater <sup>3</sup>		
E. coli	126	235
Saltwater and Transition Zone <sup>3</sup>		
enterococci	35	104

<sup>1</sup>For two or more samples taken during any calendar month.

<sup>2</sup>No single sample maximum for enterococci and E. coli shall exceed a 75% upper one sided confidence limit based on a site specific log standard deviation. If site data are insufficient to establish a site specific log standard deviation, then 0.4 shall be used as the log standard deviation in freshwater and 0.7 shall be as the log standard deviation in saltwater and transition zone. Values shown are based on a log standard deviation of 0.4 in freshwater and 0.7 in saltwater.

<sup>3</sup>See 9 VAC 25-260-140 C for freshwater and transition zone delineation.

E. coli bacteria shall not exceed a monthly geometric mean of 126 CFU/100 ml in freshwater, or E. coli bacteria shall not exceed a monthly geometric mean of 206 CFU/100 ml in freshwater.

Enterococci bacteria shall not exceed a monthly geometric mean of 35 CFU/100 ml in transition and saltwater.

1. See 9VAC25-260-140 C for boundary delineations for freshwater, transition and saltwater.

2. Geometric means shall be calculated using all data collected during any calendar month with a minimum of four weekly samples.

3. If there is insufficient data to calculate monthly geometric means in freshwater, no more than 10% of the total samples in the assessment period shall exceed 235 E.coli CFU/100 ml, or if there is insufficient data to calculate monthly geometric means in freshwater, no more than 10% of the total samples in the assessment period shall exceed 384 E.coli CFU/100 ml.

4. If there is insufficient data to calculate monthly geometric means in transition and saltwater, no more than 10% of the total samples in the assessment period shall exceed enterococci 104 CFU/100 ml.

5. For beach advisories or closures, a single sample maximum of 235 E.coli CFU/100 ml in freshwater and a single sample maximum of 104 enterococci CFU/100 ml in saltwater and transition zones shall apply, or for beach advisories or closures, a single sample maximum of 384 E.coli CFU/100 ml in freshwater and a single sample maximum of 104 enterococci CFU/100 ml in saltwater and transition zones shall apply.

B. Notwithstanding the above, all sewage discharges shall be disinfected to achieve the applicable bacteria concentrations in subdivision A 2 of this section prior to discharge.

However, the board, with the advice of the State Department of Health, may determine that reduced or no disinfection of a discharge is appropriate on a seasonal or year round basis. In making such a determination, the board shall consider the designated uses of these waters and the seasonal nature of those uses. Such determinations will be made during the process of approving, issuing, or reissuing the discharge permit and shall be in conformance with a board approved site specific use attainability analysis performed by the permittee. When making a case by case determination concerning the appropriate level of disinfection for sewage discharges into these waters, the board shall provide a 45-day public notice period and opportunity for a public hearing.

C. Surface waters, or portions of these, may be designated in accordance with 9VAC25-260-10 to protect secondary contact recreation.

1. Sewage discharges to secondary contact recreational waters shall meet the requirements of the disinfection policy set forth in subsection B of this section.

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~~2. In surface waters, except shellfish waters, designated for secondary contact recreation under this subsection, the B. The following bacteria criteria per 100 ml (CFU/100 ml) of water shall apply:~~

	Geometric Mean <sup>1</sup>	Single Sample Maximum <sup>2</sup>
Freshwater <sup>3</sup>		
E. coli	630	1173
Saltwater and Transition Zone <sup>3</sup>		
enterococci	175	519

<sup>1</sup>Calendar month average for two or more samples.

<sup>2</sup>No single sample maximum for enterococci and E. coli in secondary contact waters shall exceed a 75% upper one sided confidence limit based on a site specific log standard deviation. If site data are insufficient to establish a site specific log standard deviation, then 0.4 shall be the log standard deviation in fresh and transition zone waters and 0.7 shall be the log standard deviation in saltwater. Values shown are based on a log standard deviation of 0.4 in freshwater and 0.7 in saltwater.

<sup>3</sup>See subsection 9 VAC 25 260-140 C for freshwater and transition zone delineation.

E.coli bacteria shall not exceed a monthly geometric mean of 630 CFU/100 ml in freshwater.

Enterococci bacteria shall not exceed a monthly geometric mean of 175 CFU/100 ml in transition and saltwater.

1. See 9VAC25-260-140 C for boundary delineations for freshwater, transition and saltwater.

2. Geometric means shall be calculated using all data collected during any calendar month with a minimum of four weekly samples.

3. If there is insufficient data to calculate monthly geometric means in freshwater, no more than 10% of the total samples in the assessment period shall exceed 1173 E.coli CFU/100 ml.

4. If there is insufficient data to calculate monthly geometric means in transition and saltwater, no more than 10% of the total samples in the assessment period shall exceed 519 enterococci CFU/100 ml.

5. Where the existing water quality for bacteria is below the geometric mean criteria in a water body designated for secondary contact in subdivision 6 of this subsection that higher water quality will be maintained in accordance with 9VAC25-260-30 A 2.

3-6. Surface waters designated under this subsection are as follows:

a. (Reserved)

b. (Reserved)

c. (Reserved)

## 9VAC25-260-185. Criteria to protect designated uses from the impacts of nutrients and suspended sediment in the Chesapeake Bay and its tidal tributaries.

A. Dissolved oxygen.

Designated Use	Criteria Concentration/Duration	Temporal Application
Migratory fish spawning and nursery	7-day mean $\geq$ 6 mg/l (tidal habitats with 0-0.5 ppt salinity)	February 1-May 31
	Instantaneous minimum $\geq$ 5 mg/l	
Open water <sup>1</sup>	30 day mean $\geq$ 5.5 mg/l (tidal habitats with 0-0.5 ppt salinity)	year-round <sup>2</sup> June 1 – September 30
	30 day mean $\geq$ 5 mg/l (tidal habitats with > 0.5 ppt salinity)	
	7 day mean $\geq$ 4 mg/l	October 1 – May 31
	Instantaneous minimum $\geq$ 3.2 mg/l at temperatures < 29°C	
	Instantaneous minimum $\geq$ 4.3 mg/l at temperatures $\geq$ 29°C	
Deep water	30 day mean $\geq$ 3 mg/l	June 1-September 30
	1 day mean $\geq$ 2.3 mg/l	
	Instantaneous minimum $\geq$ 1.7 mg/l	
Deep channel	Instantaneous minimum $\geq$ 1 mg/l	June 1-September 30

<sup>1</sup>In applying this open water instantaneous criterion to the Chesapeake Bay and its tidal tributaries where the existing water quality for dissolved oxygen exceeds an instantaneous minimum of 3.2 mg/l, that higher water quality for dissolved oxygen shall be provided antidegradation protection in accordance with 9 VAC 25-610-30 A 2.

<sup>2</sup>Open-water dissolved oxygen criteria attainment is assessed separately over two time periods: summer (June 1-September 30) and nonsummer (October 1-May 31) months.

~~water submerged aquatic vegetation use is met in that segment. If the SAV acres in this subsection are not met in any individual Chesapeake Bay Program segment, then the water clarity criteria shall apply to the water clarity acres in that segment. If these water clarity criteria are met to the bottom water sediment interface for the number of water clarity acres in that segment, then the shallow water submerged aquatic vegetation use is met; regardless of the number of acres of SAV in that segment. Attainment of the shallow-water submerged aquatic vegetation designated use shall be determined using any of the following criteria:~~

B. Submerged aquatic vegetation and water clarity. ~~If the submerged aquatic vegetation (SAV) acres in this subsection are met in any individual Chesapeake Bay Program segment as described in subsection D of this section, then the shallow~~

Designated Use	Chesapeake Bay Program Segment	SAV Acres <sup>1</sup>	Water Clarity Criteria (percent light through-water) <sup>2</sup> Percent Light-Through-Water <sup>2</sup>	Water Clarity Acres <sup>1</sup>	Temporal Application
Shallow Water Submerged Aquatic Vegetation Use	CB5MH	7,633	22%	14,514	April 1 - October 31
	CB6PH	1,267	22%	3,168	March 1 - November 30
	CB7PH	15,107	22%	34,085	March 1 - November 30
	CB8PH	11	22%	28	March 1 - November 30
	POTTF	2,093	13%	5,233	April 1 - October 31
	POTOH	1,503	13%	3,758	April 1 - October 31
	POTMH	4,250	22%	10,625	April 1 - October 31
	RPPTF	66	13%	165	April 1 - October 31
	RPPOH	0 4	- 13%	0 10	April 1 - October 31
	RPPMH	1700	22%	5000	April 1 - October 31
	CRRMH	768	22%	1,920	April 1 - October 31
	PIAMH	3,479	22%	8,014	April 1 - October 31
	MPNTF	85	13%	213	April 1 - October 31
	MPNOH	0 2	-	0 2	-
	PMKTF	187	13%	468	April 1 - October 31
	PMKOH	0 2	-	0 2	-
	YRKMH	239	22%	598	April 1 - October 31

# Regulations

YRKPH	2,793	22%	6,982	March 1 - November 30
MOBPH	15,901	22%	33,990	March 1 - November 30
JMSTF2	200	13%	500	April 1 - October 31
JMSTF1	1000	13%	2500	April 1 - October 31
APPTF	379	13%	948	April 1 - October 31
JMSOH	15	13%	38	April 1 - October 31
CHKOH	535	13%	1,338	April 1 - October 31
JMSMH	200	22%	500	April 1 - October 31
JMSPH	300	22%	750	March 1 - November 30
WBEMH	θ	-	θ	-
SBEMH	θ	-	θ	-
EBEMH	θ	-	θ	-
LAFMH	θ	-	θ	-
ELIPH	θ	-	θ	-
LYNPH	107	22%	268	March 1 - November 30
POCOH	θ	-	θ	-
POCMH	4,066	22%	9,368	April 1 - October 31
TANMH	13,579	22%	22,064	April 1 - October 31

<sup>1</sup>The assessment period for SAV and water clarity acres shall be the single best year in the most recent three consecutive years. When three consecutive years of data are not available, a minimum of three years within the most recent five years shall be used data assessment window.

<sup>2</sup>Percent Light through Water =  $100e^{(-K_dZ)}$  where  $K_d$  is water column light attenuation coefficient and can be measured directly or converted from a measured secchi depth where  $K_d = 1.45/\text{secchi depth}$ . Z = depth at location of measurement of  $K_d$ .

## C. Chlorophyll a.

Designated Use	Chlorophyll a Narrative* Criterion	Temporal Application
Open Water	Concentrations of chlorophyll a in free-floating microscopic aquatic plants (algae) shall not exceed levels that result in undesirable or nuisance aquatic plant life, or render tidal waters unsuitable for the propagation and growth of a balanced, indigenous population of aquatic life or otherwise result in ecologically undesirable water quality conditions such as reduced water clarity, low dissolved oxygen, food supply imbalances, proliferation of species deemed potentially harmful to aquatic life or humans or aesthetically objectionable conditions.	March 1 - September 30

\*See 9VAC25-260-310 special standard bb for numerical chlorophyll criteria for the tidal James River.

## D. Implementation.

## Regulations

1. Chesapeake Bay program segmentation scheme as described in Chesapeake Bay Program, 2004 Chesapeake Bay Program Analytical Segmentation Scheme-Revisions, Decisions and Rationales: 1983—2003, CBP/TRS 268/04, EPA 903-R-04-008, Chesapeake Bay Program, Annapolis, Maryland, and the Chesapeake Bay Program published 2005 addendum (CBP/TRS 278-06; EPA 903-R-05-004) is listed below and shall be used as the spatial assessment unit to determine attainment of the criteria in this section for each designated use.

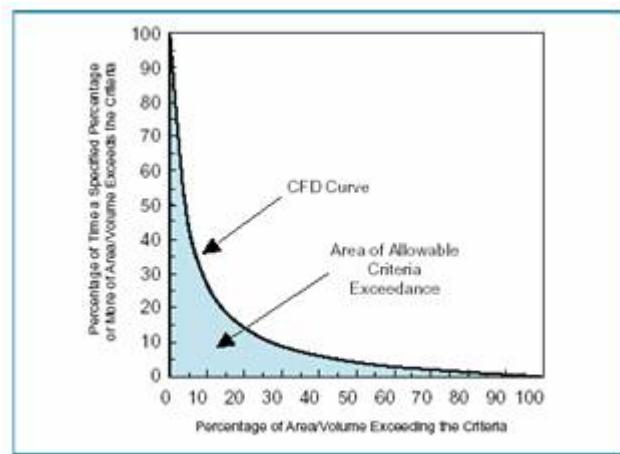
Chesapeake Bay Segment Description	Segment Name <sup>1</sup>	Chesapeake Bay Segment Description	Segment Name <sup>1</sup>
Lower Central Chesapeake Bay	CB5MH	Mobjack Bay	MOBPH
Western Lower Chesapeake Bay	CB6PH	Upper Tidal Fresh James River	JMSTF2
Eastern Lower Chesapeake Bay	CB7PH	Lower Tidal Fresh James River	JMSTF1
Mouth of the Chesapeake Bay	CB8PH	Appomattox River	APPTF
Upper Potomac River	POTTF	Middle James River	JMSOH
Middle Potomac River	POTOH	Chickahominy River	CHKOH
Lower Potomac River	POTMH	Lower James River	JMSMH
Upper Rappahannock River	RPPTF	Mouth of the James River	JMSPH
Middle Rappahannock River	RPPOH	Western Branch Elizabeth River	WBEMH
Lower Rappahannock River	RPPMH	Southern Branch Elizabeth River	SBEMH
Corrotoman River	CRRMH	Eastern Branch Elizabeth River	EBEMH
Piankatank River	PIAMH	Lafayette River	LAFMH
Upper Mattaponi River	MPNTF	Mouth of the Elizabeth River	ELIPH
Lower Mattaponi River	MPNOH	Lynnhaven River	LYNPH
Upper Pamunkey River	PMKTF	Middle Pocomoke River	POCOH
Lower Pamunkey River	PMKOH	Lower Pocomoke River	POCMH
Middle York River	YRKMH	Tangier Sound	TANMH
Lower York River	YRKPH		

<sup>1</sup>First three letters of segment name represent Chesapeake Bay segment description, letters four and five represent the salinity regime of that segment (TF = Tidal Fresh, OH = Oligohaline, MH = Mesohaline and PH = Polyhaline) and a sixth space is reserved for subdivisions of that segment.

2. The assessment period shall be the most recent three consecutive years. When three consecutive years of data are not available, a minimum of three years within the most recent five years shall be used the data assessment window.
3. Attainment of these criteria shall be assessed through comparison of the generated cumulative frequency distribution of the monitoring data to the applicable criteria reference curve for each designated use. If the monitoring data cumulative frequency curve is completely contained inside the reference curve, then the segment is in attainment of the designated use. The reference curves and procedures to be followed are published in the USEPA, Ambient Water Quality Criteria for Dissolved Oxygen, Water Clarity and Chlorophyll a for the Chesapeake Bay and Its Tidal Tributaries, EPA 903-R-03-002, April 2003 and the 2004 (EPA 903-R-03-002 October 2004) and 2007 (CBA/TRS 285-07, EPA 903-R-07-003) addenda. If no reference curve is published, the cumulative frequency distribution reference curve in Figure 1, which represents 10% allowable exceedances equally distributed between time and space, shall be the applicable reference curve. An exception to this requirement is in measuring attainment of the SAV and water clarity acres, which are compared directly to the criteria.

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Figure 1.



## 9VAC25-260-290. Tidal water sampling. (Repealed.)

Samples for determining compliance with standards established for estuarine or open ocean waters shall be collected at slack before flood tide or slack before ebb tide.

## Part VII Special Standards and Scenic Rivers Listings

### 9VAC25-260-310. Special standards and requirements.

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

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

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

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

- b. Policy for the Potomac Embayments. At its meeting on September 12, 1996, the board adopted a policy (9VAC25-415. Policy for the Potomac Embayments) to control point source discharges of conventional pollutants into the Virginia embayment waters of the Potomac River, and their tributaries, from the fall line at Chain Bridge in Arlington County to the Route 301 bridge in King George County. The policy sets effluent limits for  $BOD_5$ , total

suspended solids, phosphorus, and ammonia, to protect the water quality of these high profile waterbodies.

- c. Cancelled.
- d. Cancelled.
- e. Cancelled.
- f. Cancelled.
- g. Occoquan watershed policy. At its meeting on July 26, 1971 (Minute 10), the board adopted a comprehensive pollution abatement and water quality management policy for the Occoquan watershed. The policy set stringent treatment and discharge requirements in order to improve and protect water quality, particularly since the waters are an important water supply for Northern Virginia. Following a public hearing on November 20, 1980, the board, at its December 10-12, 1980 meeting, adopted as of February 1, 1981, revisions to this policy (Minute 20). These revisions became effective March 4, 1981. Additional amendments were made following a public hearing on August 22, 1990, and adopted by the board at its September 24, 1990, meeting (Minute 24) and became effective on December 5, 1990. Copies are available upon request from the Department of Environmental Quality.

- h. Cancelled.
- i. Cancelled.
- j. Cancelled.
- k. Cancelled.
- l. Cancelled.
- m. The following effluent limitations apply to wastewater treatment facilities in the entire Chickahominy watershed above Walker's Dam (this excludes effluents discharges consisting solely of stormwater):

CONSTITUENT	CONCENTRATION
1. Biochemical Oxygen demand 5-day at 20	6.0 <u>6</u> mg/l monthly average, with not more than 5% of individual samples to exceed 8.0 <u>8</u> mg/l
2. Settleable Solids	Not to exceed 0.1 ml/l monthly average
3. Suspended Solids	5.0 mg/l monthly average, with not more than 5% of individual samples to exceed 7.5 mg/l
4. Ammonia Nitrogen	Not to exceed 2.0 mg/l monthly average as N

5. Total Phosphorus	Not to exceed <u>0.4</u> <u>0.10</u> mg/l monthly average for all discharges with the exception of Tyson Foods, Inc. which shall meet <u>0.3</u> <u>0.30</u> mg/l monthly average and <u>0.5</u> <u>0.50</u> mg/l daily maximum.
6. Other Physical and Chemical Constituents	Other physical or chemical constituents not specifically mentioned will be covered by additional specifications as conditions detrimental to the stream arise. The specific mention of items 1 through 5 does not necessarily mean that the addition of other physical or chemical constituents will be condoned.

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

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

p. Cancelled.

q. Cancelled.

r. Cancelled.

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

t. Cancelled.

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

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

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

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

w. Cancelled.

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

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

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

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

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

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

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

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

This criterion reflects the acute and chronic copper aquatic life criterion for saltwater in 9VAC25-260-140 B X a water effect ratio. The water effect ratio was derived in accordance with 9VAC25-260-140 F.

aa. The following site-specific dissolved oxygen criteria apply to the tidal Mattaponi and Pamunkey Rivers and their tidal tributaries because of seasonal lower dissolved oxygen concentration due to the natural oxygen depleting processes present in the extensive surrounding tidal wetlands. These criteria apply June 1 through September 30 to Chesapeake Bay segments MPNTF, MPNOH,

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PMKTF, PMKOH and are implemented in accordance with subsection D of 9VAC25-260-185. These criteria supersede the open water criteria listed in subsection A of 9VAC25-260-185.

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

A site-specific pH criterion of 5.0-8.0 applies to the tidal freshwater Mattaponi Chesapeake Bay segment MPNTF to reflect natural conditions.

bb. The following site specific numerical chlorophyll a criteria apply March 1 through May 31 and July 1 through September 30 as seasonal means to the tidal James River (excludes tributaries) segments JMSTF2, JMSTF1, JMSOH, JMSMH, JMSPH and are implemented in accordance with subsection D of 9VAC25-260-185.

Designated Use	Chlorophyll a $\mu\text{/l}$	Chesapeake Bay Program Segment	Temporal Application
Open Water	10	JMSTF2	March 1 - May 31
	15	JMSTF1	
	15	JMSOH	
	12	JMSMH	
	12	JMSPH	
	15	JMSTF2	July 1 - September 30
	23	JMSTF1	
	22	JMSOH	
	10	JMSMH	
	10	JMSPH	

cc. For Mountain Lake in Giles County, chlorophyll a shall not exceed 6  $\mu\text{g/L}$  at a depth of 6 meters and orthophosphate-P shall not exceed 8  $\mu\text{g/L}$  at a depth of one meter or less.

dd. For Lake Drummond, located within the boundaries of Chesapeake and Suffolk in the Great Dismal Swamp, chlorophyll a shall not exceed 35  $\mu\text{g/L}$  and total phosphorus shall not exceed 40  $\mu\text{g/L}$  at a depth of one meter or less.

ee. Lake Curtis in Stafford County has a pH standard of 5.5-9.6, which is protective of the aquatic life in this reservoir and is a result of the fertilization techniques used to manage the fishery.

ff. John H. Kerr Reservoir at the Clarksville water supply intake has a dissolved manganese criterion of 50  $\mu\text{g/l}$  to protect the acceptable taste, odor or aesthetic quality of the drinking water.

gg. Little Calfpasture River from the Goshen Dam to 0.76 miles above its confluence with the Calfpasture River has a stream condition index (A Stream Condition Index for Virginia Non-Coastal Streams, September 2003, Tetra Tech, Inc.) of at least 20.5 to protect the subcategory of aquatic life that exists here as a result of the hydrologic modification. From 0.76 miles to 0.02 miles above its confluence with the Calfpasture River, aquatic life conditions are expected to gradually recover and meet the general aquatic life uses at 0.02 miles above its confluence with the Calfpasture River.

hh. Maximum temperature for these seasonally stockable trout waters is 31°C and applies May 1 through October 31.

## 9VAC25-260-320. Scenic rivers. (Repealed.)

~~The following section recognizes waters which the General Assembly has determined to be of special ecological or recreational significance to the state. The designation of a scenic river and the significance of this designation are the subject of the Scenic Rivers Act (§10.1-400 et seq. of the Code of Virginia) and are listed here for informational purposes only.~~

### ~~POTOMAC RIVER BASIN~~

#### ~~POTOMAC RIVER SUBBASIN~~

~~Goose Creek from its confluence with the Potomac River upstream to the Fauquier Loudoun County line (7+ miles).~~

~~Catoctin Creek in Loudoun County from its confluence with the Potomac River upstream to the Town of Waterford (16+ miles).~~

#### ~~SHENANDOAH RIVER SUBBASIN~~

~~The Shenandoah River in Clarke County from the Warren Clarke County line to Loakes Landing (14+ miles).~~

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## JAMES RIVER BASIN

The Saint Marys River in Augusta County within the George Washington National Forest. (6+ miles).

Rivanna River from its confluence with the James River upstream to the base of the dam at the Woolen Mills in the City of Charlottesville to the junction of the Rivanna with the James River (37+ miles).

Appomattox River from the Route 36 bridge crossing in the City of Petersburg upstream to the abutment dam located about 1.3 miles below Lake Chesdin (5+ miles).

The James River from Orleans Street extended in the City of Richmond westward to the 1970 corporate limits of the city (8+ miles).

The Upper James River from a point two miles below Eagle Rock to the Route 630 bridge in Springwood (14+/ miles).

Chickahominy River from Route 360 to the junction of the Hanover/Henrico/New Kent County line in Hanover County (10.2+ miles).

The Moormans River in Albemarle County, from the foot of the dam of the Charlottesville water supply reservoir to the junction with the Mechums River below Route 601 (13+ miles).

Rockfish River from the Route 693 bridge in Schuyler to its confluence with the James River (9.75+ miles).

Lower James River, from an unnamed tributary to the James River approximately 1.2 miles east of Trees Point in Charles City County (northand) and Upper Chippokes Creek (southside) to Grieves Run (northand) and Lawnes Creek (southside) (25+ miles).

## RAPPAHANNOCK RIVER BASIN

Rappahannock River in Rappahannock, Culpeper, Fauquier, Stafford, and Spotsylvania Counties and the City of Fredericksburg from its headwaters near Chester Gap to the Ferry Farm Mayfield Bridge (86+/ miles).

## ROANOKE RIVER BASIN

### ROANOKE RIVER SUBBASIN

Roanoke (Staunton) River from State Route 360 upstream to State Route 761 at the Long Island Bridge (40.5 +/- miles).

### CHOWAN AND DISMAL SWAMP BASIN

#### CHOWAN RIVER SUBBASIN

Nottoway River in Sussex County from the Route 40 bridge at Stony Creek to the Southampton County line (33+ miles).

North Meherrin River in Lunenburg County from the Route 712 bridge to the confluence with the Meherrin River (7.5 miles).

## ALBEMARLE SOUND SUBBASIN

The North Landing River from the North Carolina line to the bridge at Route 165, Pocatello River from its junction with North Landing River to the Blackwater Road Bridge, West Neek Creek from the junction with the North Landing River to Indian River Road Bridge, and Blackwater Creek from the junction with the North Landing River to its confluence, approximately 4.2 miles, of an unnamed tributary 1.75+/ miles west of Blackwater Road (26+ miles).

## TENNESSEE AND BIG SANDY RIVER BASINS

### CLINCH RIVER SUBBASIN

Guest River from a point 100 feet downstream of the Route 72 Bridge to the junction with the Clinch River in Scott and Wise County (6.5+ miles).

## 9VAC25-260-350. Designation of nutrient enriched waters.

A. The following state waters are hereby designated as "nutrient enriched waters":

1. Smith Mountain Lake and all tributaries\* of the impoundment upstream to their headwaters;
2. Lake Chesdin from its dam upstream to where the Route 360 bridge (Goodes Bridge) crosses the Appomattox River, including all tributaries to their headwaters that enter between the dam and the Route 360 bridge; (Repealed.)
3. South Fork Rivanna Reservoir and all tributaries of the impoundment upstream to their headwaters; (Repealed.)
4. New River and its tributaries, except Peak Creek above Interstate 81, from Claytor Dam upstream to Big Reed Island Creek (Claytor Lake).
5. Peak Creek from its headwaters to its mouth (confluence with Claytor Lake), including all tributaries to their headwaters;
6. through 20. (Repealed.)
7. (Repealed.)
8. (Repealed.)
9. (Repealed.)
10. (Repealed.)
11. (Repealed.)
12. (Repealed.)
13. (Repealed.)

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14. (Repealed.)

15. (Repealed.)

16. (Repealed.)

17. (Repealed.)

18. (Repealed.)

19. (Repealed.)

20. (Repealed.)

21. Tidal freshwater Blackwater River from the Norfolk and Western railway bridge at Burdette, Virginia, and tidal freshwater Nottoway River from the Norfolk and Western railway bridge at Courtland, Virginia, to the state line, including all tributaries to their headwaters that enter the tidal freshwater portions of the Blackwater River and the Nottoway River; and

22. ~~Stony Creek from its confluence with the North Fork Shenandoah River to its headwaters including all named and unnamed tributaries to their headwaters.~~ (Repealed.)

B. Whenever any water body is designated as "nutrient enriched waters," the board shall modify the VPDES permits of point source dischargers into the "nutrient enriched waters"

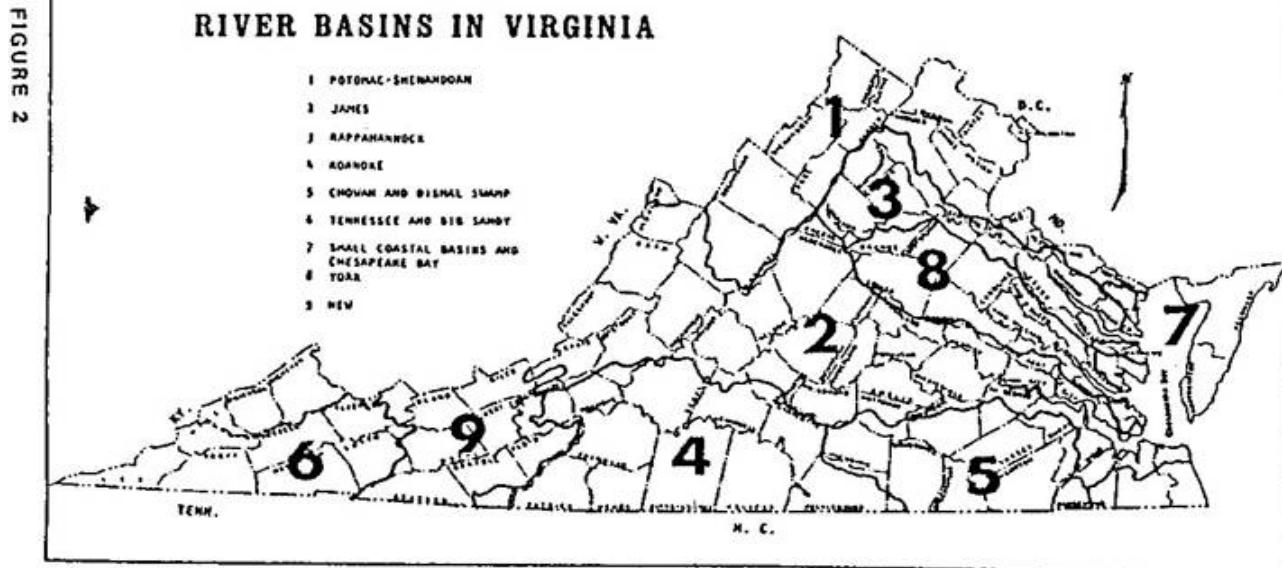
as provided in the board's Policy for Nutrient Enriched Waters (9VAC25-40).

\*When the word "tributaries" is used in this standard, it does not refer to the mainstem of the water body that has been named.

## Part IX River Basin Section Tables

### 9VAC25-260-360. Section number and description columns.

A. Basin descriptions. The tables that follow divide the state's surface waters into nine river basins, some with subbasins: Potomac River Basin (Potomac and Shenandoah Subbasins), James River Basin (Appomattox River Subbasin), Rappahannock River Basin, Roanoke River Basin (Roanoke and Yadkin Subbasins), Yadkin River Basin, Chowan and Dismal Swamp Basin (Chowan and Albemarle Sound Subbasins), Tennessee and Big Sandy Basins (Big Sandy, Clinch and Holston Subbasins), Chesapeake Bay, Atlantic Ocean and Small Coastal Basin, York River Basin and New River Basin. (See Figure 2.)



Each basin is further divided into sections. Each section is assigned a class, represented by Roman Numerals I through VII, based on its geographic location or, in the case of trout waters, on its use. Descriptions of these classes are found in 9VAC25-260-50.

B. Potomac water supplies (raw water intakes). The Leesburg and County of Fairfax intakes in the Potomac are in Maryland waters and the board cannot adopt the public water

supply criteria in 9VAC25-260-140 B to apply at the raw water intake points. However, applications to discharge into, or otherwise alter the physical, chemical, or biological properties of Virginia waters within an area five miles upstream of the intake will be reviewed on a case-by-case basis to ensure that they will protect the water supply. Basin sections where this would be applicable are shown with an asterisk (\*) in the basin and section description columns.

## 9VAC25-260-380. Special standards column.

A. Bacteria criteria. All surface waters have criteria for fecal coliform bacteria. The bacteria criteria for shellfish waters are set forth in 9VAC25-260-160; the criteria applying to all other surface recreational waters are found in 9VAC25-260-170. The letter "a" in the special standards column next to a river basin section indicates that there are shellfish waters somewhere within that section and the bacteria criteria for shellfish waters applies to those shellfish waters. (It should be noted that even though the column contains the letter "a" the entire section may not be shellfish waters.)

B. Natural variation. In some cases natural water quality does not fall within the criteria set by these standards. (For example streams in some areas of the state may naturally exceed the usual pH range of 6.0 to 9.0.) In these instances the board may have set more appropriate criteria that reflect natural quality, and this special limit is shown in the special standards column.

C. Additional requirements. In other cases the basic water quality parameters of DO, pH, temperature, and bacteria have not been sufficient to protect water quality in certain areas, and effluent limits or treatment requirements have been established for these areas. This fact is also indicated in the special standards column. If the applicable standard was too long to print in its entirety in that column, the column contains only a lower case letter, and the standard itself will be found in the special standards 9VAC25-260-310 under that letter.

## D. Other special standards or designations.

1. Public water supplies (PWS). Sections that are public water supplies are indicated in the special standards column with a PWS. This designation indicates that additional criteria are applicable in this section. See 9VAC25-260-140 B for applicable criteria. Taste and odor criteria to maintain acceptable taste, odor or aesthetic quality of drinking water apply at the drinking water intake.

2. Nutrient enriched waters (NEW). If a section contains a waterbody that has been designated as nutrient enriched in 9VAC25-260-350, the special standards column indicates this with the letters "NEW-" followed by a number. The appropriate waterway can be found listed in 9VAC25-260-350. The entire section is not necessarily nutrient enriched, only that portion specifically listed in 9VAC25-260-350.

3. Exceptional state waters (ESW). If a section contains a waterbody that has been designated as exceptional state waters in 9VAC25-260-30 A 3 the special standard column indicates this with ESW followed by a number. The appropriate waterway can be found listed in 9VAC25-260-30 A 3 c. The entire section within the basin table is not necessarily designated as exceptional state waters, only that portion specifically listed in 9VAC25-260-30 A 3 c.

4. If a section contains a waterbody that has been assigned a special standard (indicated by lower case letters in the special standards column), the appropriate waterway can be found listed in 9VAC25-260-310. The special standard does not necessarily apply to the entire section, only that portion specifically listed in 9VAC25-260-310.

## 9VAC25-260-390. Potomac River Basin (Potomac River Subbasin).

### Potomac River Subbasin

SEC.	CLASS	SP. STDS.	SECTION DESCRIPTION
1	II	a	Tidal tributaries of the Potomac River from Smith Point to Upper Machodoc Creek (Baber Point).
1a	III		All free flowing portions of tributaries to the Potomac River from Smith Point to the Route 301 Bridge in King George County unless otherwise designated in this chapter.
	VII		<u>Swamp waters in Section 1a</u>
			<u>Pine Hill Creek and its tributaries from the confluence with Rosier Creek to their headwaters.</u>
1b	III	b, NEW-12	All free flowing portions of tributaries to the Potomac River from the Route 301 Bridge in King George County to, and including, Potomac Creek, unless otherwise designated in this chapter.
1c	III	PWS,b, NEW-12	Potomac Creek and its tributaries from the Stafford County water supply dam (Able Lake Reservoir) to their headwaters.

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2	II	a, <del>NEW 14</del>	Tidal Upper Machodoc Creek and the tidal portions of its tributaries.
2a	III	<del>NEW 14</del>	Free flowing portions of Upper Machodoc Creek and its tributaries.
3	II	b, <del>NEW 12</del>	Tidal portions of the tributaries to the Potomac River from the Route 301 Bridge in King George County to Marlboro Point.
4	II	b,d, <del>NEW 6</del>	Tidal portions of the tributaries to the Potomac River from Marlboro Point to Brent Point (to include Aquia Creek and its tributaries).
4a	III	b,d, <del>NEW 6</del>	Free flowing portions of tributaries to the Potomac River in Section 4 up to the Aquia Sanitary District Water Impoundment.
4b	III	PWS,b,d, <del>NEW 6</del>	Aquia Creek from the Aquia Sanitary District Water Impoundment, and other tributaries into the impoundment, including Beaverdam Run and the Lunga Reservoir upstream to their headwaters.
5	II	b	Tidal portions of tributaries to the Potomac River from Brent Point to Shipping Point, including tidal portions of Chopawamsic Creek and its tidal tributaries.
5a	III	b	Free flowing portions of Chopawamsic Creek and its tributaries to Quantico Marine Base water supply dam.
5b	III	PWS,b	Chopawamsic Creek and its tributaries above the Quantico Marine Base water supply intakes at the Gray and Breckenridge Reservoirs to their headwaters.
6	II	b, y, <del>NEW 7,8,9,10,11,13</del>	Tidal portions of tributaries to the Potomac River from Shipping Point to Chain Bridge.
7	III	b, <del>NEW 7,8,9,10,11,13</del>	Free flowing portions of tributaries to the Potomac River from Shipping Point to Chain Bridge, unless otherwise designated in this chapter.
7a	III	g	Occoquan River and its tributaries to their headwaters above Fairfax County Water Authority's water supply impoundment, unless otherwise designated in this chapter.
7b	III	PWS,g	The impounded waters of Occoquan River above the water supply dam of the Fairfax County Water Authority to backwater of the impoundment on Bull Run and Occoquan River, and the tributaries of Occoquan above the dam to points 5 miles above the dam.
7c	III	PWS,g	Broad Run and its tributaries above the water supply dam of the City of Manassas upstream to points 5 miles above the dam.
7d			(Deleted)
7e	III	PWS,g	Cedar Run and its tributaries from the Town of Warrenton's raw water intake to points 5 miles upstream (Fauquier County).
7f	III	PWS,g	The Quantico Marine Base Camp Upshur and its tributaries' raw water intake on Cedar Run (located approximately 0.2 mile above its confluence with Lucky Run) to points 5 miles upstream.
7g	III	PWS,g	The proposed impounded waters of Licking Run above the multiple purpose impoundment structure in Licking Run near Midland (Fauquier County) upstream to points 5 miles above the proposed impoundment.
7h	III	PWS,g	The proposed impounded waters of Cedar Run above the proposed multiple purpose impoundment structure on the main stem of Cedar Run near Auburn (Fauquier County), to points 5 miles above the impoundment.

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8	III	PWS	Tributaries to the Potomac River in Virginia between Chain Bridge and the Monacacy River from their confluence with the Potomac upstream 5 miles, to include Goose Creek to the City of Fairfax's raw water intake, unless otherwise designated in this chapter.
8a	VI	PWS	Big Spring Creek and its tributaries in Loudoun County, from its confluence with the Potomac River upstream to their headwaters. (The temperature standard for natural trout water may be exceeded in the area above Big Spring and Little Spring at Routes 15 and 740 due to natural conditions). This section was given a PWS designation due to the Town of Leesburg's intake on the Potomac as referenced in Section 8b below.
	iii		Big Spring Creek from its confluence with the Potomac River upstream to Big Spring.
8b	III	PWS	Those portions of Virginia tributaries into the Potomac River that are within a 5 mile distance upstream of the Town of Leesburg's intake on the Potomac River, unless otherwise designated in this chapter.*
8c	III	PWS	Those portions of Virginia tributaries into the Potomac River that are within a 5 mile distance upstream of the County of Fairfax's intake on the Potomac River.*
9	III		Broad Run, Sugarland Run, Difficult Run, Tuscarora Creek, Sycoline Creek, and other streams tributary to streams in Section 8 from a point 5 miles above their confluence with the Potomac River to their headwaters, unless otherwise designated in this chapter.
9a	III	PWS	All the impounded water of Goose Creek from the City of Fairfax's water supply dam upstream to backwater, and its tributaries above the dam to points 5 miles above the dam.
9b	III	PWS	The Town of Round Hill's (inactive-early 1980's) raw water intake at the Round Hill Reservoir, and including the two spring impoundments located northwest of the town on the eastern slope of the Blue Ridge Mountains.
9c	III	PWS	Unnamed tributary to Goose Creek, from Camp Highroad's (inactive-late 1980's) raw water intake (Loudoun County) located in an old quarry (at latitude 39°02'02", longitude 77°40'49") to its headwaters.
9d	III	PWS	Sleeter Lake (Loudoun County).
10	III		Tributaries of the Potomac River from the Monacacy River to the West Virginia-Virginia state line in Loudoun County, from their confluence with the Potomac River upstream to their headwaters, unless otherwise designated in this chapter.
10a	III	PWS	North Fork Catoctin Creek from Purcellville's raw water intake to its headwaters.
10b	III		South Fork Catoctin Creek and its tributaries from its confluence with the North Fork Catoctin Creek to its headwaters.
11	IV	pH-6.5-9.5	Tributaries of the Potomac River in Frederick and Clarke Counties, Virginia, unless otherwise designated in this chapter.
	V	<del>pH-6.5-9.5</del>	Stockable Trout Waters in Section 11
***		<u>pH-6.5-9.5</u>	Back Creek (upper) from Rock Enon 4 miles upstream.
***		<u>pH-6.5-9.5</u>	Back Creek (lower) from Route 600 to the mouth of Hogue Creek - 2 miles.
***		<u>hh</u>	Hogue Creek from Route 679 upstream 6 miles to the Forks below Route 612.
vi		<u>pH-6.5-9.5</u>	Opequon Creek (in Frederick County) from its confluence with Hoge Run upstream to the point at which Route 620 first crosses the stream.

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	vi	<u>pH-6.5-9.6</u>	Turkey Run (Frederick County) from its confluence with Opequon Creek 3.6 miles upstream.
	VI	<del>pH-6.5-9.5</del>	Natural Trout Waters in Section 11
	ii	<u>pH-6.5-9.5</u>	Bear Garden Run from its confluence with Sleepy Creek 3.1 miles upstream.
	iii	<u>pH-6.5-9.5</u>	Redbud Run from its confluence with Opequon Creek 4.4 miles upstream.
11a	IV	pH-6.5-9.5	Hot Run and its tributaries from its confluence with Opequon Creek to its headwaters.
	V	<del>pH-6.5-9.5</del>	Stockable Trout Waters in Section 11a
	vi	<u>pH-6.5-9.5</u>	Clearbrook Run from its confluence with Hot Run 2.1 miles upstream.
12	IV	<del>pH-6.5-9.5 ESW-6</del>	South Branch Potomac River and its tributaries, such as Strait Creek, and the North Fork River and its tributaries from the Virginia-West Virginia state line to their headwaters.
	V		Stockable Trout Waters in Section 12
	vi		Frank Run from its confluence with the South Branch Potomac River 0.8 mile upstream.
	vii	<u>pH-6.5-9.5</u>	South Branch Potomac River (in Highland County) from 69.2 miles above its confluence with the Potomac River 4.9 miles upstream.
	VI		Natural Trout Waters in Section 12
	ii		Brights Run from its confluence with Laurel Fork (Highland County) upstream including all named and unnamed tributaries.
	ii		Buck Run (Highland County) from its confluence with Laurel Fork upstream including all named and unnamed tributaries.
	ii		Collins Run from its confluence with Laurel Fork upstream including all named and unnamed tributaries.
	ii		Laurel Fork (Highland County) from 1.9 miles above its confluence with the North Fork South Branch Potomac River upstream including all named and unnamed tributaries.
	iii	<u>pH-6.5-9.5</u>	Laurel Run (Highland County) from its confluence with Strait Creek upstream including all named and unnamed tributaries.
	ii		Locust Spring Run from its confluence with Laurel Fork upstream including all named and unnamed tributaries.
	ii		Lost Run from its confluence with Laurel Fork upstream including all named and unnamed tributaries.
	ii		Mullenax Run from its confluence with Laurel Fork upstream including all named and unnamed tributaries.
	ii		Newman Run from its confluence with Laurel Fork upstream including all named and unnamed tributaries.
	ii		Slabcamp Run from its confluence with Laurel Fork upstream including all named and unnamed tributaries.
	iii	<u>pH-6.5-9.5</u>	Strait Creek (Highland County) from its confluence with the South Branch Potomac River upstream to the confluence with West Strait Creek.

**9VAC25-260-400. Potomac River Basin (Shenandoah River Subbasin).**

Shenandoah River Subbasin			
SEC.	CLASS	SP. STDS.	SECTION DESCRIPTION
1	IV	pH-6.5-9.5	Shenandoah River and its tributaries in Clarke County, Virginia, from the Virginia-West Virginia state line to Lockes Landing, unless otherwise designated in this chapter.
1a	IV	PWS pH-6.5-9.5	Shenandoah River and its tributaries from river mile 24.66 (latitude 39°16'19"; longitude 77°54'33") approximately 0.7 mile downstream of the confluence of the Shenandoah River and Dog Run to 5 miles above Berryville's raw water intake (latitude 39°05'56"; longitude 77°58'31"), unless otherwise designated in this chapter.
	V	<u>pH-6.5-9.5</u>	Stockable Trout Waters in Section 1a
	vi	<u>pH-6.5-9.5</u>	Chapel Run (Clarke County) from its confluence with the Shenandoah River 5.7 miles upstream.
	vi	<u>pH-6.5-9.5</u>	Spout Run (Clarke County) from its confluence with the Shenandoah River (in the vicinity of the Ebenezer Church at Route 604) to its headwaters.
1b			(Deleted)
1c	IV	pH-6.5-9.5	Shenandoah River and its tributaries from a point 5 miles above Berryville's raw water intake to the confluence of the North and South Forks of the Shenandoah River.
	VI	<u>pH-6.5-9.5</u>	Natural Trout Waters in Section 1c
	iii	<u>pH-6.5-9.5</u>	Page Brook from its confluence with Spout Run, 1 mile upstream.
	***	<u>pH-6.5-9.5</u>	Roseville Run (Clarke County) from its confluence with Spout Run upstream including all named and unnamed tributaries.
	iii	<u>pH-6.5-9.5</u>	Spout Run (Clarke County) from its confluence with the Shenandoah River (in the vicinity of Calmes Neck at Rts 651 and 621), 3.9 miles upstream.
	***	<u>pH-6.5-9.5</u>	Westbrook Run (Clarke County) from its confluence with Spout Run upstream including all named and unnamed tributaries.
1d			(Note: Moved to section 2 b).
2	IV	<u>pH-6.5-9.5</u> <u>EWS-12.14.15</u>	South Fork Shenandoah River from its confluence with the North Fork Shenandoah River, upstream to a point 5 miles above the Town of Shenandoah's raw water intake and its tributaries to their headwaters in this section, unless otherwise designated in this chapter.
	V	<u>pH-6.5-9.5</u>	Stockable Trout Waters in Section 2
	vii	<u>pH-6.5-9.5</u>	<u>Bear Lithia Spring from its confluence with the South Fork Shenandoah River 0.8 miles upstream.</u>
	vi	<u>pH-6.5-9.5</u>	Flint Run from its confluence with the South Fork Shenandoah River 4 miles upstream.
	***	<u>pH-6.5-9.5</u>	Gooney Run from the mouth to its confluence with Broad Run above Browntown (in the vicinity of Route 632).
	***	<u>pH-6.5-9.5, hh</u>	Hawksbill Creek from Route 675 in Luray to 1 mile above Route 631.
	VI	<u>pH-6.5-9.5</u>	Natural Trout Waters in Section 2

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ii	<u>pH-6.5-9.5</u>	<u>Big Creek (Page County) from its confluence with the East Branch Naked Creek upstream including all named and unnamed tributaries.</u>
ii	<u>pH-6.5-9.5</u>	<u>Big Ugly Run from its confluence with the South Branch Naked Creek upstream including all named and unnamed tributaries.</u>
ii		<u>Boone Run from 4.6 miles above its confluence with the South Fork Shenandoah River (in the vicinity) of Route 637 upstream including all named and unnamed tributaries.</u>
iii	<u>pH-6.5-9.5</u>	Browns Run from its confluence with Big Run upstream including all named and unnamed tributaries.
ii		Cub Run (Page County) from Pitt Spring Run upstream including all named and unnamed tributaries.
***	<u>pH-6.5-9.5</u>	Cub Run from its mouth to Pitt Spring Run.
i	<u>pH-6.5-9.5</u>	<u>East Branch Naked Creek from its confluence with Naked Creek at Route 759 upstream including all named and unnamed tributaries.</u>
ii	<u>pH-6.5-9.5</u>	Fultz Run from the Park boundary (river mile 1.8) upstream including all named and unnamed tributaries.
ii	<u>pH-6.5-9.5</u>	Gooney Run (in Warren County) from 6.6 miles above its confluence with the South Fork Shenandoah River 3.9 miles upstream.
ii	<u>pH-6.5-9.5</u>	Hawksbill Creek in the vicinity of Pine Grove at Route 624 (river mile 17.7) 1.5 miles upstream.
ii	<u>pH-6.5-9.5</u>	Jeremys Run from the National Park boundary upstream including all named and unnamed tributaries.
ii	<u>pH-6.5-9.5</u>	Lands Run from its confluence with Gooney Run upstream including all named and unnamed tributaries.
ii	<u>pH-6.5-9.5</u>	<u>Little Creek (Page County) from its confluence with Big Creek upstream including all named and unnamed tributaries.</u>
i	<u>pH-6.5-9.5</u>	Little Hawksbill Creek from Route 626 upstream including all named and unnamed tributaries.
ii		Morgan Run (Page County) from its confluence with Cub Run upstream including all named and unnamed tributaries.
ii	<u>pH-6.5-9.5</u>	Overall Run from its confluence with the South Fork Shenandoah River 4.8 miles upstream including all named and unnamed tributaries.
ii	<u>pH-6.5-9.5</u>	Pass Run (Page County) from its confluence with Hawksbill Creek upstream including all named and unnamed tributaries.
ii		Pitt Spring Run from its confluence with Cub Run upstream including all named and unnamed tributaries.
ii		Roaring Run from its confluence with Cub Run upstream including all named and unnamed tributaries.
ii	<u>pH-6.5-9.5</u>	<u>South Branch Naked Creek from 1.7 miles above its confluence with Naked Creek in the vicinity of Route 607 upstream including all named and unnamed tributaries.</u>
iv	<u>pH-6.5-9.5</u>	<u>Stony Run (Page County) from 1.6 miles above its confluence with Naked Creek upstream including all named and unnamed tributaries.</u>

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	ii	<u>pH-6.5-9.5</u>	<u>West Branch Naked Creek from 2.1 miles above its confluence with Naked Creek upstream including all named and unnamed tributaries.</u>
2a	IV	PWS, pH-6.5-9.5	Happy Creek and Sloan Creek from Front Royal's raw water intake to its headwaters.
2b	IV	PWS	The South Fork Shenandoah River and its tributaries from the Town of Front Royal's raw water intake (at the State Route 619 bridge at Front Royal) to points 5 miles upstream.
2c			(Deleted)
2d			(Deleted)
	V	<u>pH 6.5-9.5</u>	Stockable Trout Waters in Section 2d
	vii		<u>Bear Lithia Spring from its confluence with the South Fork Shenandoah River 0.8 mile upstream.</u>
	VI	<u>pH 6.5-9.5</u>	Natural Trout Waters in Section 2d
	ii		<u>Big Creek (Page County) from its confluence with the East Branch Naked Creek upstream including all named and unnamed tributaries.</u>
	ii		<u>Big Ugly Run from its confluence with the South Branch Naked Creek upstream including all named and unnamed tributaries.</u>
	ii		<u>Boone Run from 4.6 miles above its confluence with the South Fork Shenandoah River (in the vicinity of Route 637) upstream including all named and unnamed tributaries.</u>
	i		<u>East Branch Naked Creek from its confluence with Naked Creek at Route 759 upstream including all named and unnamed tributaries.</u>
	ii		<u>Little Creek (Page County) from its confluence with Big Creek upstream including all named and unnamed tributaries.</u>
	ii		<u>South Branch Naked Creek from 1.7 miles above its confluence with Naked Creek (in the vicinity of Route 607) upstream including all named and unnamed tributaries.</u>
	iv		<u>Stony Run (Page County) from 1.6 miles above its confluence with Naked Creek upstream including all named and unnamed tributaries.</u>
	ii		<u>West Branch Naked Creek from 2.1 miles above its confluence with Naked Creek upstream including all named and unnamed tributaries.</u>
3	IV	pH-6.5-9.5, <u>ESW-16</u>	South Fork Shenandoah River from 5 miles above the Town of Shenandoah's raw water intake to its confluence with the North and South Rivers and its tributaries to their headwaters in this section, and the South River and its tributaries from its confluence with the South Fork Shenandoah River to their headwaters, unless otherwise designated in this chapter.
	V	<u>pH-6.5-9.5</u>	Stockable Trout Waters in Section 3
	vi	<u>pH-6.5-9.5</u>	Hawksbill Creek (Rockingham County) from 0.8 mile above its confluence with the South Fork Shenandoah River 6.6 miles upstream.
	vi	<u>pH-6.5-9.5</u>	Mills Creek (Augusta County) from 1.8 miles above its confluence with Back Creek 2 miles upstream.
	vi	<u>pH-6.5-9.5</u>	North Fork Back Creek (Augusta County) from its confluence with Back Creek 2.6 miles upstream, unless otherwise designated in this chapter.

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VI	<u>pH-6.5-9.5</u>	Natural Trout Waters in Section 3
i	<u>pH-6.5-9.5</u>	Bearwallow Run from its confluence with Onemile Run upstream including all named and unnamed tributaries.
ii	<u>pH-6.5-9.5</u>	Big Run (Rockingham County) from 3.3 miles above its confluence with the South Fork Shenandoah River upstream including all named and unnamed tributaries.
iii	<u>pH-6.5-9.5</u>	Cold Spring Branch (Augusta County) from Sengers Mountain Lake (Rhema Lake) upstream including all named and unnamed tributaries.
iv	<u>pH-6.5-9.5</u>	Cool Springs Hollow (Augusta County) from Route 612 upstream including all named and unnamed tributaries.
ii	<u>pH-6.5-9.5</u>	Deep Run (Rockingham County) from 1.8 miles above its confluence with the South Fork Shenandoah River upstream including all named and unnamed tributaries.
ii	<u>pH-6.5-9.5</u>	East Fork Back Creek from its confluence with the South Fork Back Creek upstream including all named and unnamed tributaries.
ii	<u>pH-6.5-9.5</u>	Gap Run from 1.7 miles above its confluence with the South Fork Shenandoah River upstream including all named and unnamed tributaries.
iii		Inch Branch (Augusta County) from the dam upstream including all named and unnamed tributaries.
ii		Johns Run (Augusta County) from its confluence with the South River upstream including all named and unnamed tributaries.
iv		Jones Hollow (Augusta County) from 1.1 miles above its confluence with the South River upstream including all named and unnamed tributaries.
ii		Kennedy Creek from its confluence with the South River upstream including all named and unnamed tributaries.
iv	<u>pH-6.5-9.5</u>	Lee Run from 0.6 mile above its confluence with Elk Run 3.3 miles upstream.
iii	<u>pH-6.5-9.5</u>	Loves Run (Augusta County) from 2.7 miles above its confluence with the South River upstream including all named and unnamed tributaries.
ii	<u>pH-6.5-9.5</u>	Lower Lewis Run (Rockingham County) from 1.7 miles above its confluence with the South Fork Shenandoah River upstream including all named and unnamed tributaries.
ii	<u>pH-6.5-9.5</u>	Madison Run (Rockingham County) from 2.9 miles above its confluence with the South Fork Shenandoah River upstream including all named and unnamed tributaries.
ii	<u>pH-6.5-9.5</u>	Meadow Run (Augusta County) from its confluence with the South River upstream including all named and unnamed tributaries.
ii	<u>pH-6.5-9.5</u>	North Fork Back Creek (Augusta County) from river mile 2.6 (in the vicinity of its confluence with Williams Creek) upstream including all named and unnamed tributaries.
i	<u>pH-6.5-9.5</u>	Onemile Run (Rockingham County) from 1.5 miles above its confluence with the South Fork Shenandoah River upstream including all named and unnamed tributaries.
iv		Orebank Creek from its confluence with Back Creek upstream including all named and unnamed tributaries.

	ii	<u>pH-6.5-9.5</u>	Paine Run (Augusta County) from 1.7 miles above its confluence with the South River upstream including all named and unnamed tributaries.
	ii		Robinson Hollow (Augusta County) from the dam upstream including all named and unnamed tributaries.
	ii	<u>pH-6.5-9.5</u>	Rocky Mountain Run from its confluence with Big Run upstream including all named and unnamed tributaries.
	iv	<u>pH-6.5-9.5</u>	Sawmill Run from 2.5 miles above its confluence with the South River upstream including all named and unnamed tributaries.
	ii	<u>pH-6.5-9.5</u>	South Fork Back Creek from its confluence with Back Creek at Route 814 (river mile 2.1) upstream including all named and unnamed tributaries.
	ii	<u>pH-6.5-9.5</u>	Stony Run (Augusta County) from 3.5 miles above its confluence with the South River upstream including all named and unnamed tributaries.
	iii	<u>pH-6.5-9.5</u>	Stony Run (Rockingham County) from 4.1 miles above its confluence with the South Fork Shenandoah River upstream including all named and unnamed tributaries.
	iii		Toms Branch (Augusta County) from 1.1 miles above its confluence with Back Creek upstream including all named and unnamed tributaries.
	i	<u>pH-6.5-9.5</u>	Twomile Run from 1.4 miles above its confluence with the South Fork Shenandoah River upstream including all named and unnamed tributaries.
	iv	<u>pH-6.5-9.5</u>	Upper Lewis Run from 0.5 mile above its confluence with Lower Lewis Run upstream including all named and unnamed tributaries.
	iv	<u>pH-6.5-9.5</u>	West Swift Run (Rockingham County) from the Route 33 crossing upstream including all named and unnamed tributaries.
	ii	<u>pH-6.5-9.5</u>	Whiteoak Run from its confluence with Madison Run upstream including all named and unnamed tributaries.
3a	IV	pH-6.5-9.5	South River from the dam above Waynesboro (all waters of the impoundment).
3b	IV	PWS <del>pH-6.5-9.5</del>	Coles Run and Mills Creek from South River Sanitary District's raw water intake to their headwaters.
	VI	PWS	Natural Trout Waters in Section 3b
	ii	<u>pH-6.5-9.5</u>	Coles Run (Augusta County) from 3.9 miles above its confluence with the South River Sanitary District's raw water intake (Coles Run Dam) upstream including all named and unnamed tributaries.
	ii		Mills Creek (Augusta County) from the South River Sanitary District's raw water intake (river mile 3.8) upstream including all named and unnamed tributaries.
3c	IV	PWS pH-6.5-9.5	A tributary to Coles Run from Stuarts Draft raw water intake approximately one-half mile south of Stuarts Draft and just off Route 610, to its headwaters.
4	IV	pH-6.5-9.5	Middle River and its tributaries from the confluence with the North River upstream to its headwaters, unless otherwise designated in this chapter.
	V	<u>pH-6.5-9.5</u>	Stockable Trout Waters in Section 4
	v	<u>pH-6.5-9.5</u>	Barterbrook Branch from its confluence with Christians Creek 2.8 miles upstream.

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	***	<u>pH-6.5-9.5</u>	East Dry Branch from its confluence with the Buffalo Branch to its confluence with Mountain Run.
	vi	<u>pH-6.5-9.5</u>	Folly Mills Creek from 2.4 miles above its confluence with Christians Creek (in the vicinity of Route 81) 4.5 miles upstream.
	VI		Natural Trout Waters in Section 4
	iv		Buffalo Branch from Route 703 upstream including all named and unnamed tributaries.
	ii		Cabin Mill Run (Augusta County) from the Camp Shenandoah Boy Scout Lake upstream including all named and unnamed tributaries.
	iv		East Dry Branch (Augusta County) from the confluence of Mountain Run upstream including all named and unnamed tributaries.
	iv		Jennings Branch (Augusta County) from the confluence of White Oak Draft upstream including all named and unnamed tributaries.
4a	IV	PWS pH-6.5-9.5	Middle River and its tributaries from Staunton's raw water intake at Gardner Spring to points 5 miles upstream.
5	IV	pH-6.5-9.5	North River and its tributaries from its confluence with the South River upstream to its headwaters, unless otherwise designated in this chapter.
	V	<del>pH-6.5-9.5</del>	Stockable Trout Waters in Section 5
	v	<u>pH-6.5-9.5</u>	Beaver Creek (Rockingham County) from its confluence with Briery Branch to <u>its headwaters to the spring at a point 2.75 miles upstream</u> .
	v	<u>pH-6.5-9.5</u>	Naked Creek (Augusta County) from 3.7 miles above its confluence with the North River at Route 696, 2 miles upstream.
	VI	<del>pH-6.5-9.5</del>	Natural Trout Waters in Section 5
	iv		Big Run (Augusta County) from 0.9 mile above its confluence with Little River upstream including all named and unnamed tributaries.
	ii		Black Run (Rockingham County) from its mouth upstream including all named and unnamed tributaries.
	iii		Briery Branch (Rockingham County) from river mile 6.9 upstream including all named and unnamed tributaries.
	iv		Gum Run from its mouth upstream including all named and unnamed tributaries.
	iii		Hone Quarry Run from its confluence with Briery Branch upstream including all named and unnamed tributaries.
	iv		Little River from its confluence with the North River at Route 718 upstream including all named and unnamed tributaries.
	iv		Maple Spring Run from its mouth upstream including all named and unnamed tributaries.
	iv		Mines Run from its confluence with Briery Branch upstream including all named and unnamed tributaries.
	iv		Rocky Run (which is tributary to Briery Branch in Rockingham County) from its mouth upstream including all named and unnamed tributaries.
	iii		Rocky Run (which is tributary to Dry River in Rockingham County) from its mouth upstream including all named and unnamed tributaries.

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	ii		Union Springs Run from 3 miles above its confluence with Beaver Creek upstream including all named and unnamed tributaries.
	iv		Wolf Run (Augusta County) from its confluence with Briery Branch upstream including all named and unnamed tributaries.
5a	IV	PWS pH-6.5-9.5	Silver Lake
5b	IV	PWS pH-6.5-9.5	North River and its tributaries from Harrisonburg's raw water intake at Bridgewater to points 5 miles above Bridgewater's raw water intake to include Dry River and Muddy Creek.
	V	PWS pH-6.5-9.5	Stockable Trout Waters in Section 5b
	v	<u>pH-6.5-9.5</u>	Mossy Creek from its confluence with the North River 7.1 miles upstream.
	v	<u>pH-6.5-9.5</u>	Spring Creek (Rockingham County) from its confluence with the North River 2 miles upstream.
5c	IV	PWS pH-6.5-9.5	Dry River in Rockingham County from Harrisonburg's raw water intake (approximately 11.7 miles above its confluence with the North River) to a point 5 miles upstream, unless otherwise designated in this chapter.
	V	PWS	Stockable Trout Waters in Section 5c
	viii	<u>pH 6.5-9.5</u>	Raccoon Run (Rockingham County) from its confluence with Dry River to its headwaters.
	VI	PWS	Natural Trout Waters in Section 5c
	iv	<u>pH 6.5-9.5</u>	Dry River (Rockingham County) from Harrisonburg's raw water intake (approximately 11.7 miles above its confluence with the North River) to a point 5 miles upstream.
	iv		Dry Run (Rockingham County) from its confluence with Dry River upstream including all named and unnamed tributaries.
	iv		Hopkins Hollow from its confluence with Peach Run upstream including all named and unnamed tributaries.
	iv		Kephart Run from its confluence with Dry River upstream including all named and unnamed tributaries.
5d	VI	<u>pH 6.5-9.5</u>	Dry River and its tributaries from 5 miles above Harrisonburg's raw water intake to its headwaters.
	VI	<u>pH 6.5-9.5</u>	Natural Trout Waters in Section 5d
	iv		Dry River (Rockingham County) from 5 miles above Harrisonburg's raw water intake upstream including all named and unnamed tributaries.
	ii		Laurel Run (Rockingham County) from its confluence with Dry River upstream including all named and unnamed tributaries.
	ii		Little Laurel Run from its confluence with Dry River upstream including all named and unnamed tributaries.
	ii		Low Place Run from its confluence with Dry River upstream including all named and unnamed tributaries.
	iv		Miller Spring Run from its confluence with Dry River upstream including all named and unnamed tributaries.

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		iii	Sand Run from its confluence with Dry River upstream including all named and unnamed tributaries.
		iv	Skidmore Fork from its confluence with Dry River upstream including all named and unnamed tributaries.
5e	VI	PWS <del>pH-6.5-9.5</del>	North River from Staunton Dam to its headwaters.
	VI		Natural Trout Waters in Section 5e
	iv		North River from Elkhorn Dam upstream including all named and unnamed tributaries.
6	IV	pH-6.5-9.5 <del>NEW 22</del>	North Fork Shenandoah River from its confluence with the Shenandoah River to its headwaters, unless otherwise designated in this chapter.
	V	<del>pH-6.5-9.5</del>	Stockable Trout Waters in Section 6
	vi	<del>pH-6.5-9.5</del>	Bear Run from its confluence with Foltz Creek to its headwaters.
	***		<del>Stony Creek from Route 685 above Edinburg upstream to Basye.</del>
	vi	<u>pH-6.5-9.5</u>	Bull Run (Shenandoah County) from its confluence with Foltz Creek to its headwaters.
	vi	<u>pH-6.5-9.5</u>	Falls Run from its confluence with Stony Creek to its headwaters.
	vi	<u>pH-6.5-9.5</u>	Foltz Creek from its confluence with Stony Creek to its headwaters.
	vi	<u>pH-6.5-9.5</u>	Little Passage Creek from its confluence with Passage Creek to the Strasburg Reservoir Dam.
	***	<u>pH-6.5-9.5, hh</u>	Mill Creek from Mount Jackson to Route 720 - 3.5 miles.
	vi	<u>pH-6.5-9.5</u>	Mountain Run from its mouth at Passage Creek to its headwaters.
	***	<u>pH-6.5-9.5</u>	Passage Creek from the U.S. Forest Service line (in the vicinity of Blue Hole and Buzzard Rock) 4 miles upstream.
	vi	<u>pH-6.5-9.5</u>	Passage Creek from 29.6 miles above its confluence with the North Fork Shenandoah River to its headwaters.
	vi	<u>pH-6.5-9.5</u>	Peters Mill Run from the mouth to its headwaters.
	***	<u>pH-6.5-9.5</u>	Shoemaker River from 612 at Hebron Church to its junction with Route 817 at the Shoemaker's confluence with Slate Lick Branch.
	v	<u>pH-6.5-9.5</u>	Stony Creek from its confluence with the North Fork Shenandoah River to Route 682.
***	***	<u>pH-6.5-9.5</u>	Stony Creek from Route 682 above Edinburg upstream to Basye.
	VI	<del>pH-6.5-9.5</del>	Natural Trout Waters in Section 6
	ii	<u>pH-6.5-9.5</u>	Anderson Run (Shenandoah County) from 1.1 miles above its confluence with Stony Creek upstream including all named and unnamed tributaries.
	iv		Beech Lick Run from its confluence with the German River upstream including all named and unnamed tributaries.
	iii		Bible Run from its confluence with Little Dry River upstream including all named and unnamed tributaries.
	ii		Camp Rader Run from its confluence with the German River upstream including all named and unnamed tributaries.

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	iv		Carr Run from its confluence with Little Dry River upstream including all named and unnamed tributaries.
	iv		Clay Lick Hollow from its confluence with Carr Run upstream including all named and unnamed tributaries.
	iv		Gate Run from its confluence with Little Dry River upstream including all named and unnamed tributaries.
	iv		German River (Rockingham County) from its confluence with the North Fork Shenandoah River (at Route 820) upstream including all named and unnamed tributaries.
	ii		Laurel Run (Shenandoah County) from its confluence with Stony Creek upstream including all named and unnamed tributaries.
	ii		Little Stony Creek from its confluence with Stony Creek upstream including all named and unnamed tributaries.
	iv		Marshall Run (Rockingham County) from 1.2 miles above its confluence with the North Fork Shenandoah River upstream including all named and unnamed tributaries.
	iii	<u>pH-6.5-9.5</u>	Mine Run (Shenandoah County) from its confluence with Passage Creek upstream including all named and unnamed tributaries.
	ii	<u>pH-6.5-9.5</u>	Poplar Run (Shenandoah County) from its confluence with Little Stony Creek upstream including all named and unnamed tributaries.
	iv	<u>pH-6.5-9.5</u>	Rattlesnake Run (Rockingham County) from its confluence with Spruce Run upstream including all named and unnamed tributaries.
	iv		Root Run from its confluence with Marshall Run upstream including all named and unnamed tributaries.
	iv		Seventy Buck Lick Run from its confluence with Carr Run upstream including all named and unnamed tributaries.
	iv		Sirks Run (Spring Run) from 1.3 miles above its confluence with Crab Run upstream including all named and unnamed tributaries.
	iv	<u>pH-6.5-9.5</u>	Spruce Run (Rockingham County) from its confluence with Capon Run upstream including all named and unnamed tributaries.
	iv	<u>pH-6.5-9.5</u>	Sumac Run from its confluence with the German River upstream including all named and unnamed tributaries.
6a	IV	PWS pH-6.5-9.5	Little Passage Creek from the Strasburg Reservoir Dam upstream to its headwaters, unless otherwise designated in this chapter.
	V	PWS pH-6.5-9.5	Stockable Trout Waters in Section 6a
	vi	<u>pH-6.5-9.5</u>	Little Passage Creek from the Strasburg Reservoir Dam upstream to its headwaters.
6b	IV	PWS pH-6.5-9.5	North Fork Shenandoah River and its tributaries from the Winchester raw water intake to points 5 miles upstream (to include Cedar Creek and its tributaries to their headwaters).
	V	PWS pH-6.5-9.5	Stockable Trout Waters in Section 6b

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	***	<u>pH-6.5-9.5</u>	Cedar Creek (Shenandoah County) from Route 55 (river mile 23.56) to the U.S. Forest Service Boundary (river mile 32.0) - approximately 7 miles.
	v	PWS pH-6.5-9.5	Meadow Brook (Frederick County) from its confluence with Cedar Creek 5 miles upstream.
VI		<u>PWS pH-6.5-9.5</u>	Natural Trout Waters in Section 6b
	iii	<u>pH-6.5-9.5</u>	Cedar Creek (Shenandoah County) from the U.S. Forest Service boundary (river mile 32.0) near Route 600 upstream including all named and unnamed tributaries.
	ii	<u>pH-6.5-9.5</u>	Duck Run from its confluence with Cedar Creek upstream including all named and unnamed tributaries.
			Paddy Run (Frederick County) from the mouth upstream including all named and unnamed tributaries.
	***		(Paddy Run (Frederick County) from its mouth (0.0) to river mile 1.8.)
	vi**		(Paddy Run (Frederick County) from river mile 1.8 to 8.1-6.3 miles.)
	iii	<u>pH-6.5-9.5</u>	Sulphur Springs Gap (Shenandoah County) from its confluence with Cedar Creek 1.9 miles upstream.
6c	IV	PWS pH-6.5-9.5	North Fork Shenandoah River and its tributaries from Strasburg's raw water intake to points 5 miles upstream.
6d	IV	PWS pH-6.5-9.5	North Fork Shenandoah River and its tributaries from Woodstock's raw water intake (approximately 1/4 mile upstream of State Route 609 bridge near Woodstock) to points 5 miles upstream.
6e	IV	PWS pH-6.5-9.5	Smith Creek and its tributaries from New Market's raw water intake to its headwaters.
			Natural Trout Waters in Section 6e
	iv	<u>pH-6.5-9.5</u>	Mountain Run (Fridley Branch, Rockingham County) from Route 722 upstream including all named and unnamed tributaries.
6f	IV	PWS pH-6.5-9.5	North Fork Shenandoah River and its tributaries from the Food Processors Water Coop, Inc. dam at Timberville and the Town of Broadway's intakes on Linville Creek and the North Fork Shenandoah to points 5 miles upstream.
6g	IV	<u>pH-6.5-9.5</u>	Shoemaker River and its tributaries from Slate Lick Run, and including Slate Lick Run, to its headwaters.
	V	<u>pH-6.5-9.5</u>	Stockable Trout Waters in Section 6g
	***		Slate Lick Run from its confluence with the Shoemaker River upstream to the 1500 foot elevation.
	VI	<u>pH-6.5-9.5</u>	Natural Trout Waters in Section 6g
	iv		Long Run (Rockingham County) from its confluence with the Shoemaker River upstream including all named and unnamed tributaries.
	iv		Slate Lick Run from the 1500 foot elevation upstream including all named and unnamed tributaries.
6h	IV	PWS pH-6.5-9.5	Unnamed tributary of North Fork Shenandoah River (on the western slope of Short Mountain opposite Mt. Jackson) from the Town of Mt. Jackson's (inactive mid-1992) raw water intake (north and east dams) to its headwaters.

6i IV PWS pH-6.5-  
9.5 Little Sulfur Creek, Dan's Hollow and Horns Gully (tributaries of the North Fork Shenandoah River on the western slope of Short Mountain opposite Mt. Jackson) which served as a water supply for the Town of Edinburg until March 31, 1992, from the Edinburg intakes upstream to their headwaters.

**9VAC25-260-410. James River Basin (Lower).**

SEC.	CLASS	SP. STDS.	SECTION DESCRIPTION
1	II	a,z, bb <del>NEW 19</del> <u>ESW-11</u>	James River and its tidal tributaries from Old Point Comfort - Fort Wool to the end of tidal waters (fall line, Mayo's Bridge, 14th Street, Richmond), except prohibited or spoil areas, unless otherwise designated in this chapter.
1a	III	<del>NEW 19</del>	Free flowing or nontidal portions of streams in Section 1, unless otherwise designated in this chapter.
	<u>VII</u>		<u>Swamp waters in Section 1a</u> <u>Gunns Run and its tributaries from the head of tide at river mile 2.64 to its headwaters.</u>
1b	II	a,z, <del>NEW 19</del>	Eastern and Western Branches of the Elizabeth River and tidal portions of their tributaries from their confluence with the Elizabeth River to the end of tidal waters.
1c	III	<del>NEW 19</del>	Free flowing portions of the Eastern Branch of the Elizabeth River and its tributaries. <u>Includes Salem Canal up to its intersection with Timberlake Road at N36°48'35.67"/W76°08'31.70".</u>
1d	II	a,z, <del>NEW 19</del>	Southern Branch of the Elizabeth River from its confluence with the Elizabeth River to the lock at Great Bridge.
1e	III	<del>NEW 19</del>	Free flowing portions of the Western Branch of the Elizabeth River and of the Southern Branch of the Elizabeth River from their confluence with the Elizabeth River to the lock at Great Bridge.
1f	II	a, <del>NEW 19</del>	Nansemond River and its tributaries from its confluence with the James River to Suffolk (dam at Lake Meade), unless otherwise designated in this chapter.
1g	III	<del>NEW 19</del>	Shingle Creek from its confluence with the Nansemond River to its headwaters in the Dismal Swamp.
1h	III	PWS, <del>NEW 19</del>	Lake Prince, Lake Burnt Mills and Western Branch impoundments for Norfolk raw water supply and Lake Kilby - Cahoon Pond, Lake Meade and Lake Speight impoundments for Portsmouth raw water supply and including all tributaries to these impoundments.
	<u>VII</u>		<u>Swamp waters in Section 1h</u> <u>Eley Swamp and its tributaries from Route 736 upstream to their headwaters.</u>
1i	III	<del>NEW 19</del>	Free flowing portions of the Pagan River and its free flowing tributaries.
1j			(Deleted)
1k	III	PWS, <del>NEW 19</del>	Skiffes Creek Reservoir (Newport News water impoundment).
1l	III	PWS, <del>NEW 19</del>	The Lone Star lakes and impoundments in the City of Suffolk, Chuckatuck Creek watershed which serve as a water source for the City of Suffolk.
1m	III	PWS, <del>NEW 19</del>	The Lee Hall Reservoir system, near Skiffes Creek and the Warwick River, in the City of Newport News.

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1n	III	PWS, <del>NEW 19</del>	Chuckatuck Creek and its tributaries from Suffolk's raw water intake (at Godwin's Millpond) to a point 5 miles upstream.
1o	II	PWS, <del>NEW 18</del> , bb	James River from City Point (Hopewell) to a point 5 miles above American Tobacco Company's raw water intake.
1p	III	PWS, <del>NEW 18</del> , bb	Free flowing tributaries to section 1o.
2	III	<del>NEW 18, 19</del>	Free flowing tributaries of the James River from Buoy 64 to Brandon and free flowing tributaries of the Chickahominy River to Walkers Dam, unless otherwise designated in this chapter.
	VII		<u>Swamp waters in Section 2</u>
			<u>Morris Creek and its tributaries from the head of tide at river mile 5.97 upstream to its headwaters.</u>
2a	III	PWS, <del>NEW 18</del>	Diascund Creek and its tributaries from Newport News' raw water intake dam to its headwaters.
2b	III	PWS, <del>NEW 18</del>	Little Creek Reservoir and its tributaries from the City of Newport News impoundment dam to 5 miles upstream of the raw water intake.
3	III	m, <del>NEW 18</del>	Chickahominy River and its tributaries from Walkers Dam to Bottoms Bridge (Route 60 bridge), unless otherwise designated in this chapter.
	VII		<u>Swamp waters in Section 3</u>
		<u>m</u>	<u>Chickahominy River from its confluence with Toe Ink Swamp at river mile 43.07 upstream to Bottoms Bridge (Route 60).</u>
		<u>m</u>	<u>White Oak Swamp and its tributaries from its confluence with the Chickahominy River to their headwaters.</u>
3a	III	PWS,m, <del>NEW 18</del>	Chickahominy River from Walkers Dam to a point 5 miles upstream.
4	III	m	Chickahominy River and its tributaries, unless otherwise designated in this chapter, from Bottoms Bridge (Route 60 bridge) to its headwaters.
	VII		<u>Swamp waters in Section 4</u>
		<u>m</u>	<u>Chickahominy River from Bottoms Bridge (Route 60) upstream to its confluence with Stony Run at rivermile 71.03.</u>
5	III		<u>Free flowing tributaries to the James River from Brandon to the fall line at Richmond, unless otherwise designated in this chapter.</u>
	VII		<u>Swamp waters in Section 5</u>
			<u>Fourmile Creek and its tributaries to their headwaters.</u>

## 9VAC25-260-415. James River Basin (Lower) (Appomattox River Basin Subbasin).

SEC.	CLASS	SP. STDS.	SECTION DESCRIPTION
5	II	<del>NEW 18</del>	Appomattox River and its tidal tributaries from its confluence with the James River to the end of tidal waters.
5a	II	PWS, <del>NEW 18</del>	Appomattox River and its tidal tributaries from its mouth to 5 miles upstream of the Virginia-American Water Company's raw water intake.
5b	III	PWS, <del>NEW 18</del>	Free flowing tributaries to section 2a 5a.
5c	III	<del>NEW 2</del>	Appomattox River from the head of tidal waters, and free flowing tributaries to the Appomattox River, to their headwaters, unless otherwise designated in this chapter.

		<u>VII</u>	<u>Swamp waters in Section 5c</u> <u>Skinquarter Creek from its confluence with the Appomattox River upstream to river mile 5.27.</u> <u>Deep Creek from the confluence with Winnigham Creek downstream to the confluence of Little Creek, a distance of .54 river miles.</u>
5d	III		Swift Creek and its tributaries from the dam at Pocahontas State Park upstream to Chesterfield County's raw water impoundment dam.
5e	III	PWS	Swift Creek and its tributaries from Chesterfield County's raw water impoundment dam to points 5 miles upstream.
5f	III	PWS, <del>NEW-2</del>	Appomattox River and its tributaries from Appomattox River Water Authority's raw water intake located at the dam at Lake Chesdin to the headwaters of the lake.
		<u>VII</u>	<u>Swamp waters in Section 5f</u> <u>Winticomack Creek from its confluence with the Appomattox River to its headwaters including unnamed tributaries at river miles 1.92, 3.15, 8.77, and 11.16.</u> <u>Winterpock Creek and its tributaries (excluding Surline Branch) from its confluence with Lake Chesdin upstream to river mile 8.47.</u>
5g	III	PWS	The Appomattox River and its tributaries from Farmville's raw water intake (approximately 2.5 miles above the Route 15/45 bridge) to points 5 miles upstream.
<b>9VAC25-260-420. James River Basin (Middle).</b>			
SEC.	CLASS	SP. STDS.	SECTION DESCRIPTION
6	III		James River and its tributaries from the fall line at Richmond (Mayo's Bridge, 14th Street) to the Rockfish River unless otherwise designated in this chapter.
7	<del>III</del>	<del>NEW-18</del>	<del>Free flowing tributaries to the James River from Brandon to the fall line at Richmond, unless otherwise designated in this chapter. (Deleted)</del>
7a			(Deleted)
8	III		James River and its tributaries from the low water dam above 14th Street Bridge to Richmond's raw water intake at Williams Island Dam.
9	III	PWS,n	James River and its tributaries, unless otherwise designated in this chapter, from Richmond's raw water intake at Douglasdale Road, inclusive of the Williams Island Dam intake, the Henrico County raw water intake (at latitude 37°33'32"; longitude 77°37'16") and the Benedictine Society's raw water intake (latitude 37°34'33"; longitude 77°40'39") to river mile 127.26 (at latitude 37°35'24"; longitude 77°42'33") near public landing site.
9a	III	PWS,o	Tuckahoe Creek and its tributaries from its confluence with the James River to its headwaters.
		<u>VII</u>	<u>Swamp waters in Section 9a</u> <u>Tuckahoe Creek from its confluence with Little Tuckahoe Creek to the confluence with the James River.</u>
10	III	<del>NEW-3</del>	James River and its tributaries from a point at latitude 37°40'32"; longitude 77°54'08" to, and including the Rockfish River, unless otherwise designated in this chapter.

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	V		Stockable Trout Waters in Section 10
	vii		Lynch River from the upper Route 810 crossing near the intersection of Route 628 2.9 miles upstream (to Ivy Creek).
	***		Rockfish Creek from its confluence with the South Fork Rockfish River to its headwaters.
	VI		Natural Trout Waters in Section 10
	ii		Doyles River from 6.4 miles above its confluence with Moormans River above Browns Cove at Route 629 including all named and unnamed tributaries.
	iii		Fork Hollow from its confluence with Ivy Creek upstream including all named and unnamed tributaries.
	iii		Ivy Creek (Greene County) from its confluence with the Lynch River upstream including all named and unnamed tributaries.
	ii		Jones Falls Run from its confluence with Doyles River upstream including all named and unnamed tributaries.
	ii		Little Stony Creek (Nelson County) from its confluence with Stony Creek upstream including all named and unnamed tributaries.
	iv		Mill Creek (Nelson County) from its confluence with Goodwin Creek upstream including all named and unnamed tributaries.
	ii		Mutton Hollow from its confluence with Swift Run upstream including all named and unnamed tributaries.
	iv		Pauls Creek (Nelson County) from 1.3 miles above its confluence with the North Fork Rockfish River upstream including all named and unnamed tributaries.
	iv		Rodes Creek from its confluence with Goodwin Creek upstream including all named and unnamed tributaries.
	ii		South Fork Rockfish River from 8 miles above its confluence with the Rockfish River upstream including all named and unnamed tributaries.
	ii		Spruce Creek (Nelson County) from 1.5 miles above its confluence with the South Fork Rockfish River upstream including all named and unnamed tributaries.
	ii		Stony Creek (Nelson County) from 1 mile above its confluence with the South Fork Rockfish River upstream including all named and unnamed tributaries.
	ii		Swift Run from 14.5 miles above its confluence with the North Fork Rivanna River upstream including all named and unnamed tributaries.
10a	III	PWS	James River at river mile 127.26 near the public landing site and its tributaries from, and including, Little River to 5 miles above State Farm's raw water intake ( <u>N37°40'32"/W77°54'09"</u> ), including Beaverdam and Courthouse Creeks, to their headwaters.
10b			(Deleted.)
10c	III		Willis River and its tributaries within Cumberland State Forest.
10d	III	PWS	Johnson Creek above the Schuyler (Nelson County Service Authority) raw water intake to its headwaters.
10e	III	PWS	Totier Creek and its tributaries from the Scottsville (Rivanna Water and Sewer Authority) raw water intake to their headwaters (including the Reservoir).
10f	III		Powell Creek and its tributaries from its confluence with the Rivanna River upstream to their headwaters.

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10g	III	PWS, <del>NEW 3</del>	Beaver Creek and its tributaries from the Crozet (Rivanna Water and Sewer Authority) raw water intake upstream to their headwaters (including the reservoir).
10h	III	PWS, <del>NEW 3</del>	Mechums River and its tributaries from the Rivanna Water and Sewer Authority's raw water intake to points 5 miles upstream.
10i	III	PWS, <del>NEW 3</del>	Moormans River and its tributaries from the Rivanna Water and Sewer Authority's raw water intake to points 5 miles upstream (including Sugar Hollow Reservoir).
	VI		Natural Trout Waters in Section 10i
	ii		North Fork Moormans River from its confluence with Moormans River upstream including all named and unnamed tributaries.
	ii		Pond Ridge Branch from its confluence with the North Fork Moormans River upstream including all named and unnamed tributaries.
	iii		South Fork Moormans River from its confluence with Moormans River upstream including all named and unnamed tributaries.
10j	III	PWS, <del>NEW 3</del>	South Fork Rivanna River and its tributaries to their headwaters; except Ivy Creek, from the Rivanna Water and Sewer Authority's South Fork Rivanna River Dam to its confluence with the Moormans River, and Ivy Creek to a point 5 miles above the dam.
10k	III	PWS	James River and its tributaries from Fork Union Sanitary District's raw water intake (just below the Route 15 bridge) to points 5 miles upstream, including the Slate River to a point 5 miles above the intake.
10l	III		Lake Monticello in Fluvanna County.
10m	III	PWS	Rivanna River and its tributaries from the raw water intake for Lake Monticello (about 2.76 miles above the Route 600 bridge in Fluvanna County) to points 5 miles upstream.
10n	III	PWS	Ragged Mountain Reservoir (intake for the Rivanna Water and Sewer Authority) including its tributaries to their headwaters.
10o	III	PWS	The North Fork Rivanna River and its tributaries from the Rivanna Water and Sewer Authority's raw water intake (approximately 1/4 mile upstream of the U. S. Route 29 bridge north of Charlottesville) to points 5 miles upstream.
10p	III	PWS	Troublesome Creek in Buckingham County from Buckingham County's raw water intake point at a flood control dam south of the Route 631 bridge to a point 5 miles upstream.
10q	III	PWS	Allen Creek and its tributaries from the Wintergreen Mountain Village's primary raw water intake at Lake Monocan at latitude 37°54'15"; longitude 78°52'10" to a point upstream at latitude 37°53'59"; longitude 78°53'14".
10r	III	PWS	Stony Creek from the diversion structure at latitude 37°54'00"; longitude 78°53'47" to its headwaters inclusive of the Stony Creek raw water intake just upstream of the Peggy's Pinch booster pump station.
10s	III	PWS	Mechunk Creek and its tributaries from the Department of Corrections raw water intake (at the US Route 250 bridge 37°58'57.6", 78°18'48.1") to points 5 miles upstream.
11	III	<u>ESW-7, 8, 22,</u> <u>23, 24, 25, 26,</u> <u>27</u>	<u>James River and its tributaries from, but not including, the Rockfish River to Balcony Falls, unless otherwise designated in this chapter.</u>
	V		<u>Stockable Trout Waters in Section 11</u>

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- vi Dancing Creek from the junction of Routes 610 and 641 to its headwaters.
- vi North Fork Buffalo River from its confluence with the Buffalo River 1.8 miles upstream.
- vi Pedlar River from the confluence of Enchanted Creek to Lynchburg's raw water intake.
- vi Terrapin Creek from its confluence with Otter Creek to its headwaters.
- \*\*\* Tye River from Tyro upstream to its confluence with the South and North Fork Tye Rivers.
- VI Natural Trout Waters in Section 11
- ii Big Branch from its confluence with the Pedlar River upstream including all named and unnamed tributaries.
- ii Bluff Creek from its confluence with Enchanted Creek upstream including all named and unnamed tributaries.
- ii Browns Creek from its confluence with the Pedlar River upstream including all named and unnamed tributaries.
- ii Campbell Creek (Nelson County) from its confluence with the Tye River upstream including all named and unnamed tributaries.
- ii Cove Creek from its confluence with the North Fork Buffalo River upstream including all named and unnamed tributaries.
- ii Coxs Creek from its confluence with the Tye River upstream including all named and unnamed tributaries.
- ii Crabtree Creek (Nelson County) from its confluence with the South Fork Tye River upstream including all named and unnamed tributaries.
- ii Crawleys Creek from its confluence with the Piney River upstream including all named and unnamed tributaries.
- ii Cub Creek (Nelson County) from 1.4 miles above its confluence with the Tye River (in the vicinity of Route 699), upstream including all named and unnamed tributaries.
- ii Davis Mill Creek from its confluence with the Pedlar River upstream including all named and unnamed tributaries.
- ii Durham Run from its confluence with the North Fork Tye River upstream including all named and unnamed tributaries.
- ii Elk Pond Branch from its confluence with the North Fork Piney River upstream including all named and unnamed tributaries.
- ii Enchanted Creek from its confluence with the Pedlar River upstream including all named and unnamed tributaries.
- ii Georges Creek from its confluence with the Little Piney River upstream including all named and unnamed tributaries.
- ii Greasy Spring Branch from its confluence with the South Fork Piney River upstream including all named and unnamed tributaries.
- ii Harpers Creek from its confluence with the Tye River upstream including all named and unnamed tributaries.
- ii King Creek from its confluence with the Little Piney River upstream including all named and unnamed tributaries.

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- ii Lady Slipper Run from its confluence with the Pedlar River upstream including all named and unnamed tributaries.
- ii Little Cove Creek from its confluence with the North Fork Buffalo River upstream including all named and unnamed tributaries.
- iii Little Irish Creek from its confluence with the Pedlar River upstream including all named and unnamed tributaries.
- ii Little Piney River from its confluence with the Piney River upstream including all named and unnamed tributaries.
- i Louisa Spring Branch from its confluence with the North Fork Piney River 1.6 miles upstream.
- ii Maidenhead Branch from its confluence with the South Fork Tye River upstream including all named and unnamed tributaries.
- ii Meadow Creek (Nelson County) from its confluence with the South Fork Tye River upstream including all named and unnamed tributaries.
- ii Mill Creek (Nelson County) from its confluence with the North Fork Tye River upstream including all named and unnamed tributaries.
- ii Mill Creek (Nelson County) from its confluence with the South Fork Tye River upstream including all named and unnamed tributaries.
- ii Nicholson Run from its confluence with Lady Slipper Run upstream including all named and unnamed tributaries.
- ii North Fork Buffalo River from 1.8 miles above its confluence with the Buffalo River upstream including all named and unnamed tributaries.
- i North Fork Piney River from its confluence with the Piney River upstream including all named and unnamed tributaries.
- iii North Fork Thrashers Creek from its confluence with Thrashers Creek upstream including all named and unnamed tributaries.
- iii North Fork Tye River from its confluence with the Tye River upstream including all named and unnamed tributaries.
- iii (North Fork Tye River from its confluence with the Tye River 1.6 miles upstream.)
- ii (North Fork Tye River from 1.6 miles above its confluence with the Tye River 8.3 miles upstream.)
- iii Pedlar River from 5 miles above Lynchburg's raw water intake upstream including all named and unnamed tributaries.
- ii Piney River from river mile 13.3 upstream including all named and unnamed tributaries.
- ii Pompey Creek from its confluence with the Little Piney River upstream including all named and unnamed tributaries.
- ii Reed Creek from the junction of Routes 764 and 638 upstream including all named and unnamed tributaries.
- ii Rocky Branch from its confluence with the North Fork Buffalo River upstream including all named and unnamed tributaries.
- ii Rocky Run (Nelson County) from 1.6 miles above its confluence with the Tye River upstream including all named and unnamed tributaries.

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	i		<u>Shoe Creek (Nelson County) from its confluence with Piney River upstream including all named and unnamed tributaries.</u>
	iii		<u>Silver Creek from its confluence with the Tye River upstream including all named and unnamed tributaries.</u>
	ii		<u>South Fork Piney River from its confluence with the Piney River upstream including all named and unnamed tributaries.</u>
	ii		<u>South Fork Tye River from its confluence with the Tye River upstream including all named and unnamed tributaries.</u>
	ii		<u>Statons Creek from its confluence with the Pedlar River upstream including all named and unnamed tributaries.</u>
	iii		<u>Wheelers Run from its confluence with the Pedlar River upstream including all named and unnamed tributaries.</u>
	ii		<u>White Rock Creek (Nelson County) from its confluence with the North Fork Tye River upstream including all named and unnamed tributaries.</u>
	ii		<u>Wiggins Branch from its confluence with Statons Creek upstream including all named and unnamed tributaries.</u>
11a	III	PWS	<u>Unnamed tributary to Williams Creek from Sweet Briar College's (inactive) raw water intake to its headwaters.</u>
11b	III	PWS	<u>Buffalo River and its tributaries from Amherst's raw water intake to points 5 miles upstream.</u>
11c	III	PWS	<u>Black Creek and its tributaries from the Nelson County Service Authority intake at latitude N37°42'41.64"; longitude W78°57'10.09" (approximately 1000 feet downstream of the Route 56 bridge) upstream to their headwaters (including the reservoir).</u>
11d	III		<u>James River and its tributaries from a point 0.25 mile above the confluence of the Tye River to Six Mile Bridge.</u>
11e	III		<u>James River and its tributaries, excluding Blackwater Creek, from Six Mile Bridge to the Business Route 29 bridge in Lynchburg.</u>
11f			(Deleted)
11g	III	PWS	<u>James River and its tributaries from the Business Route 29 bridge in Lynchburg to Reusens Dam to include the City of Lynchburg's alternate raw water intake at the Route 29 bridge and the Amherst County Service Authority's intake on Harris and Graham Creeks.</u>
11h	III	PWS	<u>James River and its tributaries, excluding the Pedlar River, from Reusens Dam to Coleman Dam, including the Eagle Eyrie raw water intake on an unnamed tributary to Judith Creek 1.0 mile from the confluence with Judith Creek, to its headwaters, and also the City of Lynchburg's raw water intake on the James River at Abert.</u>
11i	III	PWS,ESW-5, 8, 2, 23	<u>Pedlar River and its tributaries from Lynchburg's raw water intake to points 5 miles upstream.</u>
	V		<u>Stockable Trout Waters in Section 11i</u>
	vi		<u>Pedlar River from Lynchburg's raw water intake to a point 5 miles upstream.</u>
	VI		<u>Natural Trout Waters in Section 11i</u>
	ii		<u>Brown Mountain Creek from its confluence with the Pedlar River upstream including all named and unnamed tributaries.</u>

	<u>iii</u>	<u>Roberts Creek from its confluence with the Pedlar River upstream including all named and unnamed tributaries.</u>
<u>11j</u>	<u>III</u>	<u>James River and its tributaries from the Owens-Illinois raw water intake near Big Island to Balcony Falls.</u>
	<u>V</u>	<u>Stockable Trout Waters in Section 11j</u>
	<u>vi</u>	<u>Battery Creek from its confluence with the James River to its headwaters.</u>
	<u>vi</u>	<u>Cashaw Creek from its confluence with the James River to its headwaters.</u>
	<u>vi</u>	<u>Otter Creek from its confluence with the James River to a point 4.9 miles upstream.</u>
	<u>vi</u>	<u>Rocky Row Run from its confluence with the James River to its headwaters.</u>
	<u>VI</u>	<u>Natural Trout Waters in Section 11j</u>
	<u>iii</u>	<u>Falling Rock Creek from its confluence with Peters Creek upstream including all named and unnamed tributaries.</u>
	<u>ii</u>	<u>Hunting Creek from a point 3.7 miles from its confluence with the James River upstream including all named and unnamed tributaries.</u>
	<u>iii</u>	<u>Otter Creek from 4.9 miles above its confluence with the James River upstream including all named and unnamed tributaries.</u>
	<u>ii</u>	<u>Peters Creek from a point 0.2 mile above its confluence with the James River upstream including all named and unnamed tributaries.</u>
<u>11k</u>		<u>(Deleted)</u>

## **9VAC25-260-430. James River Basin (Upper).**

SEC.	CLASS	SP. STDS.	SECTION DESCRIPTION
<u>11</u>	<u>III</u>		<u>James River and its tributaries from, but not including, the Rockfish River to Balcony Falls, unless otherwise designated in this chapter.</u>
	<u>V</u>		<u>Stockable Trout Waters in Section 11</u>
	<u>vi</u>		<u>Dancing Creek from the junction of Routes 610 and 641 to its headwaters.</u>
	<u>vi</u>		<u>North Fork Buffalo River from its confluence with the Buffalo River 1.8 miles upstream.</u>
	<u>vi</u>		<u>Pedlar River from the confluence of Enchanted Creek to Lynchburg's raw water intake.</u>
	<u>vi</u>		<u>Terrapin Creek from its confluence with Otter Creek to its headwaters.</u>
	<u>***</u>		<u>Tye River from Tyro upstream to its confluence with the South and North Fork Tye Rivers.</u>
	<u>VI</u>		<u>Natural Trout Waters in Section 11</u>
	<u>#</u>		<u>Big Branch from its confluence with the Pedlar River upstream including all named and unnamed tributaries.</u>
	<u>#</u>		<u>Bluff Creek from its confluence with Enchanted Creek upstream including all named and unnamed tributaries.</u>
	<u>#</u>		<u>Browns Creek from its confluence with the Pedlar River upstream including all named and unnamed tributaries.</u>
	<u>#</u>		<u>Campbell Creek (Nelson County) from its confluence with the Tye River upstream including all named and unnamed tributaries.</u>

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- # Cove Creek from its confluence with the North Fork Buffalo River upstream including all named and unnamed tributaries.
- # Coxs Creek from its confluence with the Tye River upstream including all named and unnamed tributaries.
- # Crabtree Creek (Nelson County) from its confluence with the South Fork Tye River upstream including all named and unnamed tributaries.
- # Crawleys Creek from its confluence with the Piney River upstream including all named and unnamed tributaries.
- # Cub Creek (Nelson County) from 1.4 miles above its confluence with the Tye River (in the vicinity of Route 699), upstream including all named and unnamed tributaries.
- # Davis Mill Creek from its confluence with the Pedlar River upstream including all named and unnamed tributaries.
- # Durham Run from its confluence with the North Fork Tye River upstream including all named and unnamed tributaries.
- # Elk Pond Branch from its confluence with the North Fork Piney River upstream including all named and unnamed tributaries.
- # Enchanted Creek from its confluence with the Pedlar River upstream upstream including all named and unnamed tributaries.
- # Georges Creek from its confluence with the Little Piney River upstream including all named and unnamed tributaries.
- # Greasy Spring Branch from its confluence with the South Fork Piney River upstream including all named and unnamed tributaries.
- # Harpers Creek from its confluence with the Tye River upstream including all named and unnamed tributaries.
- # King Creek from its confluence with the Little Piney River upstream including all named and unnamed tributaries.
- # Lady Slipper Run from its confluence with the Pedlar River upstream including all named and unnamed tributaries.
- # Little Cove Creek from its confluence with the North Fork Buffalo River upstream including all named and unnamed tributaries.
- ## Little Irish Creek from its confluence with the Pedlar River upstream including all named and unnamed tributaries.
- # Little Piney River from its confluence with the Piney River upstream including all named and unnamed tributaries.
- \* Louisa Spring Branch from its confluence with the North Fork Piney River 1.6 miles upstream.
- # Maidenhead Branch from its confluence with the South Fork Tye River upstream including all named and unnamed tributaries.
- # Meadow Creek (Nelson County) from its confluence with the South Fork Tye River upstream including all named and unnamed tributaries.
- # Mill Creek (Nelson County) from its confluence with the North Fork Tye River upstream including all named and unnamed tributaries.
- # Mill Creek (Nelson County) from its confluence with the South Fork Tye River upstream including all named and unnamed tributaries.

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- # Nicholson Run from its confluence with Lady Slipper Run upstream including all named and unnamed tributaries.
- # North Fork Buffalo River from 1.8 miles above its confluence with the Buffalo River upstream including all named and unnamed tributaries.
- + North Fork Piney River from its confluence with the Piney River upstream including all named and unnamed tributaries.
- ## North Fork Thrashers Creek from its confluence with Thrashers Creek upstream including all named and unnamed tributaries.
- North Fork Tye River from its confluence with the Tye River upstream including all named and unnamed tributaries.
- ## (North Fork Tye River from its confluence with the Tye River 1.6 miles upstream.)
- ## (North Fork Tye River from 1.6 miles above its confluence with the Tye River 8.3 miles upstream.)
- ## Pedlar River from 5 miles above Lynchburg's raw water intake upstream including all named and unnamed tributaries.
- # Piney River from river mile 13.3 upstream including all named and unnamed tributaries.
- # Pompey Creek from its confluence with the Little Piney River upstream including all named and unnamed tributaries.
- # Reed Creek from the junction of Routes 764 and 638 upstream including all named and unnamed tributaries.
- # Rocky Branch from its confluence with the North Fork Buffalo River upstream including all named and unnamed tributaries.
- # Rocky Run (Nelson County) from 1.6 miles above its confluence with the Tye River upstream including all named and unnamed tributaries.
- + Shoe Creek (Nelson County) from its confluence with Piney River upstream including all named and unnamed tributaries.
- ## Silver Creek from its confluence with the Tye River upstream including all named and unnamed tributaries.
- # South Fork Piney River from its confluence with the Piney River upstream including all named and unnamed tributaries.
- # South Fork Tye River from its confluence with the Tye River upstream including all named and unnamed tributaries.
- # Statons Creek from its confluence with the Pedlar River upstream including all named and unnamed tributaries.
- ## Wheelers Run from its confluence with the Pedlar River upstream including all named and unnamed tributaries.
- # White Rock Creek (Nelson County) from its confluence with the North Fork Tye River upstream including all named and unnamed tributaries.
- # Wiggins Branch from its confluence with Statons Creek upstream including all named and unnamed tributaries.
- 11a III PWS Unnamed tributary to Williams Creek from Sweet Briar College's (inactive) raw water intake to its headwaters.

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- 11b III PWS ~~Buffalo River and its tributaries from Amherst's raw water intake to points 5 miles upstream.~~
- 11e III PWS ~~Black Creek and its tributaries from the Nelson County Service Authority intake at latitude 37°42'41.64"; longitude 78°57'10.09" (approximately 1000 feet downstream of the Route 56 bridge) upstream to their headwaters (including the reservoir).~~
- 11d III ~~James River and its tributaries from a point 0.25 mile above the confluence of the Tye River to Six Mile Bridge.~~
- 11e III ~~James River and its tributaries, excluding Blackwater Creek, from Six Mile Bridge to the Business Route 29 bridge in Lynchburg.~~
- 11f ~~(Deleted)~~
- 11g III PWS ~~James River and its tributaries from the Business Route 29 bridge in Lynchburg to Reusens Dam to include the City of Lynchburg's alternate raw water intake at the Route 29 bridge and the Amherst County Service Authority's intake on Harris and Graham Creeks.~~
- 11h III PWS ~~James River and its tributaries, excluding the Pedlar River, from Reusens Dam to Coleman Dam, including the Eagle Eyrie raw water intake on an unnamed tributary to Judith Creek 1.0 mile from the confluence with Judith Creek, to its headwaters, and also the City of Lynchburg's raw water intake on the James River at Abert.~~
- 11i III PWS ~~Pedlar River and its tributaries from Lynchburg's raw water intake to points 5 miles upstream.~~
- V ~~Stockable Trout Waters in Section 11i~~
- vi ~~Pedlar River from Lynchburg's raw water intake to a point 5 miles upstream.~~
- VI ~~Natural Trout Waters in Section 11i~~
- ii ~~Brown Mountain Creek from its confluence with the Pedlar River upstream including all named and unnamed tributaries.~~
- iii ~~Roberts Creek from its confluence with the Pedlar River upstream including all named and unnamed tributaries.~~
- 11j III ~~James River and its tributaries from the Owens Illinois raw water intake near Big Island to Balcony Falls.~~
- V ~~Stockable Trout Waters in Section 11j~~
- vi ~~Battery Creek from its confluence with the James River to its headwaters.~~
- vi ~~Cashaw Creek from its confluence with the James River to its headwaters.~~
- vi ~~Otter Creek from its confluence with the James River to a point 4.9 miles upstream.~~
- vi ~~Rocky Row Run from its confluence with the James River to its headwaters.~~
- VI ~~Natural Trout Waters in Section 11j~~
- iii ~~Falling Rock Creek from its confluence with Peters Creek upstream including all named and unnamed tributaries.~~
- ii ~~Hunting Creek from a point 3.7 miles from its confluence with the James River upstream including all named and unnamed tributaries.~~
- iii ~~Otter Creek from 4.9 miles above its confluence with the James River upstream including all named and unnamed tributaries.~~
- ii ~~Peters Creek from a point 0.2 mile above its confluence with the James River upstream including all named and unnamed tributaries.~~

11k		(Deleted)
12	IV	<u>ESW-4.9</u> <u>19, 20, 21</u>
		James River and its tributaries from Balcony Falls to their headwaters, unless otherwise designated in this chapter. (The Maury River <del>and its tributaries</del> between its confluence with the James River upstream to its headwaters (the confluence of the Calfpasture and Little Calfpasture Rivers) <del>and the tributaries within this section</del> to their headwaters have a special pH standard of 6.5-9.5 due to natural conditions.)
	V	Stockable Trout Waters in Section 12
	vi	Alum Creek from its confluence with Brattons Creek 1.7 miles upstream.
	vi	Back Creek (Highland County) from 37.1 miles above its confluence with the Jackson River 3.2 miles upstream.
	vi	Back Run from its confluence with the James River 2.1 miles upstream.
	vi	Borden Creek from its confluence with Catawba Creek to a point 1.7 miles upstream.
	v	pH-6.5-9.5 Buffalo Creek (Rockbridge County) from the confluence with Colliers Creek 3 miles upstream.
	v	Bullpasture River from the junction of the Cowpasture River and Route 678 to its headwaters.
	vi	Cowpasture River (Highland County) from 75.4 miles above its confluence with the James River 2.7 miles upstream.
	vi	Craig Creek from the confluence of Muddy Branch to its headwaters.
	vi	Crush Run from its confluence with Catawba Creek to a point 2.8 miles upstream.
	vi	Elk Creek from its mouth to 0.6 mile upstream.
	vi	Elk Creek from 1.9 miles above its confluence with the James River 1.2 miles upstream.
	vi	Ellis Run from its confluence with Back Creek in Botetourt County to a point 1.6 miles upstream.
	v	Falling Spring Creek from its confluence with the Jackson River to its headwaters.
	v	Jackson River from 1.8 miles above Route 39 (river mile 65.4) 12.2 miles upstream.
	vi	Jackson River from 77.6 miles above its confluence with the James River to river mile 85.4.
	***	Jackson River from river mile 89.2 to headwaters.
	vi	Jennings Creek from the Norfolk and Western Railroad to the confluence of Yellowstone Branch.
	viii	Jerrys Run from its confluence with Dunlap Creek to the C&O Railroad crossing.
	***	Johns Creek (Craig County) from the junction of Routes 632 and 658 to Eliber Springs Branch.
	vi	Lees Creek from its confluence with Catawba Creek to a point 2 miles upstream.
	vi	McFalls Creek from its confluence with Jennings Creek to its headwaters.
	vi	Mill Creek (Bath County) from 2.2 miles above its confluence with the Calfpasture River to its headwaters.
	vi	Mill Creek from its confluence with Craig Creek to a point 2.1 miles upstream (Craig County).
	vi	Miller Branch from its confluence with Tygers Creek to its headwaters.

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- vi      pH-6.5-9.5    North Buffalo Creek from its confluence with Buffalo Creek 2.8 miles upstream.
- viii     Pads Creek from river mile 2.2 - 8.2 (6 miles), unless otherwise designated in this chapter.
- vi      Pheasanty Run (Spring Run) from its confluence with the Cowpasture River 0.7 mile upstream.
- v        Potts Creek from the junction of Route 614 upstream to Boiling Spring.
- \*\*\*     Potts Creek from the Craig County line to its headwaters.
- v        Roaring Run from Route 615 to its headwaters.
- vi      South Fork Pads Creek from its confluence with Pads Creek approximately to its headwaters.
- vi      Spreading Spring Branch from its confluence with the James River to the intersection of Routes 635 and 630.
- v        Sweet Springs Creek from its confluence with Dunlap Creek to the West Virginia state line.
- vi      Trout Creek and all of its tributaries (except Pickles Branch) from its confluence with Craig Creek to their headwaters (including the tributaries' headwaters).
- vii     Tygers Creek from its confluence with Dunlap Creek to its headwaters.
- VI      Natural Trout Waters in Section 12
- iv       Als Run from its confluence with Jerrys Run upstream including all named and unnamed tributaries.
- ii       Back Creek from its confluence with the James River near Buchanan upstream including all named and unnamed tributaries.
- ii       Barbours Creek from its confluence with Craig Creek upstream including all named and unnamed tributaries.
- ii       Barney Run from its confluence with Mare Run upstream including all named and unnamed tributaries.
- ii       Bear Hole Run from its confluence with Dry Run upstream including all named and unnamed tributaries.
- ii       Bear Loop Branch from its confluence with Wilson Creek upstream including all named and unnamed tributaries.
- ii       Beaver Run (Bath County) from its confluence with Back Creek upstream including all named and unnamed tributaries.
- ii       ~~pH-6.5-9.5~~ Bennetts Run (Rockbridge County) from its confluence with the Maury River upstream including all named and unnamed tributaries.
- iv       Benson Run from its confluence with the Cowpasture River upstream including all named and unnamed tributaries.
- iii      Biggs Run from its confluence with Craig Creek upstream including all named and unnamed tributaries.
- ii       Big Laurel Branch from its confluence with Johns Creek upstream including all named and unnamed tributaries.
- ii       Big Lick Run from its confluence with Little Back Creek upstream including all named and unnamed tributaries.

- iii Big Run from its confluence with Little Back Creek upstream including all named and unnamed tributaries.
- iv Black Run (Augusta County) from its confluence with Smith Creek upstream including all named and unnamed tributaries.
- ii Blue Spring Run from its confluence with Potts Creek upstream including all named and unnamed tributaries.
- iii Blue Suck Branch from its confluence with Simpson Creek upstream including all named and unnamed tributaries.
- iii Bolar Run from its confluence with the Jackson River to Bolar Spring.
- ii Brattons Run from the confluence of Alum Creek upstream including all named and unnamed tributaries.
- \*\*\* Broad Run from its junction with Routes 311 and 618 upstream including all named and unnamed tributaries.
- ii Cascades Creek from its confluence with Cedar Creek (Bath County) upstream including all named and unnamed tributaries.
- ii Castle Run from its confluence with the Jackson River upstream including all named and unnamed tributaries.
- ii Cast Steel Run from its confluence with Potts Creek upstream including all named and unnamed tributaries.
- \*\*\* Cedar Creek from its confluence with the Jackson River ~~to its confluence with Hot Springs Run from a spring on the west bank located downstream of Route 605.~~
- ii Cedar Creek (Rockbridge County) from 6.4 miles above its confluence with the James River upstream including all named and unnamed tributaries.
- ii Chestnut Run from its confluence with Jennings Creek upstream including all named and unnamed tributaries.
- iii Christleys Run from its confluence with Kempers Run upstream including all named and unnamed tributaries.
- ii Clayton Mill Creek from its confluence with the Calfpasture River upstream including all named and unnamed tributaries.
- ii Cornelius Creek from its confluence with North Creek upstream including all named and unnamed tributaries.
- ii Cove Branch from its confluence with Barbours Creek upstream including all named and unnamed tributaries.
- ii Cowardin Run from its confluence with Rowan Run upstream including all named and unnamed tributaries.
- ii Crab Run from its confluence with the Bullpasture River upstream including all named and unnamed tributaries.
- ii Crow Run from its confluence with Dunlap Creek upstream including all named and unnamed tributaries.
- ii Cub Run (Bath County) from its confluence with Dry Run upstream including all named and unnamed tributaries.
- iv Davidson Run (Rockbridge County) from Route 501 upstream including all named and unnamed tributaries.

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- ii Davis Run from Route 678 upstream including all named and unnamed tributaries.
- iii Downey Branch from its confluence with Blue Suck Branch upstream including all named and unnamed tributaries.
- iv Dry Run (Allegheny County) from the Covington City limits upstream including all named and unnamed tributaries.
- ii Dry Run (Bath County) from 1.5 miles above its confluence with the Cowpasture River upstream including all named and unnamed tributaries.
- ii Duffs Run from its confluence with the Bullpasture River upstream 1.0 miles.
- ii East Fork Elk Creek from 0.8 mile above its confluence with Elk Creek upstream including all named and unnamed tributaries.
- ii Eliber Springs Branch from its confluence with Johns Creek upstream including all named and unnamed tributaries.
- ii Ewin Run from its confluence with Potts Creek to the West Virginia state line.
- ii Falling Springs Creek from its confluence with the Jackson River to Route 220.
- ii Fallingwater Creek from its confluence with Jennings Creek upstream including all named and unnamed tributaries.
- iv Ferrol Creek from its confluence with the Little Calfpasture River upstream including all named and unnamed tributaries.
- ii Ford Run (Bath County) from its confluence with Back Creek upstream including all named and unnamed tributaries.
- \*\*\* Fridleys Branch from its confluence with the Calfpasture River upstream including all named and unnamed tributaries.
- iii Furnace Branch from its confluence with Craig Creek upstream including all named and unnamed tributaries.
- ii Glover Run from its confluence with Allen Run upstream including all named and unnamed tributaries.
- ii Gochenour Branch from its confluence with Brattons Run upstream including all named and unnamed tributaries.
- ii Grannys Creek from its confluence with Johns Creek upstream including all named and unnamed tributaries.
- \*\*\* Guys Run (Bath County) from its confluence with the Cowpasture River upstream including all named and unnamed tributaries.
- ii Guys Run (Rockbridge County) from its confluence with the Calfpasture River (at Camp Virginia, Route 39) upstream including all named and unnamed tributaries.
- iii Hays Creek from its confluence with Potts Creek upstream including all named and unnamed tributaries.
- ii Hidden Valley Spring from its confluence with the Jackson River 1.1 miles upstream.
- ii Hipes Branch from its confluence with Craig Creek upstream including all named and unnamed tributaries.
- iv Hite Hollow (Augusta County) from 0.8 miles above its mouth upstream including all named and unnamed tributaries.
- \*\*\* Hypes Creek from Route 696 upstream including all named and unnamed tributaries.

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## Regulations

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- iii Indian Draft from its confluence with the Jackson River upstream including all named and unnamed tributaries.
- ii Jackson River from 5 miles above the City of Covington's raw water intake to the Gathright Dam.
- ii Jackson River from river mile 85.4 to river mile 89.2.
- ii Jennings Creek from the confluence of Yellowstone Branch upstream including all named and unnamed tributaries.
- iv Jerkemtight Branch from its confluence with the Calfpasture River upstream including all named and unnamed tributaries.
- iv Jerrys Run (Allegheny County) from the C&O railroad upstream including all named and unnamed tributaries.
- iv Jerrys Run (Augusta County) from its confluence with Ramseys Draft upstream including all named and unnamed tributaries.
- ii Johns Creek from the confluence of Eliber Springs Branch upstream including all named and unnamed tributaries.
- ii Jordan Run (Bath County) from its confluence with Thompson Creek upstream including all named and unnamed tributaries.
- ii Karnes Creek from a point 1.4 miles upstream of its confluence with the Jackson River upstream including all named and unnamed tributaries.
- ii Kelly Run (Bath County) from its confluence with the Jackson River upstream including all named and unnamed tributaries.
- ii Kelso Spring Branch from its confluence with the Little Calfpasture River 1.3 miles upstream.
- ii Laurel Run (Bath County) from its confluence with Dry Run upstream including all named and unnamed tributaries.
- iv Left Prong Ramseys Draft from its confluence with Ramseys Draft upstream including all named and unnamed tributaries.
- ii Left Prong Wilson Creek from its confluence with Wilson Creek upstream including all named and unnamed tributaries.
- ii Lick Block Run from its confluence with the Left Prong Wilson Creek upstream including all named and unnamed tributaries.
- \*\*\* Lick Branch from its confluence with Craig Creek upstream including all named and unnamed tributaries.
- ii Lick Run (Bath County) from 3.3 miles above its confluence with Stuart Run 3.3 miles upstream.
- ii Little Back Creek (Bath County) from Route 600 upstream including all named and unnamed tributaries.
- iv Little Calfpasture River from 17.2 miles above its confluence with the Maury River upstream including all named and unnamed tributaries.
- ii Little Crow Run from its confluence with Crow Run upstream including all named and unnamed tributaries.
- ii Little Mill Creek (Bath County) from its confluence with Mill Creek upstream including all named and unnamed tributaries.

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- ii Little Wilson Creek (from 1 mile above its confluence with Mill Creek) upstream including all named and unnamed tributaries.
- ii Long Spring Run from its confluence with Little Back Creek upstream including all named and unnamed tributaries.
- iii pH-6.5-9.5 Lowry Run from 0.2 mile above its confluence with the Maury River upstream including all named and unnamed tributaries.
- ii Madison Creek from Route 682 upstream including all named and unnamed tributaries.
- ii Mare Run from its junction with Route 39 at Bath Alum upstream including all named and unnamed tributaries.
- ii Meadow Creek from its confluence with Craig Creek upstream including all named and unnamed tributaries.
- iii Middle Creek from its confluence with Jennings Creek upstream including all named and unnamed tributaries.
- ii Mill Branch from its confluence with Potts Creek upstream including all named and unnamed tributaries.
- i Mill Creek (Bath County) from its confluence with the Cowpasture River 3.2 miles upstream.
- iii Mill Creek from Rebecca Furnace upstream including all named and unnamed tributaries.
- ii Mill Creek from its confluence with Craig Creek near Webbs Mill in Craig County upstream including all named and unnamed tributaries.
- ii Mill Creek (Bath County) from its confluence with the Jackson River (Lake Moomaw) upstream including all named and unnamed tributaries.
- ii Mill Run (Highland County) from its confluence with the Bullpasture River 0.5 mile upstream.
- ii Muddy Run (Bath County) from its confluence with the Jackson River upstream including all named and unnamed tributaries.
- ii Nelse Branch from its confluence with Mill Branch upstream including all named and unnamed tributaries.
- ii North Branch Simpson Creek from its confluence with Simpson Creek upstream including all named and unnamed tributaries.
- ii North Creek from its confluence with Jennings Creek upstream including all named and unnamed tributaries.
- ii Paint Bank Branch from its confluence with Potts Creek upstream including all named and unnamed tributaries.
- ii Panther Run from its confluence with Mare Run upstream including all named and unnamed tributaries.
- ii Paxton Branch from its confluence with Johns Creek upstream including all named and unnamed tributaries.
- iii pH-6.5-9.5 Pedlar Gap Run from 1 mile above its confluence with the Maury River upstream including all named and unnamed tributaries.
- ii Pickles Branch (a tributary to Trout Creek) from its mouth upstream including all named and unnamed tributaries.
- ii Piney Branch (Rockbridge County) from its confluence with Guys Run upstream including all named and unnamed tributaries.

- iii pH-6.5-9.5 Poplar Cove Run from its confluence with Lowry Run upstream including all named and unnamed tributaries.
- iii Porters Mill Creek from its confluence with Mill Creek upstream including all named and unnamed tributaries.
- ii Pounding Mill Creek from its confluence with the Jackson River upstream including all named and unnamed tributaries.
- ii Purgatory Creek from its confluence with the James River upstream including all named and unnamed tributaries.
- iv Ramseys Draft from its confluence with the Calfpasture River upstream including all named and unnamed tributaries.
- ii ~~pH 6.5-9.5~~ Reservoir Hollow from 0.7 mile above its confluence with Indian Gap Run upstream including all named and unnamed tributaries.
- iv Right Prong Ramseys Draft from its confluence with Ramseys Draft upstream including all named and unnamed tributaries.
- ii Rocky Creek from its confluence with Ramseys Draft upstream including all named and unnamed tributaries.
- ii Rocky Run (Bath County) from its confluence with the Jackson River upstream including all named and unnamed tributaries.
- ii Rowan Run from its confluence with the Jackson River to the confluence with Cowardin Run.
- ii Sawmill Run (Bath County) from its confluence with Back Creek upstream including all named and unnamed tributaries.
- ii Shawvers Run from its confluence with Potts Creek upstream including all named and unnamed tributaries.
- ii Simpson Creek from the junction of Route 776 and U. S. Route 60 upstream including all named and unnamed tributaries.
- ii Sinking Creek from Route 697 upstream including all named and unnamed tributaries.
- iii Smith Branch from its confluence with Mill Creek upstream including all named and unnamed tributaries.
- iii Smith Creek (Alleghany-Clifton Forge City) from Interstate 64, 2.4 miles upstream.
- ii Snake Run from its confluence with Dunlap Creek upstream including all named and unnamed tributaries.
- ii pH-6.5-9.5 South Buffalo Creek from its confluence with Buffalo Creek upstream including all named and unnamed tributaries.
- ii Spring Branch (Bath County) from its confluence with Mill Creek 0.8 mile upstream.
- ii Spring Run (Bath County) from its confluence with Back Creek upstream including all named and unnamed tributaries.
- iv Still Run from its confluence with the Calfpasture River upstream including all named and unnamed tributaries.
- iii Stony Run from its confluence with Craig Creek upstream including all named and unnamed tributaries.
- ii Stony Run (Highland County) from its confluence with the Jackson River upstream including all named and unnamed tributaries.

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	ii	Sugar Run (Allegheny County) from its confluence with Potts Creek upstream 0.75 miles.
	iii	Thompson Creek from the Route 39 crossing upstream to the confluence of Mares and Jordan Runs.
	ii	Trout Run from its confluence with Sinking Creek upstream including all named and unnamed tributaries.
	ii	Unnamed tributary to Brattons Run 0.7 mile above the confluence of Gochenour Branch from its mouth upstream including all named and unnamed tributaries.
	ii	Valley Branch from its confluence with Potts Creek upstream including all named and unnamed tributaries.
	ii	Vinegar Run from its confluence with the Jackson River upstream 0.4 miles.
	iii	Wildcat Hollow from its confluence with Little Back Creek upstream including all named and unnamed tributaries.
	ii	Wilson Creek (Bath County) within Douthat State Park Lake upstream including all named and unnamed tributaries.
12a	IV	pH-6.5-9.5 Maury River and its tributaries, unless otherwise designated in this chapter, from U.S. Route 60 upstream bridge to its headwaters (the confluence of the Calfpasture and Little Calfpasture Rivers).
	V	<del>pH 6.5-9.5</del> Stockable Trout Waters in Section 12a <del>Hays Creek from its confluence with the Maury River to Brownsburg (9.5 miles).</del>
	***	Irish Creek from its confluence with the South River to river mile 8.9.
	v	<u>pH-6.5-9.5</u> Marlbrook Creek from its confluence with the South River 2.2 miles upstream.
	VI	<del>pH 6.5-9.5</del> Natural Trout Waters in Section 12a
	iv	Big Bend Creek from its confluence with Irish Creek upstream including all named and unnamed tributaries.
	ii	Big Marys Creek from its confluence with the South River upstream including all named and unnamed tributaries.
	ii	<u>pH-6.5-9.5</u> Chimney Branch from its confluence with Saint Marys River upstream including all named and unnamed tributaries.
	ii	Hogback Creek from its confluence with Saint Marys River upstream including all named and unnamed tributaries.
	iii	<u>pH-6.5-9.5</u> Irish Creek from river mile 8.9 upstream including all named and unnamed tributaries.
	i	<u>pH-6.5-9.5</u> Laurel Run from its confluence with the Maury River upstream including all named and unnamed tributaries.
	ii	Little Marys Creek from its confluence with the South River upstream including all named and unnamed tributaries.
	***	<del>Mill Creek from its confluence with the Maury River at Lexington upstream including all named and unnamed tributaries.</del>
	ii	Mine Bank Creek from its confluence with Saint Marys River upstream including all named and unnamed tributaries.
	ii	<u>pH-6.5-9.5</u> Nettle Creek from its confluence with Irish Creek upstream including all named and unnamed tributaries.

ii	<u>pH-6.5-9.5</u>	Nettle Spring Branch from its confluence with Nettle Creek upstream including all named and unnamed tributaries.
iii	<u>pH-6.5-9.5</u>	Otts Creek from its confluence with Hayes Creek upstream to Route 726.
iv		Rock Branch from its confluence with Irish Creek upstream including all named and unnamed tributaries.
		Saint Marys River from its confluence with the South River upstream including all named and unnamed tributaries.
ii	<u>pH-6.5-9.5</u>	Saint Marys River from its confluence with the South River 3.6 miles upstream.
i		Saint Marys River from 3.6 miles above its confluence with the South River upstream including all named and unnamed tributaries.
ii		Spy Run from its confluence with the South River upstream including all named and unnamed tributaries.
ii		Sugartree Branch from its confluence with Saint Marys River upstream including all named and unnamed tributaries.
ii		Wigwam Creek from its confluence with Nettle Creek upstream including all named and unnamed tributaries.
12b	IV	PWS pH-6.5-9.5 Maury River and its tributaries from Lexington's raw water intake to a point 5 miles upstream.
12c	IV	PWS Black Run from Craigsville's raw water intake to its headwaters.
12d	IV	PWS Moores Creek located on Brushy Mountain.
12e	IV	Cowpasture River from the Alleghany-Botetourt County line upstream to U.S. Route 60 bridge.
12f	IV	PWS Smith Creek and Clifton Forge Reservoir from Clifton Forge's raw water intake to their headwaters.
	VI	PWS Natural Trout Waters in Section 12f
	ii	Piney Branch from its confluence with Smith Creek upstream including all named and unnamed tributaries.
	ii	Smith Creek (Alleghany County) from 4 miles north of Clifton Forge near Route 606 (at the stream gage upstream of the filtration plant) upstream including all named and unnamed tributaries.
12g	IV	PWS Mill Branch and its tributaries located on Horse Mountain.
12h	IV	PWS Potts Creek and its tributaries from Hercules, Inc.'s raw water intake to points 5 miles upstream.
12i	IV	PWS Dunlap Creek and its tributaries from the Covington Boys Home raw water intake to points 5 miles upstream.
12j	IV	PWS Jackson River and its tributaries from Covington's raw water intake to points 5 miles upstream.
	VI	Natural Trout Waters in Section 12j
	ii	Jackson River from Covington's raw water intake to a point 5 miles upstream.
12k	IV	PWS Roaring Run above Clearwater Park's raw water intake to its headwaters.
12l	IV	PWS Catawba Creek and its tributaries from the City of Roanoke's raw water intake 0.1 mile upstream from its confluence with Buchanan Branch to points 5 miles upstream.

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12m IV PWS Unnamed tributary to Catawba Creek from the Catawba State Hospital's raw water intake (approximately 1,000 feet north of the Hospital's main building), upstream to its headwaters.

## 9VAC25-260-440. Rappahannock River Basin.

SEC.	CLASS	SP. STDS.	SECTION DESCRIPTION
1	II	a, <del>NEW 15,16</del>	Rappahannock River and the tidal portions of its tributaries from Stingray and Windmill Points to Route 1 Alternate Bridge at Fredericksburg.
1a	II	<del>NEW 16</del>	Hoskins Creek from the confluence with the Rappahannock River to its tidal headwaters.
2	III	<del>NEW 15,16</del>	Free flowing tributaries of the Rappahannock from Stingray and Windmill Points upstream to Blandfield Point, unless otherwise designated in this chapter.
	VII		<u>Swamp waters in Section 2</u>
			<u>Cat Point Creek and its tributaries, from their headwaters to the head of tide at river mile 10.54.</u>
			<u>Mount Landing Creek and its tributaries from the end of tidal waters at river mile 4.4 to their headwaters.</u>
			<u>Piscataway Creek and its tributaries from the confluence of Sturgeon Swamp to their headwaters.</u>
3	III		The Rappahannock River from the Route 1 Alternate Bridge at Fredericksburg upstream to the low dam water intake at Waterloo (Fauquier County).
3a	III	PWS	The Rappahannock River and its tributaries from Spotsylvania County's raw water intake near Golin Run at 38°18'35.4638" latitude and 77°32'03.448" longitude to points 5 miles upstream (excluding Motts Run and tributaries, which is in section 4c).
3b	III	PWS	The Rappahannock River and its tributaries from the low dam water intake at Waterloo, Fauquier County, to points 5 miles upstream.
4	III	<del>NEW 15 ESW 17, 18</del>	Free flowing tributaries of the Rappahannock from Blandfield Point to its headwaters, unless otherwise designated in this chapter.
	VII		<u>Swamp waters in Section 4</u>
			<u>Occupacia Creek and its tributaries from the end of tidal waters at river mile 8.89 on Occupacia Creek to their headwaters.</u>
	V		Stockable Trout Waters in Section 4
***			Hughes River (Madison County) from Route 231 upstream to the upper crossing of Route 707 near the confluence of Rocky Run.
***			Robinson River from Route 231 to river mile 26.7.
***			Rose River from its confluence with the Robinson River 2.6 miles upstream.
***			South River from 5 miles above its confluence with the Rapidan River 3.9 miles upstream.
VI			Natural Trout Waters in Section 4
ii			Berry Hollow from its confluence with the Robinson River upstream including all named and unnamed tributaries.
Ii			Bolton Branch from 1.7 miles above its confluence with Hittles Mill Stream upstream including all named and unnamed tributaries.

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- II Broad Hollow Run from its confluence with Hazel River upstream including all named and unnamed tributaries.
- I Brokenback Run from its confluence with the Hughes River upstream including all named and unnamed tributaries.
- I Bush Mountain Stream from its confluence with the Conway River upstream including all named and unnamed tributaries.
- I Cedar Run (Madison County) from 0.8 mile above its confluence with the Robinson River upstream including all named and unnamed tributaries.
- I Conway River (Greene County) from the Town of Fletcher upstream including all named and unnamed tributaries.
- II Dark Hollow from its confluence with the Rose River upstream including all named and unnamed tributaries.
- I Devils Ditch from its confluence with the Conway River upstream including all named and unnamed tributaries.
- iii Entry Run from its confluence with the South River upstream including all named and unnamed tributaries.
- iii Garth Run from 1.9 miles above its confluence with the Rapidan River at the Route 665 crossing upstream including all named and unnamed tributaries.
- ii Hannah Run from its confluence with the Hughes River upstream including all named and unnamed tributaries.
- ii Hazel River (Rappahannock County) from the Route 707 bridge upstream including all named and unnamed tributaries.
- ii Hogcamp Branch from its confluence with the Rose River upstream including all named and unnamed tributaries.
- i Hughes River (Madison County) from the upper crossing of Route 707 near the confluence of Rocky Run upstream including all named and unnamed tributaries.
- iii Indian Run (Rappahannock County) from 3.4 miles above its confluence with the Hittles Mill Stream upstream including all named and unnamed tributaries.
- ii Jordan River (Rappahannock County) from 10.9 miles above its confluence with the Rappahannock River upstream including all named and unnamed tributaries.
- iii Kinsey Run from its confluence with the Rapidan River upstream including all named and unnamed tributaries.
- ii Laurel Prong from its confluence with the Rapidan River upstream including all named and unnamed tributaries.
- ii Mill Prong from its confluence with the Rapidan River upstream including all named and unnamed tributaries.
- ii Negro Run (Madison County) from its confluence with the Robinson River upstream including all named and unnamed tributaries.
- ii North Fork Thornton River from 3.2 miles above its confluence with the Thornton River upstream including all named and unnamed tributaries.
- ii Piney River (Rappahannock County) from 0.8 mile above its confluence with the North Fork Thornton River upstream including all named and unnamed tributaries.

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	ii		Pocosin Hollow from its confluence with the Conway River upstream including all named and unnamed tributaries.
	ii		Ragged Run from 0.6 mile above its confluence with Popham Run upstream including all named and unnamed tributaries.
	i		Rapidan River from Graves Mill (Route 615) upstream including all named and unnamed tributaries.
	ii		Robinson River (Madison County) from river mile 26.7 to river mile 29.7.
	i		Robinson River (Madison County) from river mile 29.7 upstream including all named and unnamed tributaries.
	i		Rose River from river mile 2.6 upstream including all named and unnamed tributaries.
	iv		Rush River (Rappahannock County) from the confluence of Big Devil Stairs (approximate river mile 10.2) upstream including all named and unnamed tributaries.
	ii		Sams Run from its confluence with the Hazel River upstream including all named and unnamed tributaries.
	ii		South River from 8.9 miles above its confluence with the Rapidan River upstream including all named and unnamed tributaries.
	ii		Sprucepine Branch from its confluence with Bearwallow Creek upstream including all named and unnamed tributaries.
	i		Staunton River (Madison County) from its confluence with the Rapidan River upstream including all named and unnamed tributaries.
	ii		Strother Run from its confluence with the Rose River upstream including all named and unnamed tributaries.
	iii		Thornton River (Rappahannock County) from 25.7 miles above its confluence with the Hazel River upstream including all named and unnamed tributaries.
	ii		Wilson Run from its confluence with the Staunton River upstream including all named and unnamed tributaries.
4a			(Deleted)
4b	III	PWS	The Rappahannock River and its tributaries, to include the VEPCO Canal, from Fredericksburg's (inactive May 2000) raw water intake to points 5 miles upstream.
4c	III	PWS	Motts Run and its tributaries.
4d	III		Horsepen Run and its tributaries.
4e	III	PWS	Hunting Run and its tributaries.
4f	III		Wilderness Run and its tributaries.
4g	III		Deep Run and its tributaries.
4h			(Deleted)
4i	III	PWS	Mountain Run and its tributaries from Culpeper's raw water intake to points 5 miles upstream.
4j	III	PWS	White Oak Run and its tributaries from the Town of Madison's raw water intake to points 5 miles upstream.

4k	III	PWS	Rapidan River and its tributaries from Orange's raw water intake <u>near Poplar Run</u> to points 5 miles upstream.
4l	III	PWS	Rapidan River and its tributaries from the Rapidan Service Authority's raw water intake (just upstream of the Route 29 bridge) upstream to points 5 miles above the intake.
4m	III	PWS	Rapidan River and its tributaries from the Wilderness Shores raw water intake (38°22'30", 77°44'50", Orange County - Rapidan Service Authority) to points 5 miles upstream.

## **9VAC25-260-450. Roanoke River Basin (Roanoke River Subbasin).**

### Roanoke River Subbasin

SEC.	CLASS	SP. STDS.	SECTION DESCRIPTION
1	III	PWS <u>.ff</u>	Lake Gaston and the John Kerr Reservoir in Virginia and their tributaries in Virginia, unless otherwise designated in this chapter (not including the Roanoke or the Dan Rivers). The Roanoke River Service Authority's water supply intake is in this section.
1a	III	s	Dockery Creek and its tributaries to their headwaters.
2	III		Dan River and its tributaries from the John Kerr Reservoir to the Virginia-North Carolina state line just east of the Pittsylvania-Halifax County line, unless otherwise designated in this chapter.
2a	III	PWS	Dan River from South Boston's raw water intake upstream to Paces (below Route 658 bridge).
2b	III	PWS	Banister River and its tributaries from Burlington Industries' inactive raw water intake (about 2000 feet downstream of Route 360) inclusive of the Town of Halifax intake at the Banister Lake dam upstream to the Pittsylvania/Halifax County Line (designation for main stem and tributaries ends at the county line).
2c			(Deleted)
2d	III	PWS	Cherrystone Creek from Chatham's raw water intake upstream to its headwaters.
2e	III	PWS	Georges Creek from Gretna's raw water intake upstream to its headwaters.
2f	III	PWS	Banister River and its tributaries from point below its confluence with Bearskin Creek (at latitude 36°46'15"; longitude 79°27'08") just east of Route 703, upstream to their headwaters.
2g	III	PWS	Whitethorn Creek and its tributaries from its confluence with Georges Creek upstream to their headwaters.
3	III		Dan River and its tributaries from the Virginia-North Carolina state line just east of the Pittsylvania-Halifax County line upstream to the state line just east of Draper, N. C., unless otherwise designated in this chapter.
3a	III	PWS	Dan River from the Schoolfield Dam including the City of Danville's main water intake located just upstream of the Schoolfield Dam, upstream to the Virginia-North Carolina state line.
3b	IV	PWS	Cascade Creek and its tributaries.
3c	IV	PWS	Smith River and its tributaries from the Virginia-North Carolina state line to, but not including, Home Creek.
3d	VI	PWS	Smith River from DuPont's (inactive) raw water intake upstream to the Philpott Dam, unless otherwise designated in this chapter.

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	VI	PWS	Natural Trout Waters in Section 3d
	ii		Smith River from DuPont's (inactive) raw water intake upstream to the Philpott Dam, unless otherwise designated in this chapter.
3e	IV		Philpott Reservoir, Fairystone Lake and their tributaries.
	V		Stockable Trout Waters in Section 3e
	v		Otter Creek from its confluence with Rennet Bag Creek (Philpott Reservoir) to its headwaters.
	v		Smith River (Philpott Reservoir portion) from the Philpott Dam (river mile 46.80) to river mile 61.14, just above the confluence with Small Creek.
	v		Rennet Bag Creek from its confluence with the Smith River to the confluence of Long Branch Creek.
	VI		Natural Trout Waters in Section 3e
	ii		Brogan Branch from its confluence with Rennet Bag Creek upstream including all named and unnamed tributaries.
	ii		Rennet Bag Creek from the confluence of Long Branch Creek upstream including all named and unnamed tributaries.
	ii		Roaring Run from its confluence with Rennet Bag Creek upstream including all named and unnamed tributaries.
3f	IV	PWS	North Mayo River and South Mayo River and their tributaries from the Virginia-North Carolina state line to points 5 miles upstream.
3g	IV		Interstate streams in the Dan River watershed above the point where the Dan crosses the Virginia-North Carolina state line just east of Draper, N. C., (including the Mayo and the Smith watersheds), unless otherwise designated in this chapter.
	V		Stockable Trout Waters in Section 3g
	vi		Dan River from the Virginia-North Carolina state line upstream to the Pinnacles Power House.
	***		Little Dan River from its confluence with the Dan River 7.8 miles upstream.
	v		Smith River from river mile 61.14 (just below the confluence of Small Creek), to Route 704 (river mile 69.20).
	VI		Natural Trout Waters in Section 3g
	ii		Dan River from Pinnacles Power House to Townes Dam.
	ii		Dan River from headwaters of Townes Reservoir to Talbott Dam.
	iii		Little Dan River from 7.8 miles above its confluence with the Dan River upstream including all named and unnamed tributaries.
	i		North Prong of the North Fork Smith River from its confluence with the North Fork Smith River upstream including all named and unnamed tributaries.
	ii		North Fork Smith River from its confluence with the Smith River upstream including all named and unnamed tributaries.
	iii		Smith River from Route 704 (river mile 69.20) to Route 8 (river mile 77.55).
	ii		Smith River from Route 8 (approximate river mile 77.55) upstream including all named and unnamed tributaries.

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	ii		South Mayo River from river mile 38.8 upstream including all named and unnamed tributaries.
3h	IV	PWS	South Mayo River and its tributaries from the Town of Stuart's raw water intake 0.4 mile upstream of its confluence with the North Fork Mayo River to points 5 miles upstream.
	VI		Natural Trout Waters in Section 3h
	iii		Brushy Fork from its confluence with the South Mayo River upstream including all named and unnamed tributaries.
	iii		Lily Cove Branch from its confluence with Rye Cove Creek upstream including all named and unnamed tributaries.
	iii		Rye Cove Creek from its confluence with the South Mayo River upstream including all named and unnamed tributaries.
	iii		South Mayo River from river mile 33.8 upstream including all named and unnamed tributaries.
3i	IV	PWS	Hale Creek and its tributaries from the Fairy Stone State Park's raw water intake 1.7 miles from its confluence with Fairy Stone Lake upstream to its headwaters.
3j	VI	PWS	Smith River and its tributaries from the Henry County Public Service Authority's raw water intake about 0.2 mile upstream of its confluence with Town Creek to points 5 miles upstream.
4	III		Intrastate tributaries to the Dan River above the Virginia-North Carolina state line just east of Draper, North Carolina, to their headwaters, unless otherwise designated in this chapter.
	V		Stockable Trout Waters in Section 4
	vi		Browns Dan River from the intersection of Routes 647 and 646 to its headwaters.
	vi		Little Spencer Creek from its confluence with Spencer Creek to its headwaters.
	vi		Poorhouse Creek from its confluence with North Fork South Mayo River upstream to Route 817.
	***		Rock Castle Creek from its confluence with the Smith River upstream to Route 40.
	VI		Natural Trout Waters in Section 4
	ii		Barnard Creek from its confluence with the Dan River upstream including all named and unnamed tributaries.
	ii		Big Cherry Creek from its confluence with Ivy Creek upstream including all named and unnamed tributaries.
	iii		Ivy Creek from its confluence with the Dan River upstream including all named and unnamed tributaries.
	iii		Camp Branch from its confluence with Ivy Creek upstream including all named and unnamed tributaries.
	iii		Haunted Branch from its confluence with Barnard Creek upstream including all named and unnamed tributaries.
	ii		Hookers Creek from its confluence with the Little Dan River upstream including all named and unnamed tributaries.
	iii		Ivy Creek from Coleman's Mill Pond upstream to Route 58 (approximately 2.5 miles).
	iii		Little Ivy Creek from its confluence with Ivy Creek upstream including all named and unnamed tributaries.

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			iii Little Rock Castle Creek from its confluence with Rock Castle Creek upstream including all named and unnamed tributaries.
		ii	Maple Swamp Branch from its confluence with Round Meadow Creek upstream including all named and unnamed tributaries.
		iii	Mayberry Creek from its confluence with Round Meadow Creek upstream including all named and unnamed tributaries.
		ii	Mill Creek from its confluence with the Dan River upstream including all named and unnamed tributaries.
		iii	North Fork South Mayo River from its confluence with the South Mayo River upstream including all named and unnamed tributaries.
	vi**		Patrick Springs Branch from its confluence with Laurel Branch upstream including all named and unnamed tributaries.
		iii	Polebridge Creek from Route 692 upstream including all named and unnamed tributaries.
		ii	Poorhouse Creek from Route 817 upstream including all named and unnamed tributaries.
		ii	Rhody Creek from its confluence with the South Mayo River upstream including all named and unnamed tributaries.
		iii	Rich Creek from Route 58 upstream including all named and unnamed tributaries.
		ii	Roaring Creek from its confluence with the Dan River upstream including all named and unnamed tributaries.
		i	Rock Castle Creek from Route 40 upstream including all named and unnamed tributaries.
		iii	Round Meadow Creek from its confluence with the Dan River upstream including all named and unnamed tributaries.
		ii	Sawpit Branch from its confluence with Round Meadow Creek upstream including all named and unnamed tributaries.
		ii	Shooting Creek from its confluence with the Smith River upstream including all named and unnamed tributaries.
	vi**		Spencer Creek from Route 692 upstream including all named and unnamed tributaries.
		iii	Squall Creek from its confluence with the Dan River upstream including all named and unnamed tributaries.
		ii	Toggle Creek from its confluence with the Dan River upstream including all named and unnamed tributaries.
		ii	Widgeon Creek from its confluence with the Smith River upstream including all named and unnamed tributaries.
4a	III	PWS	Intrastate tributaries (includes Beaver Creek, Little Beaver Creek, and Jones Creek, for the City of Martinsville) to the Smith River from DuPont's (inactive) raw water intake to points 5 miles upstream from Fieldcrest Cannon's raw water intake.
4b	III	PWS	Marrowbone Creek and its tributaries from the Henry County Public Service Authority's raw water intake (about 1/4 mile upstream from Route 220) to their headwaters.
4c	III	PWS	Leatherwood Creek and its tributaries from the Henry County Public Service Authority's raw water intake 8 miles upstream of its confluence with the Smith River to points 5 miles upstream.
5	IV	PWS	Roanoke Staunton River from the headwaters of the John Kerr Reservoir to Leesville Dam unless otherwise designated in this chapter.

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5a	III	Tributaries to the Roanoke Staunton River from the headwaters of the John Kerr Reservoir to Leesville Dam, unless otherwise designated in this chapter.
	V	Stockable Trout Waters in Section 5a
	vi	Day Creek from Route 741 to its headwaters.
	VI	Natural Trout Waters in Section 5a
	iii	Gunstock Creek from its confluence with Overstreet Creek upstream including all named and unnamed tributaries.
	ii	Overstreet Creek from its confluence with North Otter Creek upstream including all named and unnamed tributaries.
5b	III	PWS Spring Creek from Keysville's raw water intake upstream to its headwaters.
5c	III	PWS Falling River and its tributaries from a point just upstream from State Route 40 (the raw water source for Dan River, Inc.) to points 5 miles upstream and including the entire Phelps Creek watershed which contains the Brookneal Reservoir.
5d	III	Falling River and its tributaries from 5 miles above Dan River, Inc. raw water intake to its headwaters.
5e	III	PWS Reed Creek from Altavista's raw water intake upstream to its headwaters.
5f	III	PWS Big Otter River and its tributaries from Bedford's raw water intake to points 5 miles upstream, and Stony Creek and Little Stony Creek upstream to their headwaters.
	VI	Natural Trout Waters in Section 5f
	ii	Little Stony Creek from 1 mile above its confluence with Stony Creek upstream including all named and unnamed tributaries.
	ii	Stony Creek from the Bedford Reservoir upstream including all named and unnamed tributaries.
5g	III	Big Otter River and its tributaries from 5 miles above Bedford's raw water intake upstream to their headwaters.
5h	III	Ash Camp Creek and that portion of Little Roanoke Creek from its confluence with Ash Camp Creek to the Route 47 bridge.
5i	III	PWS The Roanoke River and its tributaries from the Town of Altavista's raw water intake, 0.1 mile upstream from the confluence of Sycamore Creek, to points 5 miles upstream.
5j	III	PWS Big Otter River and its tributaries from the Campbell County Utilities and Service Authority's raw water intake to points 5 miles upstream.
6	IV	pH-6.5- 9.5 Roanoke River from a point (at latitude 37°15'53"; longitude 79°54'00") 5 miles above the headwaters of Smith Mountain Lake upstream to Salem's #1 raw water intake.
	V	<del>pH-6.5- 9.5</del> Stockable Trout Waters in Section 6
	***	<del>pH-6.5- 9.5</del> Roanoke River from its junction from Routes 11 and 419 to Salem's #1 raw water intake.
6a	III	NEW-1 Tributaries of the Roanoke River from Leesville Dam to Niagra Reservoir, unless otherwise designated in this chapter.
	V	Stockable Trout Waters in Section 6a
	vi	Gourd Creek from 1.3 miles above its confluence with Snow Creek to its headwaters.
	vi	Maggodee Creek from Boones Mill upstream to Route 862 (approximately 3.8 miles).

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vii			South Fork Blackwater River from its confluence with the Blackwater River upstream to Roaring Run.
vi			South Prong Pigg River from its confluence with the Pigg River to its headwaters.
VI			Natural Trout Waters in Section 6a
iii			Daniels Branch from its confluence with the South Fork Blackwater River upstream including all named and unnamed tributaries.
ii			Green Creek from Roaring Run upstream including all named and unnamed tributaries.
ii			Pigg River from 1 mile above the confluence of the South Prong Pigg River upstream including all named and unnamed tributaries.
ii			Roaring Run from its confluence with the South Fork Blackwater River upstream including all named and unnamed tributaries.
6b			(Deleted)
6c	III	PWS	Falling Creek Reservoir and Beaverdam Reservoir.
6d	IV		Tributaries of the Roanoke River from Niagra Reservoir to Salem's #1 raw water intake, unless otherwise designated in this chapter.
	V		Stockable Trout Waters in Section 6d
vii	<u>hh</u>		Tinker Creek from its confluence with the Roanoke River north to Routes 11 and 220.
VI			Natural Trout Waters in Section 6d
iii			Glade Creek from its junction with <del>Route 633 Berkley Road NE to the Bedford County line</del> confluence of Coyner Branch.
6e	IV	PWS	Carvin Cove Reservoir and its tributaries to their headwaters.
6f	IV	PWS, NEW-1	Blackwater River and its tributaries from the Town of Rocky Mount's raw water intake (just upstream of State Route 220) to points 5 miles upstream.
6g	IV	PWS	Tinker Creek from the City of Roanoke's raw water intake (about 0.4 mile downstream from Glebe Mills) upstream 5 miles.
6h	IV	PWS	Roanoke River from Leesville Dam to Smith Mountain Dam (Gap of Smith Mountain), excluding all tributaries to Leesville Lake.
6i	IV	PWS	Roanoke River from Smith Mountain Dam (Gap of Smith Mountain) upstream to a point (at latitude 37°15'53"; longitude 79°54'00" and its tributaries to points 5 miles above the 795.0 foot contour (normal pool elevation) of Smith Mountain Lake.
7	IV	pH-6.5- <u>9.5</u> <u>ES</u> <u>W-2</u>	Roanoke River and its tributaries, unless otherwise designated in this chapter, from Salem's #1 raw water intake to their headwaters.
	V	<u>pH-6.5-</u> <u>9.5</u>	Stockable Trout Waters in Section 7
vi	<u>pH-6.5-</u> <u>9.5</u>		Elliott Creek from the confluence of Rocky Branch to its headwaters.
vi	<u>pH-6.5-</u> <u>9.5</u>		Goose Creek from its confluence with the South Fork Roanoke River to its headwaters.
vi	<u>pH-6.5-</u> <u>9.5</u>		Mill Creek from its confluence with Bottom Creek to its headwaters.

	***	<u>pH-6.5-</u> <u>9.5.hh</u>	Roanoke River from 5 miles above Salem's #2 raw water intake to the Spring Hollow Reservoir intake (see section 7b).
	vi	<u>pH-6.5-</u> <u>9.5</u>	Smith Creek from its confluence with Elliott Creek to its headwaters.
	vi	<u>pH-6.5-</u> <u>9.5</u>	South Fork Roanoke River from 5 miles above the Spring Hollow Reservoir intake (see section 7b) to the mouth of Bottom Creek (river mile 17.1).
	VI	<u>pH 6.5-</u> <u>9.5</u>	Natural Trout Waters in Section 7
	ii	<u>pH-6.5-</u> <u>9.5</u>	Big Laurel Creek from its confluence with Bottom Creek upstream including all named and unnamed tributaries.
	ii	<u>pH-6.5-</u> <u>9.5</u>	Bottom Creek from its confluence with the South Fork Roanoke River upstream including all named and unnamed tributaries.
	ii	<u>pH-6.5-</u> <u>9.5</u>	Lick Fork (Floyd County) from its confluence with Goose Creek upstream including all named and unnamed tributaries.
	ii	<u>pH-6.5-</u> <u>9.5</u>	Mill Creek from its confluence with the North Fork Roanoke River upstream including all named and unnamed tributaries.
	iii	<u>pH-6.5-</u> <u>9.5</u>	Purgatory Creek from Camp Alta Mons upstream including all named and unnamed tributaries.
	ii	<u>pH-6.5-</u> <u>9.5</u>	Spring Branch from its confluence with the South Fork Roanoke River upstream including all named and unnamed tributaries.
7a	IV	PWS <u>pH-6.5-</u> <u>9.5</u>	Roanoke River and its tributaries from Salem's #1 raw water intake to points 5 miles upstream from Salem's #2 raw water intake.
	V	PWS <u>pH 6.5-</u> <u>9.5</u>	Stockable Trout Waters in Section 7a
	***	<u>pH-6.5-</u> <u>9.5.hh</u>	Roanoke River from Salem's #1 raw water intake to a point 5 miles upstream from Salem's #2 raw water intake.
7b	IV	PWS <u>pH-6.5-</u> <u>9.5</u>	Roanoke River and its tributaries from the Spring Hollow Reservoir intake ( <u>N37°14'2.59"</u> / <u>W80°10'39.61"</u> ) upstream to points 5 miles upstream.
	V	PWS; <u>pH 6.5-</u> <u>9.5</u>	Stockable Trout Waters in Section 7b
	***	<u>pH-6.5-</u> <u>9.5.hh</u>	Roanoke River from the Spring Hollow Reservoir intake to the Montgomery County line.
	vi	<u>pH-6.5-</u> <u>9.5</u>	South Fork Roanoke River from its confluence with the Roanoke River to 5 miles above the Spring Hollow Reservoir intake.

**9VAC25-260-460. Roanoke-Yadkin River Basin (Yadkin River Subbasin).**

**Yadkin River Subbasin**

SEC.	CLASS	SP. STDS.	SECTION DESCRIPTION
1	IV	PWS	Yadkin River Basin in Virginia including Ararat River, Johnson Creek, Little Fisher River, Lovills Creek, Pauls Creek and Stewarts Creek - the entire reach of these streams from the Virginia-North Carolina state line to their headwaters.

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V	PWS	Stockable Trout Waters in Section 1
***		Ararat River from Route 823 upstream to Route 671.
vi		Halls Branch from its confluence with Lovills Creek 4.5 miles upstream.
vi		Johnson Creek from the Virginia-North Carolina state line to its headwaters.
vii		Lovills Creek from the Virginia-North Carolina state line 1.8 miles upstream (to the Natural Resource Conservation Service dam).
vii		Pauls Creek (at the Carroll County line at Route 690) from 6.7 miles above its confluence with Stewarts Creek 4.2 miles upstream.
VI	PWS	Natural Trout Waters in Section 1
iii		Ararat River from Route 671 upstream including all named and unnamed tributaries.
iii		East Fork Johnson Creek from its confluence with Johnson Creek upstream including all named and unnamed tributaries.
iii		Elk Spur Branch from its confluence with Lovills Creek upstream including all named and unnamed tributaries.
i		Little Fisher Creek from the Virginia-North Carolina state line upstream including all named and unnamed tributaries.
ii		Little Pauls Creek in the vicinity of Route 692 (4 miles above its confluence with Pauls Creek) upstream including all named and unnamed tributaries.
iii		Lovills Creek from the Natural Resource Conservation Service dam (1.8 miles above the Virginia-North Carolina state line) to river mile 7.8 (at the confluence of Elk Spur and Waterfall Branch).
ii		North Fork Stewarts Creek from its confluence with Stewarts Creek upstream including all named and unnamed tributaries.
ii		Pauls Creek (Carroll County) from 10.9 miles above its confluence with Stewarts Creek upstream including all named and unnamed tributaries.
i		South Fork Stewarts Creek from its confluence with Stewarts Creek upstream including all named and unnamed tributaries.
iii		Stewarts Creek below Lamsburg in the vicinity of Route 696 (10.4 miles above its confluence with the Ararat River) to the confluence of the North and South Forks of Stewarts Creek.
iii		Sun Run from its confluence with the Ararat River upstream including all named and unnamed tributaries.
iii		Thompson Creek from its confluence with the Ararat River upstream including all named and unnamed tributaries.
ii		Turkey Creek from its confluence with Stewarts Creek upstream including all named and unnamed tributaries.
ii		Waterfall Branch from its confluence with Lovills Creek upstream including all named and unnamed tributaries.

## 9VAC25-260-470. Chowan and Dismal Swamp (Chowan River Subbasin).

### Chowan River Subbasin

SEC.	CLASS	SP. STDS.	SECTION DESCRIPTION
1	II	NEW-21	Blackwater River and its tidal tributaries from the Virginia-North Carolina state line to the end of tidal waters at approximately State Route 611 at river mile 20.90; Nottoway

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			River and its tidal tributaries from the Virginia-North Carolina state line to the end of tidal waters at approximately Route 674.
2	VII	NEW-21	Blackwater River from the end of tidal waters to its headwaters and its free-flowing tributaries in Virginia, unless otherwise designated in this chapter.
2a	VII	PWS	Blackwater River and its tributaries from Norfolk's auxiliary raw water intake near Burdette, Virginia, to points 5 miles above the raw water intake, to include Corrowaugh Swamp to a point 5 miles above the raw water intake.
2b	III		Nottoway River from the end of tidal waters to its headwaters and its free-flowing tributaries in Virginia, unless otherwise designated in this chapter.
	<u>VII</u>		<u>Swamp waters in Section 2b</u>
			<u>Assamoosick Swamp and its tributaries from its confluence with the Nottoway River to its headwaters.</u>
			<u>Black Branch Swamp from its confluence with the Nottoway River to its headwaters.</u>
			<u>Butterwood Creek from river mile 4.65 (near Route 622) upstream to river mile 14.59 (near Route 643).</u>
			<u>Cabin Point Swamp from its confluence with the Nottoway River to its headwaters.</u>
			<u>Cooks Branch from its confluence with Butterwood Creek to river mile 1.08</u>
			<u>Gosee Swamp and its tributaries from its confluence with the Nottoway River to river mile 6.88.</u>
			<u>Gravelly Run and its tributaries from river mile 0.22 upstream to river mile 8.56.</u>
			<u>Harris Swamp and its tributaries from its confluence with the Nottoway River to river mile 8.72.</u>
			<u>Hatcher Run and its tributaries from its confluence with Rowanty Creek to river mile 19.27 excluding Picture Branch and Hatcher Run from an unnamed tributary below Route 675 upstream to Steers Millpond.</u>
			<u>Hunting Quarter Swamp and its tributaries from its confluence with the Nottoway River to its headwaters.</u>
			<u>Moores and Jones Holes Swamp and tributaries from their confluence with the Nottoway River to its headwaters.</u>
			<u>Nebletts Mill Run and its tributaries from its confluence with the Nottoway River to its headwaters.</u>
			<u>Raccoon Creek and its tributaries from its confluence with the Nottoway River to its headwaters.</u>
			<u>Rowanty Creek and its tributaries from its confluence with the Nottoway River to Gravelly Run.</u>
			<u>Southwest Swamp and its tributaries from its confluence with Stony Creek to river mile 8.55.</u>
			<u>Three Creek and its tributaries from its confluence with the Nottoway River to its headwaters.</u>
			<u>White Oak Creek from its headwaters to its confluence with Butterwood Creek.</u>
2c	III	PWS	Nottoway River and its tributaries from Norfolk's auxiliary raw water intake near Courtland, Virginia, to points 5 miles upstream.
2d			(Deleted)

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2e	III	PWS	Nottoway River from the Georgia-Pacific and the Town of Jarratt's raw water intakes near Jarratt, Virginia, to a point 5 miles above the intakes.
2f	III	PWS	Nottoway River and its tributaries from the Town of Blackstone's raw water intake to points 5 miles above the raw water intake.
2g	III	PWS	Lazaretto Creek and its tributaries from Crewe's raw water intake to points 5 miles upstream.
2h	III	PWS	Modest Creek and its tributaries from Victoria's raw water intake to their headwaters.
2i	III	PWS	Nottoway River and its tributaries from the Town of Victoria's raw water intake at the Falls (about 200 feet upstream from State Route 49) to points 5 miles upstream.
2j	III	PWS	Big Hounds Creek from the Town of Victoria's auxiliary raw water intake (on Lunenburg Lake) to its headwaters.
2k	VII		<del>Assamoosick Swamp and its tributaries from its confluence with the Nottoway River to its headwaters.</del>
2l	VII		<del>Three Creek and its tributaries from its confluence with the Nottoway River to its headwaters.</del>
2m	VII		<del>Raccoon Creek and its tributaries from its confluence with the Nottoway River to its headwaters.</del>
2n	VII		<del>Nebblets Mill Run and its tributaries from its confluence with the Nottoway River to its headwaters.</del>
2o	VII		<del>Rowanty Creek and its tributaries from its confluence with the Nottoway River to Gravelly Run and Hatcher Run.</del>
3	III		Meherrin River and its tributaries in Virginia from the Virginia-North Carolina state line to its headwaters, unless otherwise designated in this chapter.
	VII		<u>Swamp waters in Section 3</u>
			<u>Tarrara Creek and its tributaries from its confluence with the Meherrin River to its headwaters.</u>
			<u>Fountains Creek and its tributaries from its confluence with the Meherrin River to Route 301.</u>
3a	III	PWS	Meherrin River and its tributaries from Emporia's water supply dam to points 5 miles upstream.
3b	III	PWS	Great Creek from Lawrenceville's raw water intake to a point 7.6 miles upstream.
3c	III	PWS	Meherrin River from Lawrenceville's raw water intake to a point 5 miles upstream.
3d	III	PWS	Flat Rock Creek from Kenbridge's raw water intake upstream to its headwaters.
3e	III	PWS	Meherrin River and its tributaries from South Hill's raw water intake to points 5 miles upstream.
3f	III		Couches Creek from a point 1.6 miles downstream from the Industrial Development Authority discharge to its headwaters.
3g	VII		<del>Tarrara Creek and its tributaries from its confluence with the Meherrin River to its headwaters.</del>
3h	VII		<del>Fountains Creek and its tributaries from its confluence with the Meherrin River to Route 301.</del>
4	III		<u>Free flowing tributaries to the Chowan River in Virginia unless otherwise designated in this section.</u>

## VII

### Swamp waters in Section 4

Unnamed tributary to Buckhorn Creek from its headwaters to the Virginia/North Carolina state line.

Somerton Creek and its tributaries from the Virginia/North Carolina state line at river mile 0.00 upstream to river mile 13.78.

## 9VAC25-260-480. Chowan and Dismal Swamp (Albemarle Sound Subbasin).

### Albemarle Sound Subbasin

SEC.	CLASS	SP. STDS.	SECTION DESCRIPTION
1	II		Back Bay and its tributaries in the City of Virginia Beach to the Virginia-North Carolina state line and the Northwest River and its tidal tributaries from the Virginia-North Carolina state line to the free flowing portion, unless otherwise designated in this chapter and North Landing River and its tidal tributaries from the Virginia-North Carolina state line to the Great Bridge Lock of the Intracoastal Waterway and Salem Canal up to its intersection with Timberlake Road at N36°48'35.67"/W76°08'31.70". Includes West Neck Creek to the Dam Neck Road bridge at N36°47'20.00"/W76°04'12.10"
1a	III		The free flowing portions of streams in Section 1 and tributaries of Stumpy Lake.
1b	III	PWS	Stumpy Lake (raw water supply for the City of Norfolk) and feeder streams to points 5 miles upstream.
1c	II	PWS	Northwest River and its tributaries from the City of Chesapeake's raw water intake to points 5 miles upstream and points 5 miles downstream.
2	III		Intracoastal Waterway (portions not described in Section 1).
	<u>VII</u>		<u>Swamp Waters in Section 2</u>
			<u>Dismal Swamp Canal and tributaries from the Deep Creek Locks downstream to the Virginia/North Carolina state line.</u>
3	III	dd_ESW-3	Lake Drummond, including feeder ditches, and all interstate tributaries of the Dismal Swamp between Virginia and North Carolina.
	<u>VII</u>		<u>Swamp Waters in Section 3</u>
			<u>Feeder Ditch to Lake Drummond and tributaries.</u>

## 9VAC25-260-490. Tennessee and Big Sandy River Basins (Big Sandy River Subbasin).

### Big Sandy River Subbasin

SEC.	CLASS	SP. STDS.	SECTION DESCRIPTION
1	IV		All tributaries of Tug Fork in Virginia.
2	IV		All tributaries of Jacobs Fork and Dry Fork in Virginia.
2a	IV	PWS	Crockett Cove, a tributary to Jacobs Fork, from Bishop's raw water intake to its headwaters.
3	IV		Levisa Fork and its tributaries and Knox Creek and its tributaries, unless otherwise designated in this chapter, from the Virginia-Kentucky state line upstream to their headwaters.
	V		Stockable Trout Waters in Section 3
	vi		Dismal Creek from its mouth to its headwaters.

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4	IV	Russell Fork and its tributaries, unless otherwise designated in this chapter, from the Virginia-Kentucky state line upstream to their headwaters.	
	V	Stockable Trout Waters in Section 4	
	***	Caney Creek from Long Branch Creek upstream 5.5 miles.	
	vi	Fryingpan Frying Pan Creek from 1.3 miles above its confluence with Russell Fork 8.6 miles upstream (in vicinity of Bucu).	
	vi	North Fork Pound River from the town limits of Pound upstream to the water supply dam.	
	***	Russell Fork from the confluence of Pound River to the Virginia-Kentucky state line.	
	VI	Natural Trout Waters in Section 4	
	iii	Pound River from its confluence with Russell Fork upstream to the John W. Flannagan Dam.	
4a	IV	PWS	Pound River and its tributaries from the John W. Flannagan Dam, including the Cranes Nest River and its tributaries to points 5 miles above the John W. Flannagan Water Authority's raw water intake.
4b	IV	PWS	North Fork Pound River and its tributaries from North Fork Pound River Dam and the Town of Pound's raw water intake upstream to their headwaters, unless otherwise designated in this chapter.
4c		(Deleted)	
4d	IV		Phillips Creek from its mouth to its headwaters and the North Fork Pound River from Wise County's swimming area around the mouth of Phillips Creek to a point 1/2 mile upstream.
4e	IV	PWS	Russell Fork River and its tributaries from the Kentucky state line 2.2 miles upstream (Elkhorn City, Kentucky raw water intake including Grassy Creek from its confluence with Russell Fork northeast to the Kentucky state line, Hunts Creek from its confluence with Grassy Creek to 1 mile upstream, Laurel Branch to its headwaters including Laurel Lake (Breaks Interstate Park raw water intake)).
	V	<u>Stockable Trout Waters in Section 4e</u>	
	***	<u>PWS</u> <u>Russell Fork from the Kentucky state line 2.2 miles upstream.</u>	

## 9VAC25-260-500. Tennessee and Big Sandy River Basins (Clinch River Subbasin).

### Clinch River Subbasin

SEC.	CLASS	SP. STDS.	SECTION DESCRIPTION
1	IV		Powell River and its tributaries from the Virginia-Tennessee state line to their headwaters; Indian Creek and Martin Creek in Virginia, unless otherwise designated in this chapter.
	V		Stockable Trout Waters in Section 1
	vi		Batie Creek from its confluence with the Powell River 0.8 mile upstream.
	vi		Dry Creek from its confluence with Hardy Creek to its headwaters.
	vi		Hardy Creek and its tributaries to their headwaters.
	vi		Lick Branch from its confluence with Indian Creek 1.4 miles upstream.
	vi		Martin Creek (Lee County) from the Virginia-Tennessee state line to its headwaters.
	vii		North Fork Powell River from the confluence of Straight Creek to its headwaters.

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vi		Poor Valley Branch from its confluence with Martin Creek 1.4 miles upstream.
vi		Sims Creek from its confluence with the Powell River 1.1 miles upstream to Sims Spring.
vi		Station Creek at the boundary of the Cumberland Gap National Historical Park (river mile 2.2) 2.6 miles upstream.
vi		Wallen Creek above its confluence with the Powell River (at Rasnic Hollow) to its headwaters.
vi		White Branch from its confluence with Poor Valley Branch 0.7 mile upstream (to the Falls at Falling Water Gap).
1a	IV	PWS Powell River from Pennington Gap's raw water intake to 5 miles upstream.
1b	IV	PWS Bens Branch from Appalachia's raw water intake to its headwaters.
1c	IV	PWS South Fork Powell River from Big Stone Gap's raw water intake to its headwaters.
1d	IV	PWS Benges Branch from Norton's raw water intake to its headwaters.
1e	IV	PWS Robinette Branch from Norton's raw water intake to its headwaters.
1f	IV	PWS Fleenortown Creek and its tributaries from the Winn #1 and Barker Springs intakes (which provide raw water to the Town of Jonesville WTP) to points 5 miles upstream.
2	IV	Clinch River and its tributaries from the Virginia-Tennessee state line to their headwaters; North Fork Clinch River and its tributaries, Blackwater Creek and its tributaries, and Little Creek in Virginia, unless otherwise designated in this chapter.
	V	Stockable Trout Waters in Section 2
vi		Amos Branch from its confluence with Copper Creek 3.3 miles upstream.
***		Big Cedar Creek from its confluence with Little Cedar Creek to the mouths of Elk Garden Creek and Loop Creek.
viii		Burns Creek from its confluence with the Guest River to its headwaters.
viii		Clear Creek (Wise County) from 1/2 mile above its confluence with the Guest River to its headwaters.
vi		Copper Creek (Russell County) from Route 678 below Parsonage - river mile 52.5 - 4.3 miles upstream.
vi		Cove Creek from river mile 6.5 (above Stanleytown) 5.5 miles upstream.
vi		Cowan Creek from its confluence with Sinking Creek 2.7 miles upstream.
vi		Devil Fork from its confluence with Straight Fork 3.2 miles upstream.
vi		Fall Creek from its confluence with the Clinch River 4.6 miles upstream.
vi		Gillinswater Branch from its confluence with Obeys Creek 2.8 miles upstream.
vi		Gray Branch from its confluence with Mill Creek (Scott County) 1.6 miles upstream.
vi		Jessee Branch from its confluence with Copper Creek at Thompson Ford 2 miles upstream.
vi		Lark Creek from its confluence with Copper Creek 3 miles upstream.
viii		Laurel Fork (Scott County) from its confluence with Stock Creek 4 miles upstream.
vi		Liberty Creek from its confluence with Little River 1.6 miles upstream.
vi		Little Stony Creek from the intersection of the stream and Route 72 upstream to its headwaters.

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	vi		Mill Creek (Scott County) from its confluence with the Clinch River at Grays Ford 1.6 miles upstream.
	vi		Obeys Creek from 2.5 miles above its confluence with Copper Creek 6 miles upstream.
	vi		Palmer Branch from its confluence with the Clinch River 1.8 miles upstream.
	vi		Powers Branch from its confluence with the Clinch River 2.4 miles upstream.
	vi		Stock Creek from 0.25 mile north of Sunbright to 1.5 miles north of Mabe.
			Stony Creek from Fort Blackmore upstream to its headwaters.
	***		(Stony Creek from Fort Blackmore (river mile 0.56) 5.5 miles upstream.)
	vi		(Stony Creek from 5.5 miles above its confluence with the Clinch River (in the vicinity of Greens Chapel) 7.2 miles upstream.)
	vi		Straight Fork (Scott County) from its confluence with Stony Creek 5.1 miles upstream.
	vi		Valley Creek from 1.1 miles above its confluence with Copper Creek 6.8 miles upstream.
	viii		Wolf Creek (Scott County) from its confluence with Laurel Fork 1.8 miles upstream.
	VI		Natural Trout Waters in Section 2
	iii		Maiden Spring Creek from 15 miles above its confluence with Little River at Route 602 above Benbow 5.3 miles upstream.
	iii		Mill Creek (Russell County) from its confluence with the Clinch River 2.7 miles upstream.
2a	IV	PWS, x	Clinch River and its tributaries to their headwaters from the Wise County Public Service Authority's raw water intakes to 5 miles upstream from St. Paul's raw water intake.
2b	IV	PWS	Clinch River and its tributaries to their headwaters from Raven-Doran's raw water intake to a point 5 miles upstream of the Richland's raw water intake.
2c	IV	PWS	Clinch River and its tributaries from Tazewell's raw water intake to their headwaters.
2d	IV	PWS	North Fork Clinch River and its tributaries, including Spurlock Branch, from Duffield Development Authority's raw water intake at the confluence with Spurlock Branch and the intake on Spurlock Branch to 5 miles upstream.
2e	IV	PWS	Bear Creek from Wise's raw water intake to its headwaters.
2f	IV	PWS	Toms Creek from Coeburn's raw water intake to its headwaters.
2g	IV	PWS	Little River and its tributaries from the Tazewell County Water and Sewer Authority's (Claypool Hill Water Treatment Plant) raw water intake to points 5 miles upstream.
2h	IV	PWS	Unnamed tributary to the North Fork Clinch River from the Divides raw water intake upstream to its headwaters.
2i	IV	PWS	Big Cedar Creek and its tributaries from Lebanon's raw water intake to points 5 miles upstream.
2j	IV	PWS	Cavitts Creek from the proposed Baptist Valley raw water intake to its headwaters.
2k	IV	PWS	Unnamed tributary to Big Creek (Tazewell County) from the Tazewell County Water and Sewer Authority's Jewell Ridge raw water intake upstream to its headwaters.
2l			(moved to 1f)

**9VAC25-260-510. Tennessee and Big Sandy River Basins (Holston River Subbasin).****Holston River Subbasin**

SEC.	CLASS	SP. STDS.	SECTION DESCRIPTION
1	IV		North Fork Holston River and its tributaries, unless otherwise designated in this chapter, from the Virginia-Tennessee state line to their headwaters, and those sections of Timbertree Branch and Boozy Creek in Virginia.
	V		Stockable Trout Waters in Section 1
	vi		Greendale Creek from its confluence with the North Fork Holston River 4.1 miles upstream.
	v		Laurel Bed Creek from its confluence with Tumbling Creek 1.8 miles upstream.
	vi		Laurel Creek within the Thomas Jefferson National Forest boundaries.
	***		Laurel Creek from Route 16 to its confluence with Roaring Fork.
	vi		Lick Creek (Bland County) from 5.5 miles above its confluence with the North Fork Holston River 10.9 miles upstream.
	vi		Little Tumbling Creek from Tannersville upstream to where the powerline crosses the stream.
	vi		Lynn Camp Creek from its confluence with Lick Creek 3.9 miles upstream.
	vi		Punch and Judy Creek from its confluence with Laurel Creek 3.2 miles upstream.
	v		Tumbling Creek from its confluence with the North Fork Holston River 7.1 miles upstream.
	VI		Natural Trout Waters in Section 1
	ii		Barkcamp Branch from its confluence with Roaring Fork upstream including all named and unnamed tributaries.
	ii		Beartown Branch from its confluence with Sprouts Creek upstream including all named and unnamed tributaries.
	ii		Beaver Creek (Smyth County) from its confluence with the North Fork Holston River 2.8 miles upstream.
	***		Big Tumbling Creek from its confluence with the North Fork Holston River upstream including all named and unnamed tributaries.
	ii		Brier Cove from its confluence with Tumbling Creek upstream including all named and unnamed tributaries.
			Brumley Creek from its confluence with the North Fork Holston River upstream including all named and unnamed tributaries.
	***		Brumley Creek from its confluence with the North Fork Holston River (at Duncanville) 4 miles upstream.
	iii		Brumley Creek from 4 miles above its confluence with the North Fork Holston River (at Duncanville) 6.9 miles upstream.
	iii		Campbell Creek (Smyth County) from its confluence with the North Fork Holston River at Ellendale Ford 1 mile upstream.
	ii		Coon Branch from its confluence with Barkcamp upstream including all named and unnamed tributaries.

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- ii Cove Branch from its confluence with Roaring Fork upstream including all named and unnamed tributaries.
- ii Henshaw Branch from its confluence with Lick Creek upstream including all named and unnamed tributaries.
- ii Little Sprouts Creek from its confluence with Sprouts Creek upstream including all named and unnamed tributaries.
- ii Little Tumbling Creek from the powerline crossing upstream including all named and unnamed tributaries.
- v\*\* Red Creek from its confluence with Tumbling Creek upstream including all named and unnamed tributaries.
- ii Roaring Fork (Tazewell County) from its confluence with Laurel Creek upstream including all named and unnamed tributaries.
- ii Sprouts Creek from its confluence with the North Fork Holston River upstream including all named and unnamed tributaries.
- ii Toole Creek from its confluence with the North Fork Holston River 5.9 miles upstream.
- 1a IV North Fork Holston River from the Olin Corporation downstream to the Virginia-Tennessee state line.
- 1b IV PWS Big Moccasin Creek and its tributaries from Weber City's raw water intake to points 5 miles upstream from Gate City's raw water intake.
- 1c (Deleted)
- 1d IV PWS Unnamed tributary to the North Fork Holston River from Hilton's Community No. 2 public water supply raw water intake to its headwaters. (Latitude N36°39'32" and Longitude W82°27'30").
- 2 IV PWS South Holston Lake in Virginia and South Holston Lake and its tributaries from the Bristol Virginia Utilities Board's raw water intake at N36°38'06"/W81°57'36" to points 5 miles upstream.
- 3 IV Tributaries of the South Holston Lake, and Sinking Creek and Nicely Branch in Virginia, unless otherwise designated in this chapter.
  - V Stockable Trout Waters in Section 3
  - vi Berry Creek from its confluence with Fifteenmile Creek (Washington County) 2 miles upstream.
  - vi Spring Creek from its confluence with the South Holston Lake to its headwaters.
  - VI Natural Trout Waters in Section 3
  - ii Cox Mill Creek from its confluence with the South Fork Holston River upstream including all named and unnamed tributaries.
- 3a IV ~~Wolf Creek and its tributaries from the northern corporate limits of Abingdon to their headwaters. (Deleted)~~
- 4 IV Steel Creek and Beaver Creek and their tributaries in Virginia.
  - V Stockable Trout Waters in Section 4
  - vi Beaver Creek (Washington County) and its tributaries from the flood control dam (near Route 11) to their headwaters.
  - vi Sinking Creek (tributary to Paperville Creek-Washington County) from the Virginia-Tennessee state line at Bristol 3.4 miles upstream.

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5	IV	Middle Fork Holston River and its tributaries, unless otherwise designated in this chapter.	
	V	Stockable Trout Waters in Section 5	
	vi	Dry Run from its confluence with the Middle Fork Holston River 1.6 miles upstream.	
	vi	Dutton Branch from its confluence with the Middle Fork Holston River 2 miles upstream.	
	vi	Laurel Springs Creek from its confluence with the Middle Fork Holston River 2 miles upstream.	
	vi	Middle Fork Holston River from 5 miles above Marion's raw water intake (river mile 45.83) to the headwaters.	
	vi	Preston Hollow from 0.5 mile above its confluence with the Middle Fork Holston River 1.5 miles upstream.	
	vi	Staley Creek from its confluence with the Middle Fork Holston River 1 mile upstream.	
	VI	Natural Trout Waters in Section 5	
	iii	East Fork Nicks Creek from its confluence with Nicks Creek upstream including all named and unnamed tributaries.	
	iii	Nicks Creek within the National Forest boundary (river mile 1.6) upstream including all named and unnamed tributaries.	
	iii	Staley Creek from 1 mile above its confluence with the Middle Fork Holston River upstream including all named and unnamed tributaries.	
5a	IV	Middle Fork Holston River and its tributaries from Edmondson Dam upstream to the Route 91 bridge.	
5b	IV	Hungry Mother Creek from the dam upstream including all named and unnamed tributaries.	
5c	IV	PWS	Middle Fork Holston River and its tributaries from Marion's raw water intake to points 5 miles upstream, unless otherwise designated in this chapter.
	V	Stockable Trout Waters in Section 5c	
	vi	Middle Fork Holston River from Marion's raw water intake at Mt. Carmel at river mile 45.83 to a point 5 miles upstream (river mile 50.83).	
5d	IV	PWS	Middle Fork Holston River and its tributaries from Washington County Service Authority's raw water intake to points 5 miles upstream.
6	IV	<u>ESW-10</u>	South Fork Holston River and its tributaries in Virginia, unless otherwise designated in this chapter.
	V	Stockable Trout Waters in Section 6	
	vi	Grosses Creek from its confluence with the South Fork Holston River 3.4 miles upstream.	
	vi	Rush Creek (Washington County) from its confluence with the South Fork Holston River 2.2 miles upstream.	
	vi	Straight Branch from its confluence with Whitetop Laurel Creek 2.5 miles upstream.	
	VI	Natural Trout Waters in Section 6	
	iii	Barkcamp Branch from its confluence with Rowland Creek upstream including all named and unnamed tributaries.	
	iii	Beaverdam Creek (Washington County) from its confluence with Laurel Creek to the Virginia-Tennessee state line 2 miles upstream.	

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- iii Bell Hollow from its confluence with Dickey Creek upstream including all named and unnamed tributaries.
- iii Big Branch from its confluence with Big Laurel Creek upstream including all named and unnamed tributaries.
- Big Laurel Creek (Smyth County) from its confluence with Whitetop Laurel Creek upstream including all named and unnamed tributaries.
- iii Big Laurel Creek (Smyth County) from its confluence with Whitetop Laurel Creek 2.6 miles upstream.
- ii Big Laurel Creek (Smyth County) from 2.6 miles above its confluence with Whitetop Laurel Creek (at Laurel Valley Church) upstream including all named and unnamed tributaries.
- iii Brush Creek from its confluence with Rush Creek upstream including all named and unnamed tributaries.
- iii Buckeye Branch from its confluence with Green Cove Creek upstream including all named and unnamed tributaries.
- ii Charlies Branch from its confluence with Big Laurel Creek upstream including all named and unnamed tributaries.
- iii Cold Branch from its confluence with Jerrys Creek upstream including all named and unnamed tributaries.
- iv Comers Creek from its confluence with the South Fork Holston River upstream including all named and unnamed tributaries.
- ii Cressy Creek from 1.7 miles above its confluence with the South Fork Holston River at Route 16 upstream including all named and unnamed tributaries.
- ii Daves Branch from its confluence with Big Laurel Creek upstream including all named and unnamed tributaries.
- iii Dickey Creek from 0.6 mile above its confluence with the South Fork Holston River upstream including all named and unnamed tributaries.
- ii Dry Fork from 1.2 miles above its confluence with St. Clair Creek upstream including all named and unnamed tributaries.
- ii Feathercamp Branch from its confluence with Straight Branch upstream including all named and unnamed tributaries.
- ii Grassy Branch from its confluence with Big Laurel Creek upstream including all named and unnamed tributaries.
- ii Green Cove Creek from its confluence with Whitetop Laurel Creek upstream including all named and unnamed tributaries.
- ii Grindstone Branch from its confluence with Big Laurel Creek upstream including all named and unnamed tributaries.
- iii High Trestle Branch from its confluence with Buckeye Branch upstream including all named and unnamed tributaries.
- iii Hopkins Branch from its confluence with the South Fork Holston River upstream including all named and unnamed tributaries.
- iii Houndsheath Branch from its confluence with Cressy Creek upstream including all named and unnamed tributaries.

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- ii Hurricane Creek (Smyth County) from its confluence with Comers Creek upstream including all named and unnamed tributaries.
- iii Hutton Branch from its confluence with Dickey Creek upstream including all named and unnamed tributaries.
- iii Jerrys Creek (Smyth County) from 1.5 miles above its confluence with Rowland Creek upstream including all named and unnamed tributaries.
- ii Little Laurel Creek (Smyth County) from its confluence with Whitetop Laurel Creek upstream including all named and unnamed tributaries.
- \*\*\* Laurel Creek from its confluence with Beaverdam Creek (Washington County) to the state line.
- ii London Bridge Branch from its confluence with Beaverdam Creek (Washington County) 0.6 mile upstream.
- iii Long Branch from its confluence with Jerrys Creek upstream including all named and unnamed tributaries.
- ii Mill Creek (Washington County) from its confluence with the South Fork Holston River upstream including all named and unnamed tributaries.
- iii Parks Creek from its confluence with Cressy Creek upstream including all named and unnamed tributaries.
- ii Pennington Branch from its confluence with Whitetop Laurel Creek upstream including all named and unnamed tributaries.
- iii Quarter Branch from 1.1 miles above its confluence with Cressy Creek upstream including all named and unnamed tributaries.
- iii Raccoon Branch from its confluence with Dickey Creek upstream including all named and unnamed tributaries.
- ii Rowland Creek from 2.5 miles above its confluence with the South Fork Holston River upstream including all named and unnamed tributaries.
- ii Rush Creek (Washington County) from 2.2 miles above its confluence with the South Fork Holston River upstream including all named and unnamed tributaries.
- iii Scott Branch from its confluence with Dickey Creek upstream including all named and unnamed tributaries.
- iii Slemp Creek from 2 miles above its confluence with Cressy Creek upstream including all named and unnamed tributaries.
- ii South Fork Holston River from 101.8 miles above its confluence with the Holston River to the Thomas Bridge Water Corporation's raw water intake (see section 6a).
- ii South Fork Holston River from 5 miles above the Thomas Bridge Water Corporation's raw water intake to a point 12.9 miles upstream (see section 6a).
- ii Star Hill Branch from its confluence with Green Cove Creek upstream including all named and unnamed tributaries.
- ii St. Clair Creek from 3.3 miles above its confluence with the South Fork Holston River (at Route 600) above Horseshoe Bend upstream including all named and unnamed tributaries.
- ii Sturgill Branch from its confluence with Whitetop Laurel Creek upstream including all named and unnamed tributaries.

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			iii Valley Creek (Washington County) from its confluence with Whitetop Laurel Creek upstream including all named and unnamed tributaries.
			Whitetop Laurel Creek from its confluence with Laurel Creek upstream including all named and unnamed tributaries.
		ii	Whitetop Laurel Creek from its confluence with Laurel Creek 8.1 miles upstream.
		i	Whitetop Laurel Creek from 8.1 miles above its confluence with Laurel Creek 4.4 miles upstream.
		iii	Whitetop Laurel Creek from 12.5 miles above its confluence with Laurel Creek 3.8 miles upstream.
6a	IV	PWS	South Fork Holston River and its tributaries from Thomas Bridge Water Corporation's raw water intake at <u>N36°46'25.78"</u> latitude and <u>W81°34'35.91"</u> longitude to points 5 miles upstream.
	VI		Natural Trout Waters in Section 6a
	ii		South Fork Holston River from Thomas Bridge Water Corporation's raw water intake to a point 5 miles upstream.

## 9VAC25-260-520. Chesapeake Bay, Atlantic Ocean and small coastal basins.

SEC.	CLASS	SP. STDS.	SECTION DESCRIPTION
1	I	a	The Atlantic Ocean from Cape Henry Light (Latitude 36°55'06" North; Longitude 76°00'04" West) east to the three mile limit and south to the North Carolina state line. The Atlantic Ocean from Cape Henry Light to Thimble Shoal Channel (Latitude 36°57'30" North; Longitude 76°02'30" West) from Thimble Shoal Channel to Smith Island (Latitude 37°07'04" North; Longitude 75°54'04" West) and north to the Virginia-Maryland state line.
1a	III		All free flowing portions of the streams, creeks and coves in Section 1 east of the east-west divide boundary on the Eastern Shore of Virginia.
1b	II	a	Tidal portions of streams, creeks and coves in Section 1 east of the east-west divide boundary on the Eastern Shore of Virginia.
2	II	a, <del>NEW</del> 20	Chesapeake Bay and its tidal tributaries from Old Point Comfort Tower (Latitude 37°00'00" North; Longitude 76°18'08" West) to Thimble Shoal Light (Latitude 37°00'09" North; Longitude 76°14'04" West) to and along the south side of Thimble Shoal Channel to its eastern end (Latitude 36°57'03" North; Longitude 76°02'03" West) to Smith Island (Latitude 37°07'04" North; Longitude 75°54'04" West) north to the Virginia-Maryland border following the east-west divide boundary on the Eastern Shore of Virginia, west along the Virginia-Maryland border, to the Virginia Coast, (Latitude 37°53'23" North; Longitude 76°14'25" West) and south following the Virginia Coast to Old Point Comfort Tower (previously described), unless otherwise designated in this chapter.
2a	III		Free flowing portions of streams lying on the Eastern Shore of Virginia west of the east-west divide boundary unless otherwise designated in this chapter.
2b	III		Drummonds Millpond including Coards Branch.
2c	III		The Virginia Department of Agriculture experimental station pond and its tributaries.
2d	III		The free flowing streams tributary to the western portion of the Chesapeake Bay lying between the Virginia-Maryland state line and Old Point Comfort.
2e	III	PWS	Harwood's Mill Reservoir (in Poquoson River's headwaters - a source of water for the City of Newport News) and its tributaries.

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- 2f III PWS Brick Kiln Creek and its tributaries from Fort Monroe's raw water intake (at the Big Bethel Reservoir) to points 5 miles upstream.
- 2g III PWS Beaverdam Swamp and its tributaries (including Beaverdam Swamp Reservoir) from the Gloucester County Water System raw water intake (at latitude 37°26'23" North; longitude 76°32'47" West) to its headwaters.
- 3 II a,~~NEW-20~~ Chesapeake Bay from Old Point Comfort Tower (Latitude 37°00'00" North; Longitude 76°18'08" West) to Thimble Shoal Light (Latitude 37°00'09" North; Longitude 76°14'04" West) along the south side of Thimble Shoal Channel to Cape Henry Light (Latitude 36°55'06" North; Longitude 76°00'04" West).
- 3a II a,~~NEW-20,z~~ Little Creek from its confluence with Chesapeake Bay (Lynnhaven Roads) to end of navigable waters.
- 3b II a,~~NEW-20~~ Tidal portions of Lynnhaven watershed from its confluence with the Chesapeake Bay (Lynnhaven Roads) to and including Lynnhaven Bay, Western Branch Lynnhaven River, Eastern Branch Lynnhaven River, Long Creek, Broad Bay and Linkhorn Bay, Thalia Creek and its tributaries to the end of tidal waters. Great Neck Creek and Little Neck Creek from their confluence with Linkhorn Bay and their tidal tributaries. Rainey Gut and Crystal Lake from their confluence with Linkhorn Bay.
- 3c III Free flowing portions of streams in Section 3b, unless otherwise designated in this chapter.
- 3d III PWS The impoundments on the Little Creek watershed including Little Creek Reservoir, Lake Smith, Lake Whitehurst, Lake Lawson, and Lake Wright.
- 3e II ~~NEW-20~~ London Bridge Creek from its confluence with the Eastern Branch of Lynnhaven River to the end of tidal waters. Wolfsnare Creek from its confluence with the Eastern Branch Lynnhaven River to the fall line.
- 3f III Free flowing portions of London Bridge Creek and Wolfsnare Creek to the Dam Neck Road Bridge at N36°47'20.00"/W76°04'12.10" (West Neck Creek) and their free flowing tributaries.
- 3g III Lake Joyce and Lake Bradford.

## **9VAC25-260-530. York River Basin.**

SEC.	CLASS	SP. STDS	SECTION DESCRIPTION
1	II	a, <del>NEW-17,aa</del>	York River and the tidal portions of its tributaries from Goodwin Neck and Sandy Point upstream to Thorofare Creek and Little Salem Creek near West Point; Mattaponi River and the tidal portions of its tributaries from Little Salem Creek to the end of tidal waters; Pamunkey River and the tidal portions of its tributaries from Thorofare Creek near West Point to the end of tidal waters.
2	III	<del>NEW-17</del>	Free flowing tributaries of the York River, free flowing tributaries of the Mattaponi River to Clifton and the Pamunkey River to Romancoke, unless otherwise designated in this chapter.
2a	III	PWS, <del>NEW-17</del>	Waller Mill Reservoir and its drainage area above Waller Mill dam which serves as a raw water supply for the City of Williamsburg.
2b	III	PWS, <del>NEW-17</del>	Jones Pond (a tributary of Queen Creek near Williamsburg which serves as the raw water supply for Cheatham Annex Naval Station) and its tributaries to points 5 miles upstream.
3	III		Free flowing portions of the Mattaponi and Pamunkey Rivers, free flowing tributaries of the Mattaponi above Clifton, and free flowing tributaries of the Pamunkey above Romancoke, unless otherwise designated in this chapter.

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3a	III <u>VII</u>	PWS	<p>South Anna River from Ashland's raw water intake to a point 5 miles upstream.</p> <p><u>Swamp Waters in Section 3</u></p> <p><u>Herring Creek from its headwaters at river mile 17.2 downstream to the confluence with the Mattaponi River and three named tributaries: Dorrell Creek, Fork Bridge Creek and Millpond Creek from their headwaters to their confluence with Herring Creek.</u></p> <p><u>Matadequin Creek and its tributaries, from below an unnamed tributary to Matadequin Creek at river mile 9.93 (between Rt. 350 and Sandy Valley Creek) downstream to its confluence with the Pamunkey River.</u></p> <p><u>Mattaponi River from its confluence with Maracossic Creek at river mile 57.17 to the head of tidal waters.</u></p> <p><u>Mechumps Creek from the confluence with Slayden Creek to the Pamunkey River, Slayden Creek and its tributaries to their headwaters, and Campbell Creek from the unnamed tributary at river mile 3.86 downstream to the confluence with Mechumps Creek.</u></p> <p><u>Reedy Creek from its headwaters to its confluence with Reedy Millpond at river mile 1.06.</u></p>
3b	III	PWS	Northeast Creek from the Louisa County Water Authority's impoundment dam (approximately 1/8 mile upstream of Route 33) to its headwaters.
3c	III		South Anna River from Route 15 upstream to a point 1.5 miles below the effluent from the Gordonsville Sewage Treatment Plant.
3d	III	PWS	Ni River and its tributaries from Spotsylvania's raw water intake near Route 627 to their headwaters.
3e	III	PWS	The North Anna River and its tributaries from Hanover County's raw water intake near Doswell (approximately 1/2 mile upstream from State Route 30) to points 5 miles upstream.
3f	III	PWS	Stevens Mill Run from the Lake Caroline water impoundment, and other tributaries into the impoundment upstream to their headwaters.

## 9VAC25-260-540. New River Basin.

SEC.	CLASS	SP. STDS	SECTION DESCRIPTION
1	IV	u	New River and its tributaries, unless otherwise designated in this chapter, from the Virginia-West Virginia state line to the Montgomery-Giles County line.
	V		Stockable Trout Waters in Section 1
	***		Laurel Creek (a tributary to Wolf Creek in Bland County) from Rocky Gap to the Route 613 bridge one mile west of the junction of Routes 613 and 21.
	viii		Laurel Creek (Bland County) from its confluence with Hunting Camp Creek 3.2 miles upstream.
	viii		Little Wolf Creek (Bland County) from its confluence with Laurel Creek 2.6 miles upstream.
	v		Sinking Creek from 5.1 miles above its confluence with the New River 10.8 miles upstream (near the Route 778 crossing).
	vi		Sinking Creek from the Route 778 crossing to the Route 628 crossing.
	vi		Spur Branch from its confluence with Little Walker Creek to its headwaters.
	v		Walker Creek from the Route 52 bridge to its headwaters.

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- \*\*\* Wolf Creek (Bland County) from Grapefield to its headwaters.
- VI Natural Trout Waters in Section 1
- ii Bear Spring Branch from its confluence with the New River upstream including all named and unnamed tributaries.
- iii Clear Fork (Bland County) from river mile 8.5 upstream including all named and unnamed tributaries.
- ii Cove Creek (Tazewell County) from its confluence with Clear Fork upstream including all named and unnamed tributaries.
- ii Cox Branch from its confluence with Clear Fork to Tazewell's raw water intake (river mile 1.6).
- iii Ding Branch from its confluence with Nobusiness Creek upstream including all named and unnamed tributaries.
- ii Dry Fork (Bland County) from 4.8 miles above its confluence with Laurel Creek upstream including all named and unnamed tributaries.
- ii East Fork Cove Creek (Tazewell County) from its confluence with Cove Creek upstream including all named and unnamed tributaries.
- Hunting Camp Creek from its confluence with Wolf Creek upstream including all named and unnamed tributaries.
- \*\*\* Hunting Camp Creek from its confluence with Wolf Creek 8.9 miles upstream.
- iii Hunting Camp Creek from 8.9 miles above its confluence with Wolf Creek 3 miles upstream.
- ii Laurel Creek (tributary to Wolf Creek in Bland County) from Camp Laurel in the vicinity of Laurel Fork Church, upstream including all named and unnamed tributaries.
- ii Laurel Creek from a point 0.7 mile from its confluence with Sinking Creek upstream including all named and unnamed tributaries.
- ii Little Creek (Tazewell County) from 1.5 miles above its confluence with Wolf Creek above the Tazewell County Sportsmen's Club Lake upstream including all named and unnamed tributaries.
- ii Mercy Branch from its confluence with Mill Creek upstream including all named and unnamed tributaries.
- ii Mill Creek from the Narrows Town line upstream including all named and unnamed tributaries.
- ii Mudley Branch from its confluence with the West Fork Cove Creek upstream including all named and unnamed tributaries.
- Nobusiness Creek from its confluence with Kimberling Creek upstream including all named and unnamed tributaries.
- \*\*\* (Nobusiness Creek from its confluence with Kimberling Creek 4.7 miles upstream.)
- iii (Nobusiness Creek from 4.7 miles above its confluence with Kimberling Creek upstream including all named and unnamed tributaries.)
- ii Oneida Branch from its confluence with the West Fork Cove Creek upstream including all named and unnamed tributaries.

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- iii Panther Den Branch from its confluence with Nobusiness Creek upstream including all named and unnamed tributaries.
  - ii Piney Creek from its confluence with the New River upstream including all named and unnamed tributaries.
  - ii Wabash Creek from its confluence with Walker Creek upstream including all named and unnamed tributaries.
  - ii West Fork Cove Creek from its confluence with Cove Creek upstream including all named and unnamed tributaries.
- 1a (Deleted)
- 1b IV u Wolf Creek and its tributaries in Virginia from its confluence with Mill Creek upstream to the Giles-Bland County line.
- 1c (Deleted)
- 1d IV u\_ESW-1 Stony Creek and its tributaries, unless otherwise designated in this chapter, from its confluence with the New River upstream to its headwaters, and Little Stony Creek and its tributaries from its confluence with the New River to its headwaters.
- V Stockable Trout Waters in Section 1d
  - vi Stony Creek (Giles County) from its confluence with the New River to its confluence with Laurel Branch.
  - VI Natural Trout Waters in Section 1d
  - iii Dismal Branch from its confluence with Stony Creek upstream including all named and unnamed tributaries.
  - ii Dixon Branch from its confluence with North Fork Stony Creek upstream including all named and unnamed tributaries.
  - ii Hemlock Branch from its confluence with Little Stony Creek upstream including all named and unnamed tributaries.
  - ii Laurel Branch from its confluence with Stony Creek upstream including all named and unnamed tributaries.
  - ii Laurel Creek from its confluence with Little Stony Creek upstream including all named and unnamed tributaries.
  - ii Little Stony Creek from its confluence with the New River upstream including all named and unnamed tributaries.
  - ii Maple Flats Branch from its confluence with Little Stony Creek upstream including all named and unnamed tributaries.
  - ii Meredith Branch from its confluence with Little Stony Creek upstream including all named and unnamed tributaries.
  - iii Nettle Hollow from its confluence with Little Stony Creek upstream including all named and unnamed tributaries.
  - ii North Fork Stony Creek from its confluence with Stony Creek upstream including all named and unnamed tributaries.
  - iii Pine Swamp Branch from its confluence with Stony Creek upstream including all named and unnamed tributaries.
  - ii Pond Drain from its confluence with Little Stony Creek upstream including all named and unnamed tributaries.

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		iii	Stony Creek (Giles County) from the confluence of Laurel Branch at Olean upstream including all named and unnamed tributaries.
		ii	White Rock Branch from its confluence with Stony Creek upstream including all named and unnamed tributaries.
		ii	Wildcat Hollow from its confluence with Stony Creek upstream including all named and unnamed tributaries.
1e	IV	PWS, u	Kimberling Creek and its tributaries from Bland Correctional Farm's raw water intake to points 5 miles upstream.
	VI	PWS	Natural Trout Waters in Section 1e
	iii		Dismal Creek from its confluence with Kimberling Creek upstream including all named and unnamed tributaries.
	iii		Pearis Thompson Branch from its confluence with Dismal Creek upstream including all named and unnamed tributaries.
	iii		Standrock Branch from its confluence with Dismal Creek upstream including all named and unnamed tributaries.
1f			(Deleted)
1g	IV	U	Bluestone River and its tributaries, unless otherwise designated in this chapter, from the Virginia-West Virginia state line upstream to their headwaters.
1h	IV	PWS, u	Bluestone River and its tributaries from Bluefield's raw water intake upstream to its headwaters.
	VI	PWS	Natural Trout Waters in Section 1h
	iii		Bluestone River from a point adjacent to the Route <del>650/460</del> <ins>650/720</ins> intersection to a point 5.7 miles upstream.
1i	IV	PWS	Big Spring Branch from the Town of Pocahontas' intake, from the Virginia-West Virginia state line, including the entire watershed in Abbs Valley (the Town of Pocahontas' intake is located in West Virginia (at latitude 37°18'23" and longitude 81°18'54").
1j			(Deleted)
1k	IV	PWS	Walker Creek and its tributaries from the Wythe-Bland Water and Sewer Authority's raw water intake (for Bland) to points 5 miles upstream.
1l	VI ii	PWS	Cox Branch and its tributaries from Tazewell's raw water intake at the Tazewell Reservoir (river mile 1.6) to headwaters.
2	IV	v, NEW-5	New River and its tributaries, unless otherwise designated in this chapter, from the Montgomery-Giles County line upstream to the Virginia-North Carolina state line (to include Peach Bottom Creek from its confluence with the New River to the mouth of Little Peach Bottom Creek).
	V		Stockable Trout Waters in Section 2
	v		Beaverdam Creek from its confluence with the Little River to its headwaters.
	v		Big Indian Creek from its confluence with the Little River to a point 7.4 miles upstream.
	vi		Boyd Spring Run from its confluence with the New River to its headwaters.
	***		Brush Creek from the first bridge on Route 617 south of the junction of Routes 617 and 601 to the Floyd County line.

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- vi Camp Creek from its confluence with the Little River to its headwaters.
- vi Cove Creek (Wythe County) from Route 77, 8.1 miles above its confluence with Reed Creek, 10.5 miles upstream.
- Dodd Creek from its confluence with the West Fork Little River to its headwaters.
- \*\*\* Dodd Creek from its confluence with the West Fork Little River 4 miles upstream.
- vi Dodd Creek from 4 miles above its confluence with the West Fork Little River to its headwaters.
- vi East Fork Stony Fork from its confluence with Stony Fork 4 miles upstream.
- \*\*\* Elk Creek from its confluence with Knob Fork Creek to the junction of State Routes 611 and 662.
- vi Gullion Fork from its confluence with Reed Creek 3.3 miles upstream.
- vi Little Brush Creek from its confluence with Brush Creek 1.9 miles upstream.
- vi Lost Bent Creek from its confluence with the Little River to its headwaters.
- vi Middle Creek from its confluence with Little River to its headwaters.
- vi Middle Fox Creek from its confluence with Fox Creek 4.1 miles upstream.
- vi Mill Creek (Wythe County) from its confluence with the New River 3.7 miles upstream.
- v North Fork Greasy Creek from its confluence with Greasy Creek to its headwaters.
- vi Oldfield Creek from its confluence with the Little River to its headwaters.
- vi Peach Bottom Creek from the mouth of Little Peach Bottom Creek to its headwaters.
- vi Pine Branch from its confluence with the Little River to its headwaters.
- vi Pine Creek (Carroll County) from its confluence with Big Reed Island Creek to its headwaters.
- vi Piney Fork from its confluence with Greasy Creek to its headwaters.
- vi Poor Branch from its confluence with the New River to its headwaters.
- vi Poverty Creek (Montgomery County) from its confluence with Toms Creek to its headwaters.
- vi Reed Creek (Wythe County) within the Jefferson National Forest from 57 miles above its confluence with the New River 6.8 miles upstream, unless otherwise designated in this chapter.
- vi Shady Branch from its confluence with Greasy Creek to its headwaters.
- vi Shorts Creek from 6.2 miles above its confluence with the New River in the vicinity of Route 747, 3 miles upstream.
- vi South Fork Reed Creek from river mile 6.8 (at Route 666 below Groseclose) 11.9 miles upstream.
- vi St. Lukes Fork from its confluence with Cove Creek 1.4 miles upstream.
- vi Stony Fork (Wythe County) from 1.9 miles above its confluence with Reed Creek at the intersection of Routes 600, 682, and 21/52 at Favonia 5.7 miles upstream.
- \*\*\* Toms Creek from its confluence with the New River to its headwaters.

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vi	West Fork Big Indian Creek from its confluence with Big Indian Creek to its headwaters.
***	<del>West Fork Peak Creek from the Forest Service Boundary to its headwaters.</del>
vi	Wolf Branch from its confluence with Poor Branch 1.2 miles upstream.
VI	Natural Trout Waters in Section 2
ii	Baker Branch from its confluence with Cabin Creek upstream including all named and unnamed tributaries.
ii	Baldwin Branch from 0.2 mile above its confluence with Big Horse Creek at the Grayson County - Ashe County state line upstream including all named and unnamed tributaries.
ii	Bear Creek (Carroll County) from its confluence with Laurel Fork upstream including all named and unnamed tributaries.
iii	Beaver Creek from its confluence with the Little River upstream including all named and unnamed tributaries.
iii	Beaverdam Creek (Carroll County) from its confluence with Crooked Creek upstream including all named and unnamed tributaries.
ii	Big Branch from its confluence with Greasy Creek upstream including all named and unnamed tributaries.
iii	Big Horse Creek from 12.8 miles above its confluence with the North Fork New River (above the state line below Whitetop) upstream including all named and unnamed tributaries.
ii	Big Indian Creek from a point 7.4 miles upstream of its confluence with the Little River upstream including all named and unnamed tributaries.
ii	Big Laurel Creek from its confluence with the Little River upstream including all named and unnamed tributaries.
iii	Big Laurel Creek from its confluence with Pine Creek upstream including all named and unnamed tributaries.
iii	Big Reed Island Creek from Route 221 upstream including all named and unnamed tributaries.
iii	Big Run from its confluence with the Little River upstream including all named and unnamed tributaries.
	Big Wilson Creek from its confluence with the New River upstream including all named and unnamed tributaries.
***	Big Wilson Creek from its confluence with the New River 8.8 miles upstream.
ii	Big Wilson Creek from 8.8 miles above its confluence with the New River 6.6 miles upstream.
iii	Blue Spring Creek from its confluence with Cripple Creek upstream including all named and unnamed tributaries.
ii	Boothe Creek from its confluence with the Little River upstream including all named and unnamed tributaries.
ii	Bournes Branch from its confluence with Brush Creek upstream including all named and unnamed tributaries.

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- iii Brannon Branch from its confluence with Burks Fork upstream including all named and unnamed tributaries.
- ii Brier Run from its confluence with Big Wilson Creek upstream including all named and unnamed tributaries.
- ii Buffalo Branch from its confluence with Laurel Fork upstream including all named and unnamed tributaries.
- iii Burgess Creek from its confluence with Big Horse Creek upstream including all named and unnamed tributaries.
- iii Burks Fork from the Floyd-Carroll County line upstream including all named and unnamed tributaries.
- ii Byars Creek from its confluence with Whitetop Creek upstream including all named and unnamed tributaries.
- Cabin Creek from its confluence with Helton Creek upstream including all named and unnamed tributaries.
- ii Cabin Creek from its confluence with Helton Creek 3.2 miles upstream.
- i Cabin Creek from 3.2 miles above its confluence with Helton Creek upstream including all named and unnamed tributaries.
- ii Cherry Creek from its confluence with Big Reed Island Creek upstream including all named and unnamed tributaries.
- ii Chisholm Creek from its confluence with Laurel Fork upstream including all named and unnamed tributaries.
- iv Crigger Creek from its confluence with Cripple Creek upstream including all named and unnamed tributaries.
- \*\*\* Cripple Creek from the junction of the stream and U. S. Route 21 in Wythe County upstream including all named and unnamed tributaries.
- iii Crooked Creek (Carroll County) from Route 707 to Route 620.
- ii Crooked Creek from Route 620 upstream including all named and unnamed tributaries.
- iii Daniel Branch from its confluence with Crooked Creek upstream including all named and unnamed tributaries.
- iii Dobbins Creek from its confluence with the West Fork Little River upstream including all named and unnamed tributaries.
- iv Dry Creek from 1.9 miles above its confluence with Blue Spring Creek upstream including all named and unnamed tributaries.
- iii Dry Run (Wythe County) from its confluence with Cripple Creek upstream including all named and unnamed tributaries.
- iii Earls Branch from its confluence with Beaver Creek upstream including all named and unnamed tributaries.
- iii East Fork Crooked Creek from its confluence with Crooked Creek upstream including all named and unnamed tributaries.
- ii East Fork Dry Run from its confluence with Dry Run upstream including all named and unnamed tributaries.
- ii East Prong Furnace Creek from its confluence with Furnace Creek upstream including all named and unnamed tributaries.

- ii Elkhorn Creek from its confluence with Crooked Creek upstream including all named and unnamed tributaries.
- ii Fox Creek from junction of the Creek and Route 734 upstream including all named and unnamed tributaries.
- iii Francis Mill Creek from its confluence with Cripple Creek upstream including all named and unnamed tributaries.
- ii Furnace Creek from its confluence with the West Fork Little River upstream including all named and unnamed tributaries.
- \*\*\* Glade Creek (Carroll County) from its confluence with Crooked Creek upstream including all named and unnamed tributaries.
- iii Grassy Creek (Carroll County) from its confluence with Big Reed Island Creek at Route 641, upstream including all named and unnamed tributaries.
- vi\*\* Grassy Creek (Carroll County) from its confluence with Little Reed Island Creek at Route 769, upstream including all named and unnamed tributaries.
- iii Greasy Creek from the Floyd-Carroll County line upstream including all named and unnamed tributaries.
- iii Greens Creek from its confluence with Stone Mountain Creek upstream including all named and unnamed tributaries.
- iii Guffey Creek from its confluence with Fox Creek upstream including all named and unnamed tributaries.
- ii Helton Creek from the Virginia-North Carolina state line upstream including all named and unnamed tributaries.
- ii Howell Creek from its confluence with the West Fork Little River upstream including all named and unnamed tributaries.
- ii Jerry Creek (Grayson County) from its confluence with Middle Fox Creek upstream including all named and unnamed tributaries.
- iii Jones Creek (Wythe County) from its confluence with Kinser Creek upstream including all named and unnamed tributaries.
- ii Killinger Creek from its confluence with Cripple Creek and White Rock Creek upstream including all named and unnamed tributaries.
- iii Kinser Creek from 0.4 mile above its confluence with Crigger Creek above the National Forest Boundary at Groseclose Chapel upstream including all named and unnamed tributaries.
- iii Laurel Branch (Carroll County) from its confluence with Staunton Branch upstream including all named and unnamed tributaries.
- iii Laurel Creek (Grayson County) from its confluence with Fox Creek upstream including all named and unnamed tributaries.
- ii Laurel Fork from the Floyd-Carroll County line upstream including all named and unnamed tributaries.
- iii Laurel Fork (Carroll County) from its confluence with Big Reed Island Creek to the Floyd-Carroll County line.
- i Lewis Fork from its confluence with Fox Creek upstream including all named and unnamed tributaries.

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- iii Little Cranberry Creek from its confluence with Crooked Creek upstream including all named and unnamed tributaries.
- ii Little Helton Creek from the Grayson County-Ashe County state line upstream including all named and unnamed tributaries.
- \*\*\* Little Reed Island Creek from the junction of the stream and State Routes 782 and 772 upstream including all named and unnamed tributaries, unless otherwise designated in this chapter.
- \*\*\* Little River from its junction with Route 706 upstream including all named and unnamed tributaries.
- ii Little Snake Creek from its confluence with Big Reed Island Creek upstream including all named and unnamed tributaries.
- ii Little Wilson Creek from its confluence with Wilson Creek (at Route 16 at Volney) upstream including all named and unnamed tributaries.
- ii Long Mountain Creek from its confluence with Laurel Fork upstream including all named and unnamed tributaries.
- iii Meadow Creek (Floyd County) from its confluence with the Little River upstream including all named and unnamed tributaries.
- iii Meadow View Run from its confluence with Burks Fork upstream including all named and unnamed tributaries.
- iii Middle Creek from its confluence with Crigger Creek upstream including all named and unnamed tributaries.
- ii Middle Fork Helton Creek from its confluence with Helton Creek 2.2 miles upstream.
- i Middle Fork Helton Creek from 2.2 miles above its confluence with Helton Creek upstream including all named and unnamed tributaries.
- iii Middle Fox Creek from 4.1 miles above its confluence with Fox Creek upstream including all named and unnamed tributaries.
- iii Mill Creek (Carroll County) from its confluence with Little Reed Island Creek upstream including all named and unnamed tributaries.
- ii Mill Creek (Grayson County) from its confluence with Fox Creek upstream including all named and unnamed tributaries.
- iii Mira Fork from its confluence with Greasy Creek upstream including all named and unnamed tributaries.
- ii North Branch Elk Creek from its confluence with Elk Creek upstream including all named and unnamed tributaries.
- iii North Prong Buckhorn Creek from its confluence with Buckhorn Creek upstream including all named and unnamed tributaries.
- ii Oldfield Creek from its confluence with Laurel Fork upstream including all named and unnamed tributaries.
- ii Opossum Creek from its confluence with Fox Creek upstream including all named and unnamed tributaries.
- iii Payne Creek from its confluence with the Little River upstream including all named and unnamed tributaries.

- iii Peak Creek from 19 miles above its confluence with the New River above the Gatewood Reservoir upstream including all named and unnamed tributaries.
- iii Pine Creek (Carroll County) from its confluence with Big Reed Island Creek upstream including all named and unnamed tributaries.
- iii Pine Creek (Floyd County) from its confluence with Little River upstream including all named and unnamed tributaries.
- iii Pipestem Branch from its confluence with Big Reed Island Creek upstream including all named and unnamed tributaries.
- i Quebec Branch from its confluence with Big Wilson Creek upstream including all named and unnamed tributaries.
- iv Raccoon Branch from its confluence with White Rock Creek upstream including all named and unnamed tributaries.
- \*\*\* Reed Creek (Wythe County) from 5 miles above Wytheville's raw water intake upstream including all named and unnamed tributaries.
- ii Ripshin Creek from its confluence with Laurel Creek upstream including all named and unnamed tributaries.
- iii Road Creek (Carroll County) from its confluence with Big Reed Island Creek upstream including all named and unnamed tributaries.
- ii Roads Creek (Carroll County) from its confluence with Laurel Fork upstream including all named and unnamed tributaries.
- iv Rock Creek from its confluence with Big Reed Island Creek upstream including all named and unnamed tributaries.
- iii Silverleaf Branch from its confluence with the Little River upstream including all named and unnamed tributaries.
- iii Snake Creek from Route 670 (3.2 miles above its confluence with Big Reed Island Creek) upstream including all named and unnamed tributaries.
- ii Solomon Branch from its confluence with Fox Creek upstream including all named and unnamed tributaries.
- vi\*\* South Branch Elk Creek from its confluence with Elk Creek upstream including all named and unnamed tributaries.
- iii Spurlock Creek from its confluence with the West Fork Little River upstream including all named and unnamed tributaries.
- iii Staunton Branch from its confluence with Crooked Creek upstream including all named and unnamed tributaries.
- iii Stone Mountain Creek from its confluence with Big Reed Island Creek upstream including all named and unnamed tributaries.
- iii Straight Branch (Carroll County) from its confluence with Greens Creek upstream including all named and unnamed tributaries.
- ii Sulphur Spring Branch from its confluence with Big Reed Island Creek upstream including all named and unnamed tributaries.
- iii Tory Creek from its confluence with Laurel Fork upstream including all named and unnamed tributaries.

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		iii	Tract Fork from the confluence of Fortnerfield Branch upstream including all named and unnamed tributaries.
		ii	Trout Branch from its confluence with Little Reed Island creek upstream including all named and unnamed tributaries.
		iii	Turkey Fork from 2.6 miles above its confluence with Elk Creek upstream including all named and unnamed tributaries.
		ii	Venrick Run from its confluence with Reed Creek upstream including all named and unnamed tributaries.
		iii	West Fork Comers Rock Branch from its confluence with Comers Rock Branch upstream including all named and unnamed tributaries.
		iii	West Fork Dodd Creek from its confluence with Dodd Creek upstream including all named and unnamed tributaries.
		iii	West Fork Dry Run from its confluence with Dry Run 2 miles upstream.
		iii	West Fork Little Reed Island Creek (Carroll County) from its confluence with Little Reed Island Creek upstream including all named and unnamed tributaries.
		***	West Fork Little River from its confluence with Little River upstream including all named and unnamed tributaries.
		iii	West Prong Furnace Creek from its confluence with Furnace Creek upstream including all named and unnamed tributaries.
			White Rock Creek from its confluence with Cripple Creek upstream including all named and unnamed tributaries.
		***	White Rock Creek from its confluence with Cripple Creek 1.9 miles upstream.
		iv	White Rock Creek from 1.9 miles above its confluence with Cripple Creek upstream including all named and unnamed tributaries.
		ii	Whitetop Creek from its confluence with Big Horse Creek upstream including all named and unnamed tributaries.
		i	Wilburn Branch from its confluence with Big Wilson Creek upstream including all named and unnamed tributaries.
2a	IV	PWS, v	New River from Radford Army Ammunition Plant's raw water intake (that intake which is the further downstream), upstream to a point 5 miles above the Blacksburg- Christiansburg, V.P.I. Water Authority's raw water intake and including tributaries in this area to points 5 miles above the respective raw water intakes.
2b	IV	PWS, v	New River from Radford's raw water intake upstream to Claytor Dam and including tributaries to points 5 miles above the intake.
2c	IV	v, NEW-4	New River and its tributaries, except Peak Creek above Interstate Route 81, from Claytor Dam to Big Reed Island Creek (Claytor Lake).
		V	Stockable Trout Waters in Section 2c
		vi	Chimney Branch from its confluence with Big Macks Creek to its headwaters.
		vi	White Oak Camp Branch from its confluence with Chimney Branch to its headwaters.
		VI	Natural Trout Waters in Section 2c
		ii	Bark Camp Branch from its confluence with Big Macks Creek upstream including all named and unnamed tributaries.

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	ii		Big Macks Creek from Powhatan Camp upstream including all named and unnamed tributaries.
	iii		Little Macks Creek from its confluence with Big Macks Creek upstream including all named and unnamed tributaries.
	ii		Puncheoncamp Branch from its confluence with Big Macks Creek upstream including all named and unnamed tributaries.
2d	IV	PWS, v, NEW - 5	Peak Creek and its tributaries from Pulaski's raw water intake upstream, including Hogan Branch to its headwaters and Gatewood Reservoir.
	V		<u>Stockable Trout Waters in Section 2d</u>
	***		<u>(West Fork) Peak Creek from the Forest Service Boundary to its headwaters.</u>
2e			(Deleted)
2f	IV	PWS, v	Little Reed Island Creek and its tributaries from Hillsville's upstream raw water intake near Cranberry Creek to points 5 miles above Hillsville's upstream raw water intake, including the entire watershed of the East Fork Little Reed Island Creek.
	VI	PWS	Natural Trout Waters in Section 2f
	iii		East Fork Little Reed Island Creek from its confluence with West Fork Little Reed Island Creek upstream including all named and unnamed tributaries.
	***		Little Reed Island Creek from Hillsville's upstream raw water intake to a point 5 miles upstream.
	Iii		Mine Branch from its confluence with the East Fork Little Reed Island Creek 2 miles upstream.
2g	IV	PWS, v	Reed Creek and its tributaries from Wytheville's raw water intake to 5 miles upstream.
	VI	PWS, v	Natural Trout Waters in Section 2g
	***		Reed Creek from the western town limits of Wytheville to 5 miles upstream.
2h	IV	PWS, v	Chestnut Creek and its tributaries from Galax's raw water intake upstream to their headwaters or to the Virginia-North Carolina state line.
	VI	PWS	Natural Trout Waters in Section 2h
	***		Coal Creek from its confluence with Chestnut Creek upstream including all named and unnamed tributaries.
	ii		East Fork Chestnut Creek (Grayson County) from its confluence with Chestnut Creek upstream including all named and unnamed tributaries.
	iii		Hanks Branch from its confluence with the East Fork Chestnut Creek upstream including all named and unnamed tributaries.
	iii		Linard Creek from its confluence with Hanks Branch upstream including all named and unnamed tributaries.
2i	IV		Fries Reservoir section of the New River.
2j	IV	PWS	Eagle Bottom Creek from Fries' raw water intake upstream to its headwaters.
2k	IV		Stuart Reservoir section of the New River.

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21	IV	PWS	New River and its tributaries inclusive of the Wythe County Water Department's Austinville intake at latitude <u>N36°51'8.47"</u> and longitude <u>W80°55'29.31"</u> , and the Wythe County Water Department's Ivanhoe intake on Powder Mill Branch at latitude <u>N36°49'15.96"</u> and longitude <u>W80°58'11.28"</u> to points 5 miles above the intakes.
	V	PWS	Stockable Trout Waters in Section 21
	vi		Powder Mill Branch (from 0.6 mile above its confluence with the New River) 2.1 miles upstream.
2m	IV	PWS, NEW-4, 5	New River (Claytor Lake) from the Klopman Mills raw water intake to the Pulaski County Public Service Authority's raw water intake and tributaries to points 5 miles upstream of each intake.
2n			(Deleted)

## DOCUMENTS INCORPORATED BY REFERENCE

Chesapeake Bay Program Analytical Segmentation Scheme—Revisions, Decisions and Rationales 1983-2003, EPA CBP/TRS 268/04, October 2004, US EPA Region III Chesapeake Bay Office.

Chesapeake Bay Program Analytical Segmentation Scheme—Revisions, Decisions and Rationales 1983-2003, EPA 903-R-04-008, October 2004, US EPA Region III Chesapeake Bay Office.

Chesapeake Bay Program Analytical Segmentation Scheme—Revisions, Decisions and Rationales 1983-2003, EPA 903-R-05-004, December 2005, US EPA Region III Chesapeake Bay Office.

Ambient Water Quality Criteria for Dissolved Oxygen, Water Clarity and Chlorophyll a for the Chesapeake Bay and Its Tidal Tributaries, EPA 903-R-03-002, April 2003 and 2004 Addendum, October 2004, US EPA Region III Chesapeake Bay Office.

Ambient Water Quality Criteria for Dissolved Oxygen, Water Clarity and Chlorophyll a for the Chesapeake Bay and Its Tidal Tributaries, EPA 903-R-07-003, 2007 Addendum, July 2007, US EPA Region III Chesapeake Bay Office.

Technical Support Document for Identification of Chesapeake Bay Designated Uses and Attainability, EPA 903-R-03-004, October 2003 and 2004 Addendum, October 2004, US EPA Region III Chesapeake Bay Office.

VA.R. Doc. No. R06-344; Filed March 12, 2008, 10:45 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:** 14VAC5-30. Rules Governing Life Insurance and Annuity Replacements (amending 14VAC5-30-30).

**Statutory Authority:** §§12.1-13 and 38.2-223 of the Code of Virginia.

**Effective Date:** April 1, 2008.

**Agency Contact:** Althelia Battle, Assistant Deputy Commissioner, 1300 East Main Street, 5th Floor, P.O. Box 1157, Richmond, VA 23218, telephone (804) 371-9154, FAX (804) 371-9944, or email al.battle@scc.virginia.gov.

#### Summary:

*The amendment adds language in subdivision A 4 of 14VAC5-30-30 dealing with exemptions. The additional language provides an exemption from the rules for term conversions where the existing insurer and the replacing insurer are corporate affiliates. This revision is consistent with the most recent National Association of Insurance Commissioners (NAIC) "Life Insurance and Annuities Replacement Model Regulation." There were no changes to the adopted final regulation from the proposed version.*

AT RICHMOND, MARCH 5, 2008  
COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
CASE NO. INS-2007-00298

Ex Parte: In the matter of  
Adopting Revisions to the  
Rules Governing Life Insurance  
and Annuity Replacements

### ORDER ADOPTING REVISIONS TO RULES

By order entered herein January 14, 2008, all interested persons were ordered to take notice that subsequent to February 29, 2008, the State Corporation Commission ("Commission") would consider the entry of an Order adopting revisions proposed by the Bureau of Insurance ("Bureau") to the Commission's Rules Governing Life Insurance and Annuity Replacements ("Rules"), set forth in Chapter 30, Section 30 of Title 14 of the Virginia Administrative Code, unless on or before February 29, 2008, any person objecting to the adoption of the proposed revisions 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 revisions on or before February 29, 2008.

No comments and no request for hearing were timely filed with the Clerk.

The Bureau does not recommend further changes to the proposed revisions, which amended the Rules at 14 VAC 5-30-30, and further recommends that the revised Rules be adopted as proposed.

THE COMMISSION has considered the proposed revisions and is of the opinion that the attached revisions to the Rules should be adopted.

### THEREFORE IT IS ORDERED THAT:

(1) The revised Rules entitled "Rules Governing Life Insurance and Annuity Replacements," at 14 VAC 5-30-30, which are attached hereto and made a part hereof, should be, and they are hereby, ADOPTED to be effective April 1, 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 revisions to the Rules by mailing a copy of this Order, including a clean copy of the attached final revised Rules, to all insurers licensed by the Commission to write life insurance, variable life insurance,

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 revised 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 revisions to the Rules available on the Commission's website, <http://www.scc.virginia.gov/case>.

(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.

### **14VAC5-30-30. Exemptions.**

A. Unless otherwise specifically included, this chapter shall not apply to:

1. Credit life insurance;
2. Group life insurance or group annuities where there is no direct solicitation of individuals by an agent. Direct solicitation shall not include any group meeting held by an agent solely for the purpose of educating or enrolling individuals or, when initiated by an individual member of the group, assisting with the selection of investment options offered by a single insurer in connection with enrolling that individual. Group life insurance or group annuity certificates marketed through direct response solicitation shall be subject to the provisions of 14VAC5-30-70;
3. Group life insurance and annuities used to fund prearranged funeral contracts;
4. 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 plan filed and approved by the commission, or when a term conversion privilege is exercised among corporate affiliates;
5. Proposed life insurance that is to replace life insurance under a binding or conditional receipt issued by the same company;
6. a. Policies or contracts used to fund (i) an employee pension or welfare benefit plan that is covered by the Employee Retirement Income Security Act (ERISA) (29 USC §1001 et seq.); (ii) a plan described by 26 USC §§401(a), 401(k) or 403(b) of the Internal Revenue Code, where the plan, for purposes of ERISA, is established or maintained by an employer; (iii) a governmental or church plan defined in 26 USC §414 of the Internal Revenue Code, a governmental or church welfare benefit plan, or a deferred compensation plan of a state or local government

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or tax-exempt organization under 26 USC §457 of the Internal Revenue Code; or (iv) a nonqualified deferred compensation arrangement established or maintained by an employer or plan sponsor.

- b. Notwithstanding subdivision a of this subsection, this chapter shall apply to policies or contracts used to fund any plan or arrangement that is funded solely by contributions an employee elects to make, whether on a pretax or after-tax basis, and where the insurer has been notified that plan participants may choose from among two or more insurers and there is a direct solicitation of an individual employee by an agent for the purchase of a policy or contract. As used in this subsection, direct solicitation shall not include any group meeting held by an agent solely for the purpose of educating individuals about the plan or arrangement or enrolling individuals in the plan or arrangement or, when initiated by an individual employee, assisting with the selection of investment options offered by a single insurer in connection with enrolling that individual employee;
7. Where new coverage is provided under a life insurance policy or contract and the cost is borne wholly by the insured's employer or by an association of which the insured is a member;
8. Existing life insurance that is a nonconvertible term life insurance policy that will expire in five years or less and cannot be renewed;
9. Immediate annuities that are purchased with proceeds from an existing contract. Immediate annuities purchased with proceeds from an existing policy are not exempted from the requirements of this chapter; or
10. Structured settlements.

B. Registered contracts shall be exempt from the requirements of 14VAC5-30-51 A 2 and 14VAC5-30-55 B with respect to the provision of illustrations or policy summaries; however, premium or contract contribution amounts and identification of the appropriate prospectus or offering circular shall be required instead.

V.A.R. Doc. No. R08-1121; Filed March 11, 2008, 11:46 a.m.

## 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: 14VAC5-200. Rules Governing Long-Term Care Insurance (amending 14VAC5-200-185).

Statutory Authority: §§12.1-13 and 38.2-223 of the Code of Virginia.

Effective Date: April 1, 2008.

Agency Contact: Althelia Battle, Assistant Deputy Commissioner, State Corporation Commission 1300 East Main Street, 5th Floor, P.O. Box 1157, Richmond, VA 23218, telephone (804) 371-9154, FAX (804) 371-9944, or email al.battle@scc.virginia.gov.

### Summary:

*The amendment corrects errors in subsection E of 14 VAC 5-200-185, making references to subdivisions in subsection D. There were no changes to the adopted final regulation from the proposed version.*

AT RICHMOND, MARCH 5, 2008

COMMONWEALTH OF VIRGINIA

At the relation of the

STATE CORPORATION COMMISSION

CASE NO. INS-2008-00002

Ex Parte: In the matter of  
Adopting Revisions to the  
Rules Governing Long-Term  
Care Insurance

### ORDER ADOPTING REVISIONS TO RULES

By order entered herein January 14, 2008, all interested persons were ordered to take notice that subsequent to February 29, 2008, the State Corporation Commission ("Commission") would consider the entry of an Order adopting revisions proposed by the Bureau of Insurance ("Bureau") to the Commission's Rules Governing Long-Term Care Insurance ("Rules"), set forth in Chapter 200, Section 185 of Title 14 of the Virginia Administrative Code, unless on or before February 29, 2008, any person objecting to the adoption of the proposed revisions 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 revisions on or before February 29, 2008.

One comment was timely filed, but the comment did not address the proposed revisions. There was no request for a hearing filed with the Clerk.

The Bureau does not recommend further changes to the proposed revisions, which amended the Rules at 14 VAC 5-200-185, and further recommends that the revised Rules be adopted as proposed.

THE COMMISSION has considered the proposed revisions and is of the opinion that the attached revisions to the Rules should be adopted.

THEREFORE IT IS ORDERED THAT:

(1) The revised Rules entitled "Rules Governing Long-Term Care Insurance," at 14 VAC 5-200-185, which are attached hereto and made a part hereof, should be, and they are hereby, ADOPTED to be effective April 1, 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 revisions to the Rules by mailing a copy of this Order, including a clean copy of the attached final revised Rules, to all insurers licensed by the Commission to write accident and sickness insurance in the Commonwealth of Virginia, including all fraternal benefit societies, health maintenance organizations, and health services plans licensed in 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 revised 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 revisions to the Rules available on the Commission's website, <http://www.scc.virginia.gov/case>.

(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.

**14VAC5-200-185. Nonforfeiture benefit requirement.**

A. This section does not apply to life insurance policies or riders containing accelerated long-term care benefits.

B. To comply with the requirement to offer a nonforfeiture benefit pursuant to the provisions of §38.2-5210 of the Code of Virginia:

1. A policy or certificate offered with nonforfeiture benefits shall have coverage elements, eligibility, benefit triggers and benefit length that are the same as coverage to be issued without nonforfeiture benefits. The nonforfeiture benefit included in the offer shall be the benefit described in subsection E of this section; and

2. The offer shall be in writing if the nonforfeiture benefit is not otherwise described in the Outline of Coverage or other materials given to the prospective policyholder.

When a group long-term care insurance policy is issued, the offer required in §38.2-5210 of the Code of Virginia shall be made to the group policyholder. However, if the policy is issued as group long-term care insurance as defined in §38.2-3522.1 of the Code of Virginia other than to a continuing care retirement community or other similar entity, the offer shall be made to each proposed certificateholder.

C. If the offer required to be made under §38.2-5210 of the Code of Virginia is rejected, the insurer shall provide the contingent benefit upon lapse described in this section. Even if this offer is accepted for a policy with a fixed or limited premium paying period, the contingent benefit upon lapse in subdivision D 4 of this section shall still apply.

D. 1. After rejection of the offer required under §38.2-5210 of the Code of Virginia, for individual and group policies without nonforfeiture benefits, the insurer shall provide a contingent benefit upon lapse.

2. In the event a group policyholder elects to make the nonforfeiture benefit an option to the certificateholder, a certificate shall provide either the nonforfeiture benefit or the contingent benefit upon lapse.

3. A contingent benefit on lapse shall be triggered every time an insurer increases the premium rates to a level which results in a cumulative increase of the annual premium equal to or exceeding the percentage of the insured's initial annual premium set forth below based on the insured's issue age, and the policy or certificate lapses within 120 days of the due date of the premium so increased. Unless otherwise required, policyholders shall be notified at least 60 days prior to the due date of the premium reflecting the rate increase.

**Triggers for a Substantial Premium Increase**

Issue Age	Percent Increase Over Initial Premium
29 and under	200%
30-34	190%
35-39	170%
40-44	150%
45-49	130%
50-54	110%
55-59	90%
60	70%
61	66%
62	62%
63	58%
64	54%
65	50%
66	48%
67	46%
68	44%

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69	42%
70	40%
71	38%
72	36%
73	34%
74	32%
75	30%
76	28%
77	26%
78	24%
79	22%
80	20%
81	19%
82	18%
83	17%
84	16%
85	15%
86	14%
87	13%
88	12%
89	11%
90 and over	10%

4. A contingent benefit on lapse shall also be triggered for policies with a fixed or limited premium paying period every time an insurer increases the premium rates to a level that results in a cumulative increase of the annual premium equal to or exceeding the percentage of the insured's initial annual premium set forth below based on the insured's issue age, the policy or certificate lapses within 120 days of the due date of the premium so increased, and the ratio in subdivision 6 b of this subsection is 40% or more. Unless otherwise required, policyholders shall be notified at least 60 days prior to the due date of the premium reflecting the rate increase.

## Triggers for a Substantial Premium Increase

Issue Age	Percent Increase Over Initial Premium
Under 65	50%
65-80	30%
Over 80	10%

This provision shall be in addition to the contingent benefit provided by subdivision 3 of this subsection, and where both are triggered, the benefit provided shall be at the option of the insured.

5. On or before the effective date of a substantial premium increase as defined in subdivision 3 of this subsection, the insurer shall:

a. Offer to reduce policy benefits provided by the current coverage without the requirement of additional underwriting so that required premium payments are not increased;

b. Offer to convert the coverage to a paid-up status with a shortened benefit period in accordance with the terms of subsection E of this section. This option may be elected at any time during the 120-day period referenced in subdivision 3 of this subsection; and

c. Notify the policyholder or certificateholder that a default or lapse at any time during the 120-day period referenced in subdivision 3 of this subsection shall be deemed to be the election of the offer to convert in subdivision 5 b of this subsection unless the automatic option in subdivision 6 c of this subsection applies.

6. On or before the effective date of a substantial premium increase as defined in subdivision 4 of this subsection, the insurer shall:

a. Offer to reduce policy benefits provided by the current coverage without the requirement of additional underwriting so that required premium payments are not increased;

b. Offer to convert the coverage to a paid-up status where the amount payable for each benefit is 90% of the amount payable in effect immediately prior to lapse times the ratio of the number of completed months of paid premiums divided by the number of months in the premium paying period. This option may be elected at any time during the 120-day period referenced in subdivision 4 of this subsection; and

c. Notify the policyholder or certificateholder that a default or lapse at any time during the 120-day period referenced in subdivision 4 of this subsection shall be deemed to be the election of the offer to convert in subdivision 6 b of this subsection if the ratio is 40% or more.

E. Benefits continued as nonforfeiture benefits, including contingent benefits upon lapse in accordance with subdivision D 4 3 but not subdivision D 5 4 of this section, are described in this subsection:

1. For purposes of this subsection, attained age rating is defined as a schedule of premiums starting from the issue

date which increases age at least 1.0% per year prior to age 50, and at least 3.0% per year beyond age 50.

2. For purposes of this subsection, the nonforfeiture benefit shall be of a shortened benefit period providing paid-up long-term care insurance coverage after lapse. The same benefits (amounts and frequency in effect at the time of lapse but not increased thereafter) will be payable for a qualifying claim, but the lifetime maximum dollars or days of benefits shall be determined as specified in subdivision 3 of this subsection.

3. The standard nonforfeiture credit will be equal to 100% of the sum of all premiums paid, including the premiums paid prior to any changes in benefits. The insurer may offer additional shortened benefit period options as long as the benefits for each duration equal or exceed the standard nonforfeiture credit for that duration. However, the minimum nonforfeiture credit shall not be less than 30 times the daily nursing home benefit at the time of lapse. In either event, the calculation of the nonforfeiture credit is subject to the limitation of subsection F of this section.

4. a. The nonforfeiture benefit shall begin not later than the end of the third year following the policy or certificate issue date. The contingent benefit upon lapse shall be effective during the first three years as well as thereafter.

b. Notwithstanding subdivision 4 a of this subsection, except that for a policy or certificate with a contingent benefit upon lapse or a policy or certificate with attained age rating, the nonforfeiture benefit shall begin on the earlier of: (i) the end of the tenth year following the policy or certificate issue date; or (ii) the end of the second year following the date the policy or certificate is no longer subject to attained age rating.

5. Nonforfeiture credits may be used for all care and services qualifying for benefits under the terms of the policy or certificate, up to the limits specified in the policy or certificate.

F. All benefits paid by the insurer while the policy or certificate is in premium paying status and in the paid up status will not exceed the maximum benefits which would be payable if the policy or certificate had remained in premium paying status.

G. There shall be no difference in the minimum nonforfeiture benefits as required under this section for group and individual policies.

H. Premiums charged for a policy or certificate containing nonforfeiture benefits or a contingent benefit on lapse shall be subject to the loss ratio requirements of 14VAC5-200-150 or 14VAC5-200-153, whichever is applicable, treating the policy as a whole.

I. To determine whether contingent nonforfeiture upon lapse provisions are triggered under subdivision D 3 or D 4 of this section, a replacing insurer that purchased or otherwise assumed a block or blocks of long-term care insurance policies from another insurer shall calculate the percentage increase based on the initial annual premium paid by the insured when the policy was first purchased from the original insurer.

J. A nonforfeiture benefit for qualified long-term care insurance contracts that are level premium contracts shall be offered that meets the following requirements:

1. The nonforfeiture provision shall be appropriately captioned;
2. The nonforfeiture provision shall provide a benefit available in the event of a default in the payment of any premiums and shall state that the amount of the benefit may be adjusted subsequent to being initially granted only as necessary to reflect changes in claims, persistency and interest as reflected in changes in rates for premium paying contracts approved by the commission for the same contract form; and
3. The nonforfeiture provision shall provide at least one of the following:
  - a. Reduced paid-up insurance;
  - b. Extended term insurance;
  - c. Shortened benefit period; or
  - d. Other similar offerings approved by the commission.

V.A.R. Doc. No. R08-1119; Filed March 11, 2008, 11:48 a.m.

## TITLE 21. SECURITIES AND RETAIL FRANCHISING

### STATE CORPORATION COMMISSION

#### Proposed Regulation

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

**Title of Regulation:** 21VAC5-20. Broker-Dealers, Broker-Dealer Agents and Agents of the Issuer: Registration, Expiration, Renewal, Updates and Amendments, Termination, Changing Connection, Merger or Consolidation, Examinations Qualification, Financial Statements and Reports (amending 21VAC5-20-280).

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## **21VAC5-80. Investment Advisors (amending 21VAC5-80-10, 21VAC5-80-200).**

Statutory Authority: §§12.1-13 and 13.1-523 of the Code of Virginia.

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

Public Comments: Public comments may be submitted until 5 p.m. on April 16, 2008.

Agency Contact: Don Gouldin, Deputy Director, Division of Securities, Tyler Building, 9th Floor, P.O. Box 1197, Richmond, VA 23218, telephone (804) 371-9755, FAX (804) 371-9911, or email don.gouldin@scc.virginia.gov.

### Summary:

*The proposed amendments (i) make available to the public all registration information with regard to investment advisors by requiring electronic filing of two additional pieces of the current form used by investment advisors to register with the federal Securities and Exchange Commission and the state regulatory authorities, and (ii) address identified abusive practices that affect senior citizens and retirees by adding language to the unethical practices sections of the investment advisor regulations and to the prohibited business conduct sections of the broker-dealer securities rules to prevent the use of misleading certifications or designations.*

AT RICHMOND, MARCH 7, 2008

COMMONWEALTH OF VIRGINIA, ex rel.  
STATE CORPORATION COMMISSION

CASE NO. SEC-2008-00026

Ex Parte: In the matter of Adopting a  
Revision to the Rules Governing  
the Virginia Securities Act

### ORDER TO TAKE NOTICE

Section 12.1-13 of the Code of Virginia provides that the State Corporation Commission ("Commission") shall have the power to promulgate rules and regulations in the enforcement and administration of all laws within its jurisdiction. Section 13.1-523 of the Virginia Securities Act ("Act"), § 13.1-501 et seq. of the Code of Virginia provides that the Commission may issue any rules and regulations necessary or appropriate for the administration and enforcement of the Act.

The rules and regulations issued by the Commission pursuant to the Act are set forth in Title 21 of the Virginia Administrative Code. A copy also may be found at the Commission's website: <http://www.scc.virginia.gov/case>.

The Division of Securities and Retail Franchising ("Division") has submitted to the Commission proposed revisions to Chapter 20 and Chapter 80 of Title 21 of the Virginia Administrative Code entitled "Rules and Forms Governing Virginia Securities Act," which add new rules, Rules 21 VAC 5-20-280, 21 VAC 5-80-10 and 21 VAC 5-80-200.

Proposed new Rules 21 VAC 5-20-280 and 21 VAC 5-80-200 add language to both the prohibited business conduct regulations for broker-dealers and their agents and the dishonest or unethical practices regulations for investment advisors and their representatives. The new language addresses abusive practices directed at senior citizens and retirees regarding misleading certifications and designations used by these financial representatives that implies or indicates that these individuals have special training or expertise in servicing or advising senior citizens or retirees when in fact this is not true.

The new language prohibits the use of designations to mislead senior citizens or retirees, including use of certifications or designations that were not earned, nonexistent, ineligible to use, or self-conferred, through the failure to maintain any continuing educational requirement. The new regulation includes guidelines to determine if a certification or designation implies or indicates a person has special certification or training in servicing or advising senior citizens or retirees such as the use of the words senior, retiree, elder or other like words in certifications or designations. The regulations recognize legitimate designating or certifying organizations approved and accredited by "The American National Standards Institute," "The National Commission for Certifying Agencies," or other nationally recognized accreditation organizations approved by the Commission.

Proposed amendment to Rule 21 VAC 5-80-10 will address the new Web CRD/IARD software release, implementing electronic filing for Part II and Schedule F of Form ADV for registered investment advisors. The change will eliminate the need for a separate paper filing of these documents and thus Form ADV will be available as an electronic document.

The Division has recommended to the Commission that the proposed revisions should be considered for adoption with an effective date of July 1, 2008.

IT IS THEREFORE ORDERED that:

- (1) The proposed revisions are appended hereto and made a part of the record herein.
- (2) Comments or requests for hearing on the proposed revisions must be submitted in writing to Joel H. Peck, Clerk of the Commission, c/o Document Control Center, P. O. Box 2118, Richmond, Virginia 23218, on or before April 16, 2008. Requests for hearing shall state why a hearing is necessary and why the issues cannot be adequately addressed in written comments. All

correspondence shall contain reference to Case No. SEC-2008-00026. Interested persons desiring to submit comments electronically may do so by following the instructions available at the Commission's website: <http://www.scc.virginia.gov/case>.

(3) The proposed revisions shall be posted on the Commission's website at <http://www.scc.virginia.gov/case> and on the Division's website at <http://www.scc.virginia.gov/srf>. Interested persons may also request copies of the proposed revisions from the Division by telephone, mail or email.

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

AN ATTESTED COPY this Order shall be sent to the Division's Director, who shall forthwith mail a copy of this Order to such interested persons as he may designate.

**CHAPTER 20**  
**BROKER-DEALERS, BROKER-DEALER AGENTS AND  
AGENTS OF THE ISSUER-REGISTRATION,  
EXPIRATION, RENEWAL, UPDATES AND  
AMENDMENTS, TERMINATION, CHANGING  
CONNECTION, MERGER OR CONSOLIDATION,  
EXAMINATIONS/QUALIFICATION, FINANCIAL  
STATEMENTS AND REPORTS**

**21VAC5-20-280. Prohibited business conduct.**

A. No broker-dealer shall:

1. Engage in a pattern of unreasonable and unjustifiable delays in the delivery of securities purchased by any of its customers or in the payment upon request of free credit balances reflecting completed transactions of any of its customers, or take any action that directly or indirectly interferes with a customer's ability to transfer his account; provided that the account is not subject to any lien for moneys owed by the customer or other bona fide claim, including, but not limited to, seeking a judicial order or decree that would bar or restrict the submission, delivery or acceptance of a written request from a customer to transfer his account;
2. Induce trading in a customer's account which is excessive in size or frequency in view of the financial resources and character of the account;
3. Recommend to a customer the purchase, sale or exchange of any security without reasonable grounds to believe that the recommendation is suitable for the customer based upon reasonable inquiry concerning the customer's investment objectives, financial situation, risk tolerance and needs, and any other relevant information known by the broker-dealer;

4. Execute a transaction on behalf of a customer without authority to do so or, when securities are held in a customer's account, fail to execute a sell transaction involving those securities as instructed by a customer, without reasonable cause;
5. Exercise any discretionary power in effecting a transaction for a customer's account without first obtaining written discretionary authority from the customer, unless the discretionary power relates solely to the time or price for the execution of orders;
6. Execute any transaction in a margin account without securing from the customer a properly executed written margin agreement promptly after the initial transaction in the account, or fail, prior to or at the opening of a margin account, to disclose to a noninstitutional customer the operation of a margin account and the risks associated with trading on margin at least as comprehensively as required by NASD Rule 2341;
7. Fail to segregate customers' free securities or securities held in safekeeping;
8. Hypothecate a customer's securities without having a lien thereon unless the broker-dealer secures from the customer a properly executed written consent promptly after the initial transaction, except as permitted by Rules of the SEC;
9. Enter into a transaction with or for a customer at a price not reasonably related to the current market price of a security or receiving an unreasonable commission or profit;
10. Fail to furnish to a customer purchasing securities in an offering, no later than the date of confirmation of the transaction, either a final prospectus or a preliminary prospectus and an additional document, which together include all information set forth in the final prospectus;
11. Introduce customer transactions on a "fully disclosed" basis to another broker-dealer that is not exempt under §13.1-514 B 6 of the Act;
12. a. Charge unreasonable and inequitable fees for services performed, including miscellaneous services such as collection of moneys due for principal, dividends or interest, exchange or transfer of securities, appraisals, safekeeping, or custody of securities and other services related to its securities business;  
b. Charge a fee based on the activity, value or contents (or lack thereof) of a customer account unless written disclosure pertaining to the fee, which shall include information about the amount of the fee, how imposition of the fee can be avoided and any consequence of late payment or nonpayment of the fee, was provided no later than the date the account was established or, with respect

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- to an existing account, at least 60 days prior to the effective date of the fee;
13. Offer to buy from or sell to any person any security at a stated price unless the broker-dealer is prepared to purchase or sell at the price and under such conditions as are stated at the time of the offer to buy or sell;
14. Represent that a security is being offered to a customer "at a market" or a price relevant to the market price unless the broker-dealer knows or has reasonable grounds to believe that a market for the security exists other than that made, created or controlled by the broker-dealer, or by any person for whom he is acting or with whom he is associated in the distribution, or any person controlled by, controlling or under common control with the broker-dealer;
15. Effect any transaction in, or induce the purchase or sale of, any security by means of any manipulative, deceptive or fraudulent device, practice, plan, program, design or contrivance, which may include but not be limited to:
- a. Effecting any transaction in a security which involves no change in the beneficial ownership thereof;
  - b. Entering an order or orders for the purchase or sale of any security with the knowledge that an order or orders of substantially the same size, at substantially the same time and substantially the same price, for the sale of any security, has been or will be entered by or for the same or different parties for the purpose of creating a false or misleading appearance of active trading in the security or a false or misleading appearance with respect to the market for the security; however, nothing in this subdivision shall prohibit a broker-dealer from entering bona fide agency cross transactions for its customers;
  - c. Effecting, alone or with one or more other persons, a series of transactions in any security creating actual or apparent active trading in the security or raising or depressing the price of the security, for the purpose of inducing the purchase or sale of the security by others;
16. Guarantee a customer against loss in any securities account of the customer carried by the broker-dealer or in any securities transaction effected by the broker-dealer with or for the customer;
17. Publish or circulate, or cause to be published or circulated, any notice, circular, advertisement, newspaper article, investment service, or communication of any kind which purports to report any transaction as a purchase or sale of any security unless the broker-dealer believes that the transaction was a bona fide purchase or sale of the security; or which purports to quote the bid price or asked price for any security, unless the broker-dealer believes that the quotation represents a bona fide bid for, or offer of, the security;
18. Use any advertising or sales presentation in such a fashion as to be deceptive or misleading. An example of such practice would be a distribution of any nonfactual data, material or presentation based on conjecture, unfounded or unrealistic claims or assertions in any brochure, flyer, or display by words, pictures, graphs or otherwise designed to supplement, detract from, supersede or defeat the purpose or effect of any prospectus or disclosure;
19. Fail to make reasonably available upon request to any person expressing an interest in a solicited transaction in a security, not listed on a registered securities exchange or quoted on an automated quotation system operated by a national securities association approved by regulation of the commission, a balance sheet of the issuer as of a date within 18 months of the offer or sale of the issuer's securities and a profit and loss statement for either the fiscal year preceding that date or the most recent year of operations, the names of the issuer's proprietor, partners or officers, the nature of the enterprises of the issuer and any available information reasonably necessary for evaluating the desirability or lack of desirability of investing in the securities of an issuer. All transactions in securities described in this subdivision shall comply with the provisions of §13.1-507 of the Act;
20. Fail to disclose that the broker-dealer is controlled by, controlling, affiliated with or under common control with the issuer of any security before entering into any contract with or for a customer for the purchase or sale of the security, the existence of control to the customer, and if disclosure is not made in writing, it shall be supplemented by the giving or sending of written disclosure at or before the completion of the transaction;
21. Fail to make a bona fide public offering of all of the securities allotted to a broker-dealer for distribution, whether acquired as an underwriter, a selling group member, or from a member participating in the distribution as an underwriter or selling group member;
22. Fail or refuse to furnish a customer, upon reasonable request, information to which the customer is entitled, or to respond to a formal written request or complaint;
23. Fail to clearly and separately disclose to its customer, prior to any security transaction, providing investment advice for compensation or any materially related transaction that the customer's funds or securities will be in the custody of an investment advisor or contracted custodian, in a manner that does not provide Securities Investor Protection Corporation protection, or equivalent third-party coverage over the customer's assets;
24. Market broker-dealer services that are associated with financial institutions in a manner that is misleading or

confusing to customers as to the nature of securities products or risks; or

25. In transactions subject to breakpoints, fail to:

- a. Utilize advantageous breakpoints without reasonable basis for their exclusion;
- b. Determine information that should be recorded on the books and records of a member or its clearing firm, which is necessary to determine the availability and appropriateness of breakpoint opportunities; or
- c. Inquire whether the customer has positions or transactions away from the member that should be considered in connection with the pending transaction, and apprise the customer of the breakpoint opportunities.

26. In connection with the offer, sale, or purchase of securities, use a certification or professional designation that indicates or implies that the user has special certification or training in advising or servicing senior citizens or retirees in such a way as to mislead any person.

a. The use of such certification or professional designation includes, but is not limited to, the following:

(1) Use of a certification or designation by a person who has not actually earned or is otherwise ineligible to use such certification or designation;

(2) Use of a nonexistent or self-conferred certification or professional designation;

(3) Use of a certification or professional designation that indicates or implies a level of occupational qualifications obtained through education, training, or experience that the person using the certification or professional designation does not have; or

(4) Use of a certification or professional designation that was obtained from a designating or certifying organization that:

(a) Is primarily engaged in the business of instruction in sales and/or marketing;

(b) Does not have reasonable standards or procedures for assuring the competency of its designees or certificants;

(c) Does not have reasonable standards or procedures for monitoring and disciplining its designees or certificants for improper or unethical conduct; or

(d) Does not have reasonable continuing education requirements for its designees or certificants in order to maintain the designation or certificate.

b. There is a rebuttable presumption that a designating or certifying organization is not disqualified solely for purposes of subdivision 26 a (4) of this subsection, when the organization has been accredited by:

(1) The American National Standards Institute;

(2) The National Commission for Certifying Agencies; or

(3) An organization that is on the United States Department of Education's list entitled "Accrediting Agencies Recognized for Title IV Purposes" and the designation or credential issued therefrom does not primarily apply to sales and/or marketing.

c. In determining whether a combination of words (or an acronym standing for a combination of words) constitutes a certification or professional designation indicating or implying that a person has special certification or training in advising or servicing senior citizens or retirees, factors to be considered shall include:

(1) Use of one or more words such as "senior," "retirement," "elder," or like words, combined with one or more words such as "certified," "chartered," "adviser," "specialist," "consultant," "planner," or like words, in the name of the certification or professional designation; and

(2) The manner in which those words are combined.

d. For purposes of this section, a certification or professional designation does not include a job title within an organization that is licensed or registered by a state or federal financial services regulatory agency when that job title:

(1) Indicates seniority within the organization; or

(2) Specifies an individual's area of specialization within the organization.

For purposes of this subdivision d, "financial services regulatory agency" includes, but is not limited to, an agency that regulates broker-dealers, investment advisers, or investment companies as defined under §3 (a)(1) of the Investment Company Act of 1940 (15 USC §80a-3(a)(1)).

e. Nothing in this regulation shall limit the commission's authority to enforce existing provisions of law.

B. No agent shall:

1. Engage in the practice of lending or borrowing money or securities from a customer, or acting as a custodian for money, securities or an executed stock power of a customer;

2. Effect any securities transaction not recorded on the regular books or records of the broker-dealer which the agent represents, unless the transaction is authorized in writing by the broker-dealer prior to execution of the transaction;

3. Establish or maintain an account containing fictitious information in order to execute a transaction which would otherwise be unlawful or prohibited;

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4. Share directly or indirectly in profits or losses in the account of any customer without the written authorization of the customer and the broker-dealer which the agent represents;

5. Divide or otherwise split the agent's commissions, profits or other compensation from the purchase or sale of securities in this state with any person not also registered as an agent for the same broker-dealer, or for a broker-dealer under direct or indirect common control; or

6. Engage in conduct specified in subdivisions subdivision A 2, 3, 4, 5, 6, 10, 15, 16, 17, 18, 23, 24, or 25 or 26 of this section.

C. It shall be deemed a demonstration of a lack of business knowledge by an agent insofar as business knowledge is required for registration by §13.1-505 A 3 of the Act, if an agent fails to comply with any of the applicable continuing education requirements set forth in any of the following and such failure has resulted in an agent's denial, suspension, or revocation of a license, registration, or membership with a self-regulatory organization.

1. Schedule C to the National Association of Securities Dealers By-Laws, Part XII of the National Association of Securities Dealers, as such provisions existed on July 1, 1995;

2. Rule 345 A of the New York Stock Exchange, as such provisions existed on July 1, 1995;

3. Rule G-3(h) of the Municipal Securities Rulemaking Board, as such provisions existed on July 1, 1995;

4. Rule 341 A of the American Stock Exchange, as such provisions existed on July 1, 1995;

5. Rule 9.3A of the Chicago Board of Options Exchange, as such provisions existed on July 1, 1995;

6. Article VI, Rule 9 of the Chicago Stock Exchange, as such provisions existed on July 1, 1995;

7. Rule 9.27(C) of the Pacific Stock Exchange, as such provisions existed on July 1, 1995; or

8. Rule 640 of the Philadelphia Stock Exchange, as such provisions existed on July 1, 1995.

Each or all of the education requirements standards listed above may be changed by each respective entity and if so changed will become a requirement if the change does not materially reduce the educational requirements expressed above or reduce the investor protection provided by the requirements.

D. No person shall publish, give publicity to, or circulate any notice, circular, advertisement, newspaper article, letter, investment service or communication which, though not purporting to offer a security for sale, describes the security, for a consideration received or to be received, directly or

indirectly, from an issuer, underwriter, or dealer, without fully disclosing the receipt, whether past or prospective, of such consideration and the amount thereof.

E. The purpose of this subsection is to identify practices in the securities business which are generally associated with schemes to manipulate and to identify prohibited business conduct of broker-dealers or sales agents.

1. Entering into a transaction with a customer in any security at an unreasonable price or at a price not reasonably related to the current market price of the security or receiving an unreasonable commission or profit.

2. Contradicting or negating the importance of any information contained in a prospectus or other offering materials with intent to deceive or mislead or using any advertising or sales presentation in a deceptive or misleading manner.

3. In connection with the offer, sale, or purchase of a security, falsely leading a customer to believe that the broker-dealer or agent is in possession of material, nonpublic information which would affect the value of the security.

4. In connection with the solicitation of a sale or purchase of a security, engaging in a pattern or practice of making contradictory recommendations to different investors of similar investment objective for some to sell and others to purchase the same security, at or about the same time, when not justified by the particular circumstances of each investor.

5. Failing to make a bona fide public offering of all the securities allotted to a broker-dealer for distribution by, among other things, (i) transferring securities to a customer, another broker-dealer or a fictitious account with the understanding that those securities will be returned to the broker-dealer or its nominees or (ii) parking or withholding securities.

6. Although nothing in this subsection precludes application of the general antifraud provisions against anyone for practices similar in nature to the practices discussed below, the following subdivisions a through f specifically apply only in connection with the solicitation of a purchase or sale of OTC (over the counter) unlisted non-NASDAQ equity securities:

a. Failing to advise the customer, both at the time of solicitation and on the confirmation, of any and all compensation related to a specific securities transaction to be paid to the agent including commissions, sales charges, or concessions.

b. In connection with a principal transaction, failing to disclose, both at the time of solicitation and on the confirmation, a short inventory position in the firm's account of more than 3.0% of the issued and outstanding

shares of that class of securities of the issuer; however, subdivision 6 of this subsection shall apply only if the firm is a market maker at the time of the solicitation.

c. Conducting sales contests in a particular security.

d. After a solicited purchase by a customer, failing or refusing, in connection with a principal transaction, to promptly execute sell orders.

e. Soliciting a secondary market transaction when there has not been a bona fide distribution in the primary market.

f. Engaging in a pattern of compensating an agent in different amounts for effecting sales and purchases in the same security.

7. Effecting any transaction in, or inducing the purchase or sale of any security by means of any manipulative, deceptive or other fraudulent device or contrivance including but not limited to the use of boiler room tactics or use of fictitious or nominee accounts.

8. Failing to comply with any prospectus delivery requirements promulgated under federal law or the Act.

9. In connection with the solicitation of a sale or purchase of an OTC unlisted non-NASDAQ security, failing to promptly provide the most current prospectus or the most recently filed periodic report filed under §13 of the Securities Exchange Act when requested to do so by a customer.

10. Marking any order tickets or confirmations as unsolicited when in fact the transaction was solicited.

11. For any month in which activity has occurred in a customer's account, but in no event less than every three months, failing to provide each customer with a statement of account with respect to all OTC non-NASDAQ equity securities in the account, containing a value for each such security based on the closing market bid on a date certain; however, this subdivision shall apply only if the firm has been a market maker in the security at any time during the month in which the monthly or quarterly statement is issued.

12. Failing to comply with any applicable provision of the Rules of Fair Practice of the NASD or any applicable fair practice or ethical standard promulgated by the SEC or by a self-regulatory organization approved by the SEC.

13. In connection with the solicitation of a purchase or sale of a designated security:

a. Failing to disclose to the customer the bid and ask price, at which the broker-dealer effects transactions with individual, retail customers, of the designated security as well as its spread in both percentage and dollar amounts

at the time of solicitation and on the trade confirmation documents; or

b. Failing to include with the confirmation, the notice disclosure contained in subsection F of this section, except the following shall be exempt from this requirement:

(1) Transactions in which the price of the designated security is \$5.00 or more, exclusive of costs or charges; however, if the designated security is a unit composed of one or more securities, the unit price divided by the number of components of the unit other than warrants, options, rights, or similar securities must be \$5.00 or more, and any component of the unit that is a warrant, option, right, or similar securities, or a convertible security must have an exercise price or conversion price of \$5.00 or more.

(2) Transactions that are not recommended by the broker-dealer or agent.

(3) Transactions by a broker-dealer: (i) whose commissions, commission equivalents, and mark-ups from transactions in designated securities during each of the preceding three months, and during 11 or more of the preceding 12 months, did not exceed 5.0% of its total commissions, commission-equivalents, and mark-ups from transactions in securities during those months; and (ii) who has not executed principal transactions in connection with the solicitation to purchase the designated security that is the subject of the transaction in the preceding 12 months.

(4) Any transaction or transactions that, upon prior written request or upon its own motion, the commission conditionally or unconditionally exempts as not encompassed within the purposes of this section.

c. For purposes of this section, the term "designated security" means any equity security other than a security:

(1) Registered, or approved for registration upon notice of issuance, on a national securities exchange and makes transaction reports available pursuant to 17 CFR 11Aa3-1 under the Securities Exchange Act of 1934;

(2) Authorized, or approved for authorization upon notice of issuance, for quotation in the NASDAQ system;

(3) Issued by an investment company registered under the Investment Company Act of 1940;

(4) That is a put option or call option issued by The Options Clearing Corporation; or

(5) Whose issuer has net tangible assets in excess of \$4,000,000 as demonstrated by financial statements dated within no less than 15 months that the broker or dealer has reviewed and has a reasonable basis to believe are

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true and complete in relation to the date of the transaction with the person, and

(a) In the event the issuer is other than a foreign private issuer, are the most recent financial statements for the issuer that have been audited and reported on by an independent public accountant in accordance with the provisions of 17 CFR 210.2.02 under the Securities Exchange Act of 1934; or

(b) In the event the issuer is a foreign private issuer, are the most recent financial statements for the issuer that have been filed with the SEC; furnished to the SEC pursuant to 17 CFR 241.12g3-2(b) under the Securities Exchange Act of 1934; or prepared in accordance with generally accepted accounting principles in the country of incorporation, audited in compliance with the requirements of that jurisdiction, and reported on by an accountant duly registered and in good standing in accordance with the regulations of that jurisdiction.

F. Customer notice requirements follow:

**IMPORTANT CUSTOMER NOTICE-READ CAREFULLY**

You have just entered into a solicited transaction involving a security which may not trade on an active national market. The following should help you understand this transaction and be better able to follow and protect your investment.

Q. What is meant by the BID and ASK price and the spread?

A. The BID is the price at which you could sell your securities at this time. The ASK is the price at which you bought. Both are noted on your confirmation. The difference between these prices is the "spread," which is also noted on the confirmation, in both a dollar amount and a percentage relative to the ASK price.

Q. How can I follow the price of my security?

A. For the most part, you are dependent on broker-dealers that trade in your security for all price information. You may be able to find a quote in the newspaper, but you should keep in mind that the quote you see will be for dealer-to-dealer transactions (essentially wholesale prices and will not necessarily be the prices at which you could buy or sell).

Q. How does the spread relate to my investments?

A. The spread represents the profit made by your broker-dealer and is the amount by which your investment must increase (the BID must rise) for you to break even. Generally, a greater spread indicates a higher risk.

Q. How do I compute the spread?

A. If you bought 100 shares at an ASK price of \$1.00, you would pay \$100 (100 shares X \$1.00 = \$100). If the BID price at the time you purchased your stock was \$.50, you could sell the stock back to the broker-dealer for \$50 (100 shares X \$.50 = \$50). In this example, if you sold at the BID price, you would suffer a loss of 50%.

Q. Can I sell at any time?

A. Maybe. Some securities are not easy to sell because there are few buyers, or because there are no broker-dealers who buy or sell them on a regular basis.

Q. Why did I receive this notice?

A. The laws of some states require your broker-dealer or sales agent to disclose the BID and ASK price on your confirmation and include this notice in some instances. If the BID and ASK were not explained to you at the time you discussed this investment with your broker, you may have further rights and remedies under both state and federal law.

Q. Where do I go if I have a problem?

A. If you cannot work the problem out with your broker-dealer, you may contact the Virginia State Corporation Commission or the securities commissioner in the state in which you reside, the United States Securities and Exchange Commission, or the National Association of Securities Dealers, Inc.

G. Engaging in or having engaged in conduct specified in subsection A, B, C, D, or E of this section, or other conduct such as forgery, embezzlement, nondisclosure, incomplete disclosure or misstatement of material facts, or manipulative or deceptive practices shall be grounds under the Act for imposition of a penalty, denial of a pending application or refusal to renew or revocation of an effective registration.

**21VAC5-80-10. Application for registration as an investment advisor and notice filing as a federal covered advisor.**

A. Application for registration as an investment advisor shall be filed in compliance with all requirements of the Investment Advisor Registration Depository (IARD) system and in full compliance with forms and regulations prescribed by the commission and shall include all information required by such forms.

B. An application shall be deemed incomplete for purposes of applying for registration as an investment advisor unless the following executed forms, fee and information are submitted:

1. Form ADV Parts I and II submitted to the IARD system.
  - a. Part IA and 1B filed with the IARD system.
  - b. Part II filed with the commission at its Division of Securities and Retail Franchising.

2. The statutory fee in the amount of \$200 submitted to the IARD system. ~~The check must be made payable to the NASD.~~

3. Any other information the commission may require.

C. The commission shall either grant or deny each application for registration within 30 days after it is filed. However, if additional time is needed to obtain or verify information regarding the application, the commission may extend such period as much as 90 days by giving written notice to the applicant. No more than three such extensions may be made by the commission on any one application. An extension of the initial 30-day period, not to exceed 90 days, shall be granted upon written request of the applicant.

D. Every person who transacts business in this Commonwealth as a federal covered advisor shall file a notice as prescribed in subsection E of this section in compliance with all requirements of the Investment Advisor Registration Depository (IARD) system.

E. A notice filing for a federal covered advisor shall be deemed incomplete unless the following executed forms, fee and information are submitted:

1. Form ADV.

2. The statutory fee in the amount of \$200 submitted to the IARD system. ~~The check must be made payable to the NASD.~~

## **21VAC5-80-200. Dishonest or unethical practices.**

A. An investment advisor or federal covered advisor is a fiduciary and has a duty to act primarily for the benefit of his clients. While the extent and nature of this duty varies according to the nature of the relationship between an investment advisor or federal covered advisor and his clients and the circumstances of each case, an investment advisor or federal covered advisor shall not engage in unethical practices, including the following:

1. Recommending to a client to whom investment supervisory, management or consulting services are provided the purchase, sale or exchange of any security without reasonable grounds to believe that the recommendation is suitable for the client on the basis of information furnished by the client after reasonable inquiry concerning the client's investment objectives, financial situation, risk tolerance and needs, and any other information known or acquired by the investment advisor or federal covered advisor after reasonable examination of the client's financial records.

2. Placing an order to purchase or sell a security for the account of a client without written authority to do so.

3. Placing an order to purchase or sell a security for the account of a client upon instruction of a third party without

first having obtained a written third-party authorization from the client.

4. Exercising any discretionary power in placing an order for the purchase or sale of securities for a client without obtaining written discretionary authority from the client within 10 business days after the date of the first transaction placed pursuant to oral discretionary authority, unless the discretionary power relates solely to the price at which, or the time when, an order involving a definite amount of a specified security shall be executed, or both.

5. Inducing trading in a client's account that is excessive in size or frequency in view of the financial resources, investment objectives and character of the account.

6. Borrowing money or securities from a client unless the client is a broker-dealer, an affiliate of the investment advisor or federal covered advisor, or a financial institution engaged in the business of loaning funds or securities.

7. Loaning money to a client unless the investment advisor or federal covered advisor is a financial institution engaged in the business of loaning funds or the client is an affiliate of the investment advisor or federal covered advisor.

8. Misrepresenting to any advisory client, or prospective advisory client, the qualifications of the investment advisor or federal covered advisor, or misrepresenting the nature of the advisory services being offered or fees to be charged for the services, or omission to state a material fact necessary to make the statements made regarding qualifications services or fees, in light of the circumstances under which they are made, not misleading.

9. Providing a report or recommendation to any advisory client prepared by someone other than the investment advisor or federal covered advisor without disclosing that fact. This prohibition does not apply to a situation where the advisor uses published research reports or statistical analyses to render advice or where an advisor orders such a report in the normal course of providing service.

10. Charging a client an unreasonable advisory fee in light of the fees charged by other investment advisors or federal covered advisors providing essentially the same services.

11. Failing to disclose to clients in writing before any advice is rendered any material conflict of interest relating to the investment advisor or federal covered advisor or any of his employees which could reasonably be expected to impair the rendering of unbiased and objective advice including:

a. Compensation arrangements connected with advisory services to clients which are in addition to compensation from such clients for such services; or

b. Charging a client an advisory fee for rendering advice when a commission for executing securities transactions

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pursuant to such advice will be received by the advisor or his employees.

12. Guaranteeing a client that a specific result will be achieved as a result of the advice which will be rendered.

13. Directly or indirectly using any advertisement that does any one of the following:

a. Refers to any testimonial of any kind concerning the investment advisor or investment advisor representative or concerning any advice, analysis, report, or other service rendered by the investment advisor or investment advisor representative;

b. Refers to past specific recommendations of the investment advisor or investment advisor representative that were or would have been profitable to any person; except that an investment advisor or investment advisor representative may furnish or offer to furnish a list of all recommendations made by the investment advisor or investment advisor representative within the immediately preceding period of not less than one year if the advertisement or list also includes both of the following:

(1) The name of each security recommended, the date and nature of each recommendation, the market price at that time, the price at which the recommendation was to be acted upon, and the most recently available market price of each security; or

(2) A legend on the first page in prominent print or type that states that the reader should not assume that recommendations made in the future will be profitable or will equal the performance of the securities in the list;

c. Represents that any graph, chart, formula, or other device being offered can be used to determine which securities to buy or sell, or when to buy or sell them; or which represents, directly or indirectly, that any graph, chart, formula, or other device being offered will assist any person in making that person's own decisions as to which securities to buy or sell, or when to buy or sell them, without prominently disclosing in the advertisement the limitations thereof and the risks associated to its use;

d. Represents that any report, analysis, or other service will be furnished for free or without charge, unless the report, analysis, or other service actually is or will be furnished entirely free and without any direct or indirect condition or obligation;

e. Represents that the commission has approved any advertisement; or

f. Contains any untrue statement of a material fact, or that is otherwise false or misleading.

For the purposes of this section, the term "advertisement" includes any notice, circular, letter, or other written

communication addressed to more than one person, or any notice or other announcement in any electronic or paper publication, by radio or television, or by any medium, that offers any one of the following:

(i) Any analysis, report, or publication concerning securities;

(ii) Any analysis, report, or publication that is to be used in making any determination as to when to buy or sell any security or which security to buy or sell;

(iii) Any graph, chart, formula, or other device to be used in making any determination as to when to buy or sell any security, or which security to buy or sell; or

(iv) Any other investment advisory service with regard to securities.

14. Disclosing the identity, affairs, or investments of any client to any third party unless required by law or an order of a court or a regulatory agency to do so, or unless consented to by the client.

15. Taking any action, directly or indirectly, with respect to those securities or funds in which any client has any beneficial interest, where the investment advisor has custody or possession of such securities or funds, when the investment advisor's action is subject to and does not comply with the safekeeping requirements of 21VAC5-80-140.

16. Entering into, extending or renewing any investment advisory contract unless the contract is in writing and discloses, in substance, the services to be provided, the term of the contract, the advisory fee, the formula for computing the fee, the amount of prepaid fee to be returned in the event of contract termination or nonperformance, whether the contract grants discretionary power to the investment advisor or federal covered advisor and that no assignment of such contract shall be made by the investment advisor or federal covered advisor without the consent of the other party to the contract.

17. Failing to clearly and separately disclose to its customer, prior to any security transaction, providing investment advice for compensation or any materially related transaction that the customer's funds or securities will be in the custody of an investment advisor or contracted custodian in a manner that does not provide Securities Investor Protection Corporation protection, or equivalent third-party coverage over the customer's assets.

18. In connection with the provision of advice as to the value of or the advisability of investing in, purchasing, or selling securities, either directly or indirectly or through publications or writings, or by issuing or promulgating analyses or reports relating to securities that indicates or implies that the user has special certification or training in

advising or servicing senior citizens or retirees in such a way as to mislead any person.

a. The use of such certification or professional designation includes, but is not limited to, the following:

(1) Use of a certification or designation by a person who has not actually earned or is otherwise ineligible to use such certification or designation;

(2) Use of a nonexistent or self-conferred certification or professional designation;

(3) Use of a certification or professional designation that indicates or implies a level of occupational qualifications obtained through education, training, or experience that the person using the certification or professional designation does not have; or

(4) Use of a certification or professional designation that was obtained from a designating or certifying organization that:

(a) Is primarily engaged in the business of instruction in sales and/or marketing;

(b) Does not have reasonable standards or procedures for assuring the competency of its designees or certificants;

(c) Does not have reasonable standards or procedures for monitoring and disciplining its designees or certificants for improper or unethical conduct; or

(d) Does not have reasonable continuing education requirements for its designees or certificants in order to maintain the designation or certificate.

b. There is a rebuttable presumption that a designating or certifying organization is not disqualified solely for purposes of subdivision 18 a (4) of this subsection, when the organization has been accredited by:

(1) The American National Standards Institute;

(2) The National Commission for Certifying Agencies; or

(3) An organization that is on the United States Department of Education's list entitled "Accrediting Agencies Recognized for Title IV Purposes" and the designation or credential issued therefrom does not primarily apply to sales and/or marketing.

c. In determining whether a combination of words (or an acronym standing for a combination of words) constitutes a certification or professional designation indicating or implying that a person has special certification or training in advising or servicing senior citizens or retirees, factors to be considered shall include:

(1) Use of one or more words such as "senior," "retirement," "elder," or like words, combined with one or more words such as "certified," "chartered," "adviser,"

"specialist," "consultant," "planner," or like words, in the name of the certification or professional designation; and

(2) The manner in which those words are combined.

d. For purposes of this section, a certification or professional designation does not include a job title within an organization that is licensed or registered by a state or federal financial services regulatory agency, when that job title:

(1) Indicates seniority within the organization; or

(2) Specifies an individual's area of specialization within the organization.

For purposes of this subdivision d, "financial services regulatory agency" includes, but is not limited to, an agency that regulates broker-dealers, investment advisers, or investment companies as defined under §3 (a)(1) of the Investment Company Act of 1940 (15 USC §80a-3(a)(1)).

e. Nothing in this regulation shall limit the commission's authority to enforce existing provisions of the law.

B. An investment advisor representative is a fiduciary and has a duty to act primarily for the benefit of his clients. While the extent and nature of this duty varies according to the nature of the relationship between an investment advisor representative and his clients and the circumstances of each case, an investment advisor representative shall not engage in unethical practices, including the following:

1. Recommending to a client to whom investment supervisory, management or consulting services are provided the purchase, sale or exchange of any security without reasonable grounds to believe that the recommendation is suitable for the client on the basis of information furnished by the client after reasonable inquiry concerning the client's investment objectives, financial situation and needs, and any other information known or acquired by the investment advisor representative after reasonable examination of the client's financial records.

2. Placing an order to purchase or sell a security for the account of a client without written authority to do so.

3. Placing an order to purchase or sell a security for the account of a client upon instruction of a third party without first having obtained a written third-party authorization from the client.

4. Exercising any discretionary power in placing an order for the purchase or sale of securities for a client without obtaining written discretionary authority from the client within 10 business days after the date of the first transaction placed pursuant to oral discretionary authority, unless the discretionary power relates solely to the price at

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which, or the time when, an order involving a definite amount of a specified security shall be executed, or both.

5. Inducing trading in a client's account that is excessive in size or frequency in view of the financial resources, investment objectives and character of the account.

6. Borrowing money or securities from a client unless the client is a broker-dealer, an affiliate of the investment advisor representative, or a financial institution engaged in the business of loaning funds or securities.

7. Loaning money to a client unless the investment advisor representative is engaged in the business of loaning funds or the client is an affiliate of the investment advisor representative.

8. Misrepresenting to any advisory client, or prospective advisory client, the qualifications of the investment advisor representative, or misrepresenting the nature of the advisory services being offered or fees to be charged for the services, or omission to state a material fact necessary to make the statements made regarding qualifications, services or fees, in light of the circumstances under which they are made, not misleading.

9. Providing a report or recommendation to any advisory client prepared by someone other than the investment advisor or federal covered advisor who the investment advisor representative is employed by or associated with without disclosing that fact. This prohibition does not apply to a situation where the investment advisor or federal covered advisor uses published research reports or statistical analyses to render advice or where an investment advisor or federal covered advisor orders such a report in the normal course of providing service.

10. Charging a client an unreasonable advisory fee in light of the fees charged by other investment advisor representatives providing essentially the same services.

11. Failing to disclose to clients in writing before any advice is rendered any material conflict of interest relating to the investment advisor representative which could reasonably be expected to impair the rendering of unbiased and objective advice including:

a. Compensation arrangements connected with advisory services to clients which are in addition to compensation from such clients for such services; or

b. Charging a client an advisory fee for rendering advice when a commission for executing securities transactions pursuant to such advice will be received by the investment advisor representative.

12. Guaranteeing a client that a specific result will be achieved as a result of the advice which will be rendered.

13. Publishing, circulating or distributing any advertisement that would not be permitted under Rule 206(4)-1 under the Investment Advisers Act of 1940.

14. Disclosing the identity, affairs, or investments of any client to any third party unless required by law or an order of a court or a regulatory agency to do so, or unless consented to by the client.

15. Taking any action, directly or indirectly, with respect to those securities or funds in which any client has any beneficial interest, where the investment advisor representative other than a person associated with a federal covered advisor has custody or possession of such securities or funds, when the investment advisor representative's action is subject to and does not comply with the safekeeping requirements of 21VAC5-80-140.

16. Entering into, extending or renewing any investment advisory or federal covered advisory contract unless such contract is in writing and discloses, in substance, the services to be provided, the term of the contract, the advisory fee, the formula for computing the fee, the amount of prepaid fee to be returned in the event of contract termination or nonperformance, whether the contract grants discretionary power to the investment advisor representative and that no assignment of such contract shall be made by the investment advisor representative without the consent of the other party to the contract.

17. Failing to clearly and separately disclose to its customer, prior to any security transaction, providing investment advice for compensation or any materially related transaction that the customer's funds or securities will be in the custody of an investment advisor or contracted custodian in a manner that does not provide Securities Investor Protection Corporation protection, or equivalent third-party coverage over the customer's assets.

18. In connection with the provision of advice as to the value of or the advisability of investing in, purchasing, or selling securities, either directly or indirectly or through publications or writings, or by issuing or promulgating analyses or reports relating to securities that indicates or implies that the user has special certification or training in advising or servicing senior citizens or retirees in such a way as to mislead any person.

a. The use of such certification or professional designation includes, but is not limited to, the following:

(1) Use of a certification or designation by a person who has not actually earned or is otherwise ineligible to use such certification or designation;

(2) Use of a nonexistent or self-conferred certification or professional designation;

(3) Use of a certification or professional designation that indicates or implies a level of occupational qualifications obtained through education, training, or experience that the person using the certification or professional designation does not have; or

(4) Use of a certification or professional designation that was obtained from a designating or certifying organization that:

(a) Is primarily engaged in the business of instruction in sales and or marketing;

(b) Does not have reasonable standards or procedures for assuring the competency of its designees or certificants;

(c) Does not have reasonable standards or procedures for monitoring and disciplining its designees or certificants for improper or unethical conduct; or

(d) Does not have reasonable continuing education requirements for its designees or certificants in order to maintain the designation or certificate.

b. There is a rebuttable presumption that a designating or certifying organization is not disqualified solely for purposes of subdivision 18 a (4) of this subsection, when the organization has been accredited by:

(1) The American National Standards Institute;

(2) The National Commission for Certifying Agencies; or

(3) An organization that is on the United States Department of Education's list entitled "Accrediting Agencies Recognized for Title IV Purposes" and the designation or credential issued therefrom does not primarily apply to sales and/or marketing.

c. In determining whether a combination of words (or an acronym standing for a combination of words) constitutes a certification or professional designation indicating or implying that a person has special certification or training in advising or servicing senior citizens or retirees, factors to be considered shall include:

(1) Use of one or more words such as "senior," "retirement," "elder," or like words, combined with one or more words such as "certified," "chartered," "adviser," "specialist," "consultant," "planner," or like words, in the name of the certification or professional designation; and

(2) The manner in which those words are combined.

d. For purposes of this section, a certification or professional designation does not include a job title within an organization that is licensed or registered by a state or federal financial services regulatory agency, when that job title:

(1) Indicates seniority within the organization; or

(2) Specifies an individual's area of specialization within the organization.

For purposes of this subdivision d, "financial services regulatory agency" includes, but is not limited to, an agency that regulates broker-dealers, investment advisers, or investment companies as defined under §3(a)(1) of the Investment Company Act of 1940 (15 USC §80a-3(a)(1)).

e. Nothing in this regulation shall limit the commission's authority to enforce existing provisions of law.

C. The conduct set forth in subsections A and B of this section is not all inclusive. Engaging in other conduct such as nondisclosure, incomplete disclosure, or deceptive practices may be deemed an unethical business practice except to the extent permitted by the National Securities Markets Improvement Act of 1996 (Pub. L. No. 104-290) 104-290 (96).

D. The provisions of this section shall apply to federal covered advisors to the extent that fraud or deceit is involved, or as otherwise permitted by the National Securities Markets Improvement Act of 1996 (Pub. L. No. 104-290) 104-290 (96).

V.A.R. Doc. No. R08-1153; Filed March 11, 2008, 11:43 a.m.

## Proposed Regulation

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

**Title of Regulation:** **21VAC5-110. Retail Franchising Act Rules (amending 21VAC5-110-10 through 21VAC5-110-80; adding 21VAC5-110-55, 21VAC5-110-95; repealing 21VAC5-110-90).**

**Statutory Authority:** §§12.1-13 and 13.1-572 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 April 16, 2008.

**Agency Contact:** Don Gouldin, Deputy Director, Division of Securities, State Corporation Commission, Tyler Building, 9th Floor, P.O. Box 1197, Richmond, VA 23218, telephone (804) 371-9755, FAX (804) 371-9911, or email don.gouldin@scc.virginia.gov.

# Regulations

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## Detailed Description of Changes:

A. Revised 21VAC5-110-10 adds certain definitions found in the amended FTC Franchise Rule for use in the application and interpretation of the disclosures required by the new Franchise Disclosure Document.

1. Adds definitions of (i) action; (ii) affiliate; (iii) confidentiality clause; (iv) disclose, state, describe, list; (v) FDD; (vi) financial performance representation; (vii) fiscal year; (viii) franchise seller; (ix) grant or sale of a franchise; (x) parent; (xi) person; (xii) plain English; (xiii) predecessor; (xiv) principal business address; (xv) prospective franchisee; (xvi) signature; and (xvii) trademark.

2. Deletes definitions of franchise broker and UFOC.

B. Revised 21VAC5-110-20 adds references to exemption of a franchise.

C. Revised 21VAC5-110-30, 21VAC5-110-40 and 21VAC5-110-50:

1. Contain revisions to forms, procedures and documents required for franchise registration, amendment and renewal applications.
2. Address the effectiveness period of the certifications made by a franchisor when submitting a franchise registration, amendment and renewal applications.
3. Provide for applications to be filed on a CD-ROM in PDF format, in addition to paper copies.

D. New 21VAC5-110-55:

1. Establishes a new form of disclosure document to be used by franchisors in offering and granting franchises – the Franchise Disclosure Document (FDD).
2. Addresses differences from the amended FTC Franchise Rule concerning the financial statements to be included in the FDD for start-up franchisors.
3. Describes the state cover page that must be included in a FDD.

E. Revised 21VAC5-110-60 replaces references to 21VAC5-110-90, which is being repealed, with two new rules, 21VAC5-110-55 and 21VAC5-110-95. The new rules that are referenced relate to the content of the FDD, which the franchisor must agree to comply with when opting for automatic effectiveness.

F. Revised 21VAC5-110-65 replaces the term "offering circular" with "Franchise Disclosure Document" where applicable.

G. Revised 21VAC5-110-70 changes a reference to the letter designation of the Consent to Service of Process Form and updates the telephone number of the Commission's Office of the Clerk.

## H. Revised 21VAC5-110-75:

1. Replaces references to 21VAC5-110-90, which is being repealed, with two new rules, 21VAC5-110-55 and 21VAC5-110-95. The new rules relate to the required content of the FDD, which a franchisor must provide to prospective franchisees under the conditions of the exemption rule.

2. Deletes references to the amended FTC Franchise Rule.

3. Replaces "Uniform Franchise Offering Circular" with "Franchise Disclosure Document."

## I. Revised 21VAC5-110-80:

1. Updates and makes additions to the general requirements for preparing disclosure documents and furnishing disclosure documents to prospective franchisees.

2. Clarifies registration and disclosure requirements associated with offerings by master franchisors and master franchisees (subfranchising).

3. Adds new provisions for providing required disclosure to prospective franchisees via electronic means.

4. Preserves the Commission's modify or waive the rules, or require additional information.

J. 21VAC5-110-90 is repealed, removing the Uniform Franchise Offering Circular Guidelines.

K. New 21VAC5-110-95 specifies the specific items of disclosure that must be included in the Franchise Disclosure Document. Except for financial statement requirements for start-up franchise systems, these requirements are substantively equivalent to the requirements adopted under the amended FTC Franchise Rule.

## Summary:

*On January 23, 2007, the Federal Trade Commission (FTC) adopted a final amended Franchise Rule, 16 CFR Part 436, which provides that, as of July 1, 2008, all franchisors must prepare and distribute disclosure documents that, at a minimum, comply with the disclosure format of the amended FTC Franchise Rule. The proposed amendments to the Virginia franchise regulations (i) incorporate the minimum presale franchise disclosures required by the amended FTC Franchise Rule; (ii) adopt in substantial part the disclosure format of the amended FTC Franchise Rule, except with respect to the financial statement required for start-up franchisors and a state cover page; (iii) add certain definitions found in the amended FTC Franchise Rule; (iv) replace obsolete terms and references; and (v) repeal the Uniform Franchise Offering Circular Guidelines.*

*The amendments also (i) make changes to the general requirements for preparing disclosure documents and filing registration applications; (ii) provide for registrations applications to be filed on a CD-ROM, in addition to paper copies; (iii) specify procedures to follow for making disclosure via electronic means; and (iv) make housekeeping changes.*

AT RICHMOND, MARCH 7, 2008

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. SEC-2008-00027

Ex Parte: In the matter of Adopting a Revision to the Rules Governing the Virginia Retail Franchising Act

## ORDER TO TAKE NOTICE

Section 12.1-13 of the Code of Virginia provides that the State Corporation Commission ("Commission") shall have the power to promulgate rules and regulations in the enforcement and administration of all laws within its jurisdiction. Section 13.1-572 of the Virginia Retail Franchising Act ("Franchising Act"), § 13.1-557 et seq. of the Code of Virginia, provides that the Commission may issue any rules and regulations necessary or appropriate for the administration and enforcement of the Franchising Act.

The rules and regulations issued by the Commission pursuant to the Franchising Act are set forth in Title 21 of the Virginia Administrative Code. A copy also may be found at the Commission's website: <http://www.scc.virginia.gov/case>.

The Division of Securities and Retail Franchising ("Division") has submitted to the Commission proposed revisions to Chapter 110 of Title 21 of the Virginia Administrative Code entitled "Retail Franchising Act Rules," in which the Division requests that the Commission adopt amendments to the Commission regulations that address the newly amended Federal Trade Commission ("FTC") Franchise Rule ("Amended FTC Franchise Rule"), 16 C.F.R., Part 436. As of July 1, 2008, all franchisors must prepare and distribute disclosure documents that, at a minimum, comply with the disclosure format of the Amended FTC Franchise Rule.

The proposed amendments accomplish the following: (1) incorporate the minimum presale franchise disclosures required by the Amended FTC Franchise Rule; (2) adopt in substantial part the disclosure format of the new Amended FTC Franchise Rule, except with respect to the financial statement required for start-up franchisors and a state cover page; (3) add certain definitions found in the Amended FTC Franchise Rule; (4) replace obsolete terms and references; and (5) repeal the Uniform Franchise Offering Circular Guidelines that exist in the current Division regulations.

The proposed amendments also make changes to the general requirements for preparing the disclosure documents and for filing registration applications; provide for registration applications to be filed on a CD-ROM, in addition to filing paper copies; specify procedures to follow for making disclosure via electronic means; and make some housekeeping changes.

New Rule 21 VAC 5-110-55 establishes a new form of disclosure document to be used by franchisors in offering and granting franchises the Franchise Disclosure Document or "FDD". New Rule 21 VAC 5-110-95 lists the specific items of disclosure that must be included in the FDD. Except for financial statement requirements for start-up franchise systems, these requirements are substantively equivalent to the requirements adopted under the Amended FTC Franchise Rule.

Revised Rule 21 VAC 5-110-10 adds and deletes certain definitions found in the Amended FTC Franchise Rule for use in the application and interpretation of the disclosure required by the new FDD. Definitions for the following terms are added: action, affiliate, confidentiality clause, disclose, state, describe, list, FDD, financial performance representation, fiscal year, franchise seller, grant or sale of a franchise, parent, person, plain English, predecessor, principal business address, prospective franchisee, signature, and trademark. The definitions for the terms franchise broker and UFOC are deleted.

Revised Rule 21 VAC 5-110-20 adds references to exemption of a franchise. Revised Rules 21 VAC 5-110-30, 21 VAC 5-110-40, and 21 VAC 5-110-50 contain revisions to forms, procedures and documents required for the franchise registration, amendment and renewal applications, address the effectiveness period of the certifications made by a franchisor when submitting a franchise registration, amendment and renewal application, and provide for applications to be filed on a CD-ROM in PDF format, in addition to paper copies.

Revised Rule 21 VAC 5-110-60 replaces reference to Rule 21 VAC 5-110-90, which is being repealed, with two new rules, Rules 21 VAC 5-110-55 and 21 VAC 5-110-95. The new rules that are referenced in this section relate to the content of the FDD. The franchisor must agree to comply with these regulations in order to opt for automatic effectiveness.

Revised Rule 21 VAC 5-110-65 replaces the term "offering circular" with "Franchise Disclosure Document" where applicable. Revised Rule 21 VAC 5-110-70 changes a reference to the letter designation of the Consent to Service of Process Form and updates the telephone number for the office of the Clerk of the Commission. Revised Rule 21 VAC 5-110-75 replaces references to Rule 21 VAC 5-110-90, which is being repealed, with two new rules, Rules 21 VAC 5-110-55 and 21 VAC 5-110-95; deletes references

# Regulations

to the FTC Franchise Rules that are obsolete; and replaces "Uniform Franchise Offering Circular" with "Franchise Disclosure Document".

Revised Rule 21 VAC 5-110-80 updates and makes additions to the general requirements for preparing disclosure documents and furnishing disclosure documents to prospective franchisees, clarifies registration and disclosure requirements associated with offerings by master franchisors and master franchisees (also known as subfranchising), adds new provisions for providing required disclosure to prospective franchisees via electronic means and preserves the Commission's authority to waive the regulations or require additional information.

The proposed revisions repeal Rule 21 VAC 5-110-90 which is the Uniform Franchise Offering Circular Guidelines.

The Division has recommended to the Commission that the proposed revisions be considered for adoption with an effective date of July 1, 2008.

IT IS THEREFORE ORDERED that:

(1) The proposed revisions are appended hereto and made a part of the record herein.

(2) Comments or requests for hearing on the proposed revisions must be submitted in writing to Joel H. Peck, Clerk of the Commission, c/o Document Control Center, P. O. Box 2118, Richmond, Virginia 23218, on or before April 16, 2008. Requests for hearing shall state why a hearing is necessary and why the issues cannot be adequately addressed in written comments. All correspondence shall contain reference to Case No. SEC-2008-00027. Interested persons desiring to submit comments electronically may do so by following the instructions available at the Commission's website: <http://www.scc.virginia.gov/case>.

(3) The proposed revisions shall be posted on the Commission's website at <http://www.scc.virginia.gov/case> and on the Division's website at <http://www.scc.virginia.gov/srf>. Interested persons may also request copies of the proposed revisions from the Division by telephone, mail or email.

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

AN ATTESTED COPY of this Order shall be sent to the Division's Director, who shall forthwith mail a copy of this Order to such interested persons as he may designate.

## 21VAC5-110-10. Definitions.

"Action" includes complaints, cross claims, counterclaims, and third-party complaints in a judicial action or proceeding, and their equivalents in an administrative action or arbitration.

"Affiliate" means an entity controlled by, controlling, or under common control with, another entity.

"Commission" means Virginia State Corporation Commission.

"Confidentiality clause" means any contract, order, or settlement provision that directly or indirectly restricts a current or former franchisee from discussing his personal experience as a franchisee in the franchisor's system with any prospective franchisee. It does not include clauses that protect franchisor's trademarks or other proprietary information.

"Disclose," "state," "describe," and "list" each mean to present all material facts accurately, clearly, concisely, and legibly in plain English.

"Effective date" means the date on which the franchise becomes registered under the provisions of §13.1-561 of the Code of Virginia.

"Effective registration" means authorization to offer and grant one or more franchises provided that the initial contracts or agreements are substantially identical in their terms or provisions. Whenever the franchisor offers or grants more than one franchise and the resulting contracts or agreements vary substantially in their terms or provisions, separate franchises will be deemed to have been offered or granted and separate registration will be required. For the purpose of this rule, substantial variation in the contract will relate without limitation to different products, services, fees charged, dues imposed, obligations incurred or investments required to be made by contract or agreement.

"FDD" means Franchise Disclosure Document.

"Financial performance representation" means any representation, including any oral, written, or visual representation, to a prospective franchisee, including a representation in the general media, that states, expressly or by implication, a specific level or range of actual or potential sales, income, gross profits, or net profits. The term includes a chart, table, or mathematical calculation that shows possible results based on a combination of variables.

"Fiscal year" refers to the franchisor's fiscal year.

"Franchise broker" means a person engaged in the business of representing a franchisor or subfranchisor in offering for sale or selling a franchise, except anyone whose identity and business experience are otherwise required to be disclosed in Item 11 in the body of the disclosure document.

"Franchise seller" means a person that offers to grant, grants, or arranges for the grant or sale of a franchise. It includes the franchisor and the franchisor's employees, representatives, agents, subfranchisors, and third-party brokers who are involved in franchise sales activities. It does not include existing franchisees who sell only their own outlet and who

are otherwise not engaged in franchise sales on behalf of the franchisor.

"Grant" or "sale" of a franchise includes an agreement whereby a person obtains a franchise from a franchise seller for value by purchase, license, or otherwise. It does not include extending or renewing an existing franchise agreement where there has been no interruption in the franchisee's operation of the business, unless the new agreement contains terms and conditions that differ materially from the original agreement.

"Material change" includes a fact, circumstance, or condition which would have a substantial likelihood of influencing a reasonable prospective franchisee in the making of a decision relating to the purchase of a franchise.

"Parent" means an entity that controls another entity directly or indirectly through one or more subsidiaries.

"Person" means any individual, group, association, limited or general partnership, corporation, or any other entity.

"Plain English" means the organization of information and language usage understandable by a person unfamiliar with the franchise business. It incorporates short sentences, definite, concrete, everyday language, active voice, and tabular presentation of information where possible. It avoids legal jargon, highly technical business terms, and multiple negatives.

"Predecessor" means a person from whom the franchisor acquired, directly or indirectly, the major portion of the franchisor's assets.

"Principal business address" means the street address of a person's home office in the United States. A principal business address cannot be a post office box or private mail drop.

"Prospective franchisee" means any person (including any agent, representative, or employee) who approaches or is approached by a franchise seller to discuss the possible establishment of a franchise relationship.

"Signature" means a person's affirmative step to authenticate his identity. It includes a person's handwritten signature, as well as a person's use of security codes, passwords, electronic signatures, and similar devices to authenticate his identity.

"Trademark" includes trademarks, service marks, names, logos, and other commercial symbols.

"UFOC" means Uniform Franchise Offering Circular.

"Virginia Retail Franchising Act" means §13.1-557 et seq. of the Code of Virginia.

## **21VAC5-110-20. Preliminary statement.**

Follow these rules for each item in franchise applications and disclosures in the UFOC FDD.

The following rules shall be adhered to with respect to applications for registration or exemption of a franchise, and applications for renewal or amendment of a franchise registration or exemption, and amendments filed pursuant to Chapter 8 (§13.1-557 et seq.) of Title 13.1 of the Code of Virginia. These applications shall be submitted to Virginia's state administrator: State Corporation Commission, Division of Securities and Retail Franchising, P.O. Box 1197, 1300 East Main Street, 9th Floor, Richmond, Virginia 23219-23218.

## **21VAC5-110-30. Registration application; documents to file.**

A. An application for registration of a franchise is made by filing with the commission the following completed forms and other material:

1. Uniform Franchise Registration Application page (also known as "Facing Page"), Form A;
  2. Supplemental Information page(s) Total Costs and Sources of Funds for Establishing New Franchises, Form B;
  3. Certification page, Form C;
  4. Uniform Consent to Service of Process, Form D C;
  5. If the applicant is a corporation or partnership, an authorizing resolution if the application is verified by a person other than applicant's officer or general partner;
  6. Uniform Franchise Offering Circular Franchise Disclosure Document;
  7. Application fee (payable to the "Treasurer of Virginia"); and
  8. Auditor's consent (or a photocopy of the consent) to the use of the latest audited financial statements in the offering circular Franchise Disclosure Document.
- B. The certifications made by or on behalf of the franchisor in Form A shall extend and apply to all documents and materials filed in connection with the registration application, including any documents or materials submitted to the commission subsequent to the initial filing that may be required to complete the registration application.
- C. In addition to paper copies of the materials required by subsection A of this section, the franchisor may file one copy of the complete franchise registration application, including the Franchise Disclosure Document, on a CD-ROM in PDF format, subject to the following conditions:

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1. The transmittal letter submitting the application must contain a representation that all of the information contained in the electronic file is identical to the paper documents;

2. The electronic version of the Franchise Disclosure Document must be text searchable; and

3. If the commission's review of the application results in any revision to the documents, the franchisor must submit a revised CD-ROM containing a marked and unmarked final copy of the Franchise Disclosure Document, and final copies of all other application documents. The revised CD-ROM must be accompanied by a transmittal letter as described in subdivision 1 of this subsection.

B. D. Examples of Forms A through D C are printed at the end of these rules this chapter.

## **21VAC5-110-40. Pre-effective and post-effective amendments to the registration.**

A. Upon the occurrence of a material change, the franchisor shall amend the effective registration filed at the commission. An amendment to an application filed either before or after the effective date of registration may include only the pages containing the information being amended if pagination is not disturbed. The information being amended shall be identified by item, shall be underscored in red or highlighted in some other appropriate manner. The amended pages must be black-lined to show all additions, deletions, and other changes from the franchisor's previous submission. The franchisor may not use margin balloons or color highlights to show changes.

B. An application to amend a franchise registration is made by submitting the following completed forms and other material:

1. Uniform Franchise Registration Application page (also known as "Facing Page"), Form A;

2. Certification page, Form C;

3. One clean copy of the updated Uniform Franchise Offering Circular Franchise Disclosure Document pages;

4. One copy of the amended Uniform Franchise Offering Circular Franchise Disclosure Document pages underscored in red or highlighted in some other appropriate manner marked in black; and

5. Application fee (payable to the "Treasurer of Virginia"). The fee shall accompany all post-effective amendments unless submitted in connection with an application for renewal.

C. The certifications made by or on behalf of the franchisor in Form A shall extend and apply to all documents and materials filed in connection with the amendment application, including any documents or materials submitted to the

commission subsequent to the initial filing that may be required to complete the amendment application.

D. In addition to paper copies of the materials required by subsection B of this section, the franchisor may file one copy of the complete franchise amendment application, including a marked and unmarked copy of the Franchise Disclosure Document, on a CD-ROM in PDF format, subject to the following conditions:

1. The transmittal letter submitting the application must contain a representation that all of the information contained in the electronic file is identical to the paper documents;

2. The electronic version of the Franchise Disclosure Document must be text searchable; and

3. If the commission's review of the application results in any revision to the documents, the franchisor must submit a revised CD-ROM containing a marked and unmarked final copy of the Franchise Disclosure Document, and final copies of all other application documents. The revised CD-ROM must be accompanied by a transmittal letter as described in subdivision 1 of this subsection.

E. An example of Forms Form A and C are is printed at the end of these regulations this chapter.

## **21VAC5-110-50. Expiration; application to renew the registration.**

A. A franchise registration expires at midnight on the annual date of the registration's effectiveness. An application to renew the franchise registration should be filed 30 days prior to the expiration date in order to prevent a lapse of registration under the Virginia statute.

B. An application for renewal of a franchise registration is made by submitting the following completed forms and other material:

1. Uniform Franchise Registration Application page (also known as "Facing Page"), Form A;

2. Certification page, Form C;

3. Updated Uniform Franchise Offering Circular Franchise Disclosure Document;

4. One copy of the amended Uniform Franchise Offering Circular Franchise Disclosure Document pages underscored in red or highlighted in some other appropriate manner marked in black, using no margin balloons or color highlights; and

5. Application fee (payable to the "Treasurer of Virginia").

C. The certifications made by or on behalf of the franchisor in Form A shall extend and apply to all documents and materials filed in connection with the renewal application,

including any documents or materials submitted to the commission subsequent to the initial filing that may be required to complete the renewal application.

D. In addition to paper copies of the materials required by subsection B of this section, the franchisor may file one copy of the complete franchise renewal application, including a marked and unmarked copy of the Franchise Disclosure Document, on a CD-ROM in PDF format, subject to the following conditions:

1. The transmittal letter submitting the application must contain a representation that all of the information contained in the electronic file is identical to the paper documents;

2. The electronic version of the Franchise Disclosure Document must be text searchable; and

3. If the commission's review of the application results in any revision to the documents, the franchisor must submit a revised CD-ROM containing a marked and unmarked final copy of the Franchise Disclosure Document, and final copies of all other application documents. The revised CD-ROM must be accompanied by a transmittal letter as described in subdivision 1 of this subsection.

Examples E. An example of Forms Form A and C are printed at the end of these regulations this chapter.

## **21VAC5-110-55. The Franchise Disclosure Document.**

A. Format. The Franchise Disclosure Document must be prepared in accordance with §§436.3-436.5 of the Federal Trade Commission Franchise Rule (16 CFR 436.3-436.5), subject to the modifications set forth in subsections B and C of this section.

B. Financial statements. Notwithstanding §436.5 (u)(2) of the Federal Trade Commission Franchise Rule (16 CFR 436.5), a start-up franchisor in its first partial or full fiscal year selling franchises shall provide an opening balance sheet that has been audited by an independent certified public accountant using generally accepted United States auditing standards.

C. State cover page. The Franchise Disclosure Document shall include the following state cover page prepared in accordance with this subsection, which must immediately follow the Federal Trade Commission required cover page:

1. State the following legend:

STATE COVER PAGE

Your state may have a franchise law that requires a franchisor to register or file with a state franchise administrator before offering or selling in your state. REGISTRATION OF A FRANCHISE BY A STATE DOES NOT MEAN THAT THE STATE RECOMMENDS THE FRANCHISE OR HAS VERIFIED

## THE INFORMATION IN THIS DISCLOSURE DOCUMENT.

Call the state franchise administrator listed in Exhibit for information about the franchisor or about franchising in your state.

2. State the following:

MANY FRANCHISE AGREEMENTS DO NOT ALLOW YOU TO RENEW UNCONDITIONALLY AFTER THE INITIAL TERM EXPIRES. YOU MAY HAVE TO SIGN A NEW AGREEMENT WITH DIFFERENT TERMS AND CONDITIONS IN ORDER TO CONTINUE TO OPERATE YOUR BUSINESS. BEFORE YOU BUY, CONSIDER WHAT RIGHTS YOU HAVE TO RENEW YOUR FRANCHISE, IF ANY, AND WHAT TERMS YOU MIGHT HAVE TO ACCEPT IN ORDER TO RENEW.

3. If any of the following apply, state the following, using capital letters as shown:

Please consider the following RISK FACTORS before you buy this franchise:

THE FRANCHISE AGREEMENT REQUIRES YOU TO RESOLVE DISPUTES WITH US BY [LITIGATION/ARBITRATION/MEDIATION] ONLY IN [STATE]. OUT-OF-STATE [LITIGATION/ARBITRATION/MEDIATION] MAY FORCE YOU TO ACCEPT A LESS FAVORABLE SETTLEMENT FOR DISPUTES. IT MAY ALSO COST YOU MORE TO [LITIGATE/ARBITRATE/MEDIATE] WITH US IN [STATE] THAN IN YOUR OWN STATE.

THE FRANCHISE AGREEMENT STATES THAT [STATE] LAW GOVERNS THE AGREEMENT, AND THIS LAW MAY NOT PROVIDE THE SAME PROTECTIONS AND BENEFITS AS LOCAL LAW. YOU MAY WANT TO COMPARE THESE LAWS.

4. In addition to the above, disclose other risk factors required by the state administrator.

5. If one or more risk factors applies, also state:

THERE MAY BE OTHER RISKS CONCERNING THIS FRANCHISE.

6. If you use the services of a franchise broker or referral source, state the following:

We use the services of one or more FRANCHISE BROKERS or referral sources to assist us in selling our franchise. A franchise broker or referral source represents us, not you. We pay this person a fee for selling our franchise or referring you to us. You should be sure to do your own investigation of the franchise.

7. State the following:

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## a. Effective Date:

(1) Leave the effective date blank until notified of effectiveness by the state administrator.

(2) If an applicant is using a multistate disclosure document, the applicant may list multiple state effective dates together on a separate page that is to be inserted immediately following the state cover page.

## 21VAC5-110-60. Automatic effectiveness (optional).

If the registrant desires, an application to amend or renew an effective registration may be accompanied by an executed Affidavit of Compliance on Form E and filed in accordance with 21VAC5-110-40 or 21VAC5-110-50. The application shall become effective immediately upon receipt by the commission (or upon such later date as the applicant indicates in writing to the commission) unless one or more of the following is applicable:

1. The franchisor has, since the effective date of its most recent application, been convicted of any crime or been held liable in any civil action by final judgment (if such crime or civil action involved a felony, an act of fraud, a misdemeanor involving a franchise, or a violation of the Virginia Retail Franchising Act).

2. The franchisor is insolvent or in danger of becoming insolvent, either in the sense that its liabilities exceed its assets (determined in accordance with "generally accepted accounting principles") or in the sense that it cannot meet its obligations as they mature.

3. The revised disclosure document submitted in connection with the application to amend/renew is not in compliance with the requirements of 21VAC5-110-55, 21VAC5-110-80 and 21VAC5-110-90 21VAC5-110-95.

If the application does not qualify for automatic effectiveness, it shall become effective as of the date it is granted by the commission.

## 21VAC5-110-65. Escrow and deferral.

A. Escrow requirement. The commission may require a franchisor to escrow franchise fees and other payments made by a franchisee to the franchisor until the franchisor's pre-opening obligations under the franchise agreement have been satisfied. The commission may require escrow at any time after the submission of a registration or renewal application and upon a finding that the grounds enumerated in clause (i) of subdivision A 2 of §13.1-562 of the Act as provided in Chapter 668 of the 2007 Acts of Assembly exist.

B. Depository. Funds subject to an escrow condition shall be placed in a separate trust account with a national bank or a state chartered bank or trust company transacting business in the Commonwealth of Virginia.

C. Compliance with escrow requirement. The franchisor shall file with the commission the following to comply with the commission's escrow requirement:

1. An original, fully executed copy of the Escrow Agreement, Form K;
2. A written consent from the depository agreeing to operate the escrow account under this regulation;
3. The name and address of the depository and the account number of the escrow account;
4. The name, address, telephone number and email address of an individual or individuals at the depository who may be contacted by the commission regarding the escrow account; and
5. An amended franchise application reflecting, in Item 5 of the offering circular Franchise Disclosure Document or in a Virginia Addendum to the offering circular Franchise Disclosure Document, that the commission has imposed the escrow requirement and the material terms of that escrow condition, including the name of the depository.

D. Operation of escrow account. After the commission imposes an escrow requirement upon the franchisor, the franchisor shall:

1. Make franchisee checks for franchise fees or other payments for the franchisor payable to the depository; and
2. Deposit with the depository, within two business days of the receipt, the funds described in subdivision 1 of this subsection;

Deposits made to the depository shall remain escrowed until the commission authorizes the release of the funds.

## E. Release of escrowed funds.

1. A franchisor may apply to the commission for the release of escrowed funds together with any interest earned.

2. A franchisor's application to the commission to authorize the release of escrowed funds to the franchisor shall be in writing, verified by an authorized officer of the franchisor and shall contain:

- a. The franchisor's statement that all proceeds from the grant of franchises have been placed with the depository in accordance with the terms and conditions of the escrow requirement;
- b. The depository's statement, signed by an appropriate officer, setting forth the aggregate amount of escrowed funds deposited with the depository and the franchisor's account number with the depository;
- c. A list of the names and addresses of each franchisee and the amount held in the escrow account for the account of each franchisee;

- d. The amount of funds sought to be released;
  - e. A written certification from the franchisee stating the amount of funds to be released that acknowledges that the franchisor has completely performed its pre-opening obligations under the franchise agreement, including providing real estate, improvements, equipment, inventory, training, or other items as required by the franchise agreement; and
  - f. Other information the commission may reasonably require.
3. If the commission finds that the franchisor has fulfilled its obligations under the franchise agreement for a specified franchisee, the commission shall authorize the depository to release to the franchisor the amount held in escrow for the account of the applicable franchisee.

F. Removal of escrow requirement. The commission may remove the escrow requirement at any time, if:

- 1. The franchisor agrees to defer franchise fees and other initial payments; or
- 2. Based upon new information, the commission finds that the escrow requirement is no longer necessary and appropriate for the protection of prospective franchisees.

G. Deferral of fees in place of escrow requirement.

- 1. In lieu of an escrow requirement, the commission may, under appropriate circumstances, accept a franchisor's agreement to defer franchise fees and other initial payments owed by franchisees to the franchisor until the franchisor has completed its pre-opening obligations under the franchise agreement.
- 2. The franchisor's agreement to defer franchise fees shall be reflected in Item 5 of the Offering Circular Franchise Disclosure Document or in a Virginia Addendum to the Offering Circular Franchise Disclosure Document.

## 21VAC5-110-70. Consent to service of process.

If the franchisor is not a Virginia corporation, a foreign corporation or other entity authorized to transact business in the Commonwealth of Virginia, the franchisor shall execute the Consent to Service of Process on Form D C designating the Clerk of the State Corporation Commission, 1300 East Main Street, First Floor, Richmond, VA 23219, as the agent authorized to receive service of process for the franchisor in Virginia. If the franchisor is a Virginia corporation, a foreign corporation or other entity authorized to transact business in the Commonwealth of Virginia, a Consent to Service of Process is not necessary under this section.

The Division of Securities and Retail Franchising does not administer the qualification of foreign corporations. Qualification of foreign corporations is handled by the Clerk of the State Corporation Commission (804) 371-9672 (804)

371-9733, P.O. Box 1197, Richmond, VA 23218. Qualification must be completed prior to the filing of the application.

## 21VAC5-110-75. Exemptions.

Any offer or grant of a franchise in a transaction that meets the requirements of this section is exempt from the registration requirement of §13.1-560 of the Act.

1. Sale or transfer by existing franchisee. The sale or transfer of a franchise by a franchisee who is not an affiliate of the franchisor for the franchisee's own account is exempt if:

- a. The franchisee's entire franchise is sold or transferred and the sale or transfer is not effected by or through the franchisor.

- b. The sale or transfer is not effected by or through a franchisor merely because a franchisor has a right to approve or disapprove the sale or transfer or requires payment of a reasonable transfer fee.

2. Offers and grants to existing franchisees. The offer or grant of an additional franchise to an existing franchisee of the franchisor for the franchisee's own account is exempt if the franchise being sold is substantially the same as the franchise that the franchisee has operated for at least two years at the time of the offer or grant of the franchise, provided the prior sale to the franchisee was pursuant to a franchise offering that was registered or exempt pursuant to the requirements of the Act.

3. Seasoned franchisor.

- a. The offer or grant of a franchise by a franchisor is exempt if:

- (1) The franchisor has a net equity, according to its most recently audited financial statements, of not less than \$15,000,000 on a consolidated basis, or \$1,000,000 on an unaudited basis and is at least 80% owned by a corporation or entity that has a net equity, on a consolidated basis, according to its most recently audited financial statements, of not less than \$15,000,000, and the 80% owner guarantees the performance of the franchisor's obligations; and

- (2) The franchisor or any 80% owner of the franchisor or the franchisor's predecessor, or any combination thereof, has had at least 25 franchisees conducting the same franchise business to be offered or granted for the entire five-year period immediately preceding the offer or grant;

- b. The exemption set forth in subdivision 3 of this section may be claimed only if the franchisor:

- (1) Files a Form H Notice of Claim of Exemption and other material as set forth in subdivision 6 of this section

# Regulations

no later than 10 business days before the offer or grant of any franchise; and

(2) Submits financial statements demonstrating compliance with the conditions set forth in subdivision 3 a (1) of this section.

c. An initial exemption filing and any renewal filing shall expire after a period of one year. The franchisor shall file for a renewal by making an exemption filing if it intends to offer or grant franchises for any additional period annually, at least 10 business days before the expiration of the previously filed Notice of Claim of Exemption.

## 4. Institutional franchisee.

a. The offer or grant of a franchise to a bank, savings bank, savings and loan association, trust company, insurance company, investment company, or other financial institution, or to a broker-dealer is exempt when the:

(1) Purchaser is acting for itself or in a fiduciary capacity; and

(2) Franchise is not being purchased for the purpose of resale to an individual not exempt under this regulation.

b. The exemption set forth in subdivision 4 a of this section may be claimed only if the franchisor files an initial filing Form H, Notice of Claim of Exemption, and other material as set forth in subdivision 6 a of this section, at least 10 business days before each offer or grant of each franchise.

## 5. Disclosure requirements.

a. If a franchisor relies upon any of the exemptions set forth in subdivision 2, 3 or 4 of this section, the franchisor shall provide ~~an offering circular a disclosure document~~ complying with 21VAC5-110-90, or Federal Trade Commission (FTC) disclosure document pursuant to 16 CFR Part 436 21VAC5-110-55 and 21VAC5-110-95 together with all proposed agreements relating to the grant of the franchise to a prospective franchisee 14 calendar days before the signing of the agreement or the payment of any consideration.

b. Franchisors filing a claim of exemption under subdivisions 3 or 4 of this section shall include a self-addressed stamped envelope by which the commission may return to the franchisor a confirmation of receipt of the filing and the exemption file number assigned. Correspondence shall refer to the assigned file number in all subsequent related filings and correspondence with the commission.

## 6. Filing requirements for exemptions set forth in subdivisions 3 and 4 of this section.

### a. Initial exemption filing.

(1) The initial exemption period shall expire after a period of one year.

(2) Franchisor files an application for exemption of a franchise by filing with the commission no later than 10 business days before the offer or grant of any franchise, the following completed forms and other material:

(a) Notice of Claim of Exemption, Form H;

(b) Uniform Consent to Service of Process, Form D C;

(c) If the applicant is a corporation or partnership, an authorizing resolution is required if the application is verified by a person other than applicant's officer or general partner;

(d) ~~Uniform Franchise Offering Circular or FTC disclosure document pursuant to 16 CFR Part 436 Franchise Disclosure Document;~~

(e) Files an undertaking by which it agrees to supply any additional information the commission may reasonably request; and

(f) Application fee of \$500 (payable to the Treasurer of Virginia).

### b. Amendment to exemption filing.

(1) Upon the occurrence of a material change, the franchisor shall amend the effective exemption filed at the commission.

(2) An application to amend a franchise exemption is made by submitting the following completed forms and other material:

(a) Notice of Claim of Exemption, Form H;

(b) One clean copy of the amended ~~Uniform Franchise Offering Circular or FTC disclosure document pursuant to 16 CFR Part 436 Franchise Disclosure Document;~~ and

(c) Application fee of \$100 (payable to the Treasurer of Virginia).

### c. Renewal exemption filing.

(1) A franchise exemption expires at midnight on the annual exemption effective date. An application to renew the franchise exemption shall be filed 10 days prior to the expiration date in order to prevent a lapse of exemption under the Act.

(2) An application for renewal of a franchise exemption is made by submitting the following completed forms and other material:

(a) Notice of Claim of Exemption, Form H;

(b) One clean copy of the ~~Uniform Franchise Offering Circular or FTC disclosure document pursuant to 16 CFR Part 436 Franchise Disclosure Document;~~ and

(c) Application fee of \$250 (payable to the Treasurer of Virginia).

**21VAC5-110-80. Disclosure General requirements for preparation of disclosure documents; definition of disclose master franchises; electronic disclosure.**

A. "Disclose" means to state the material facts in an accurate and unambiguous manner. Disclosure shall be clear, concise and in a narrative form that is understandable by a person unfamiliar with the franchise business. For clear and concise disclosure avoid legal antiques<sup>1</sup> and repetitive phrases.<sup>2</sup> When possible, use active, not passive voice.<sup>3</sup> Limit the length and complexity of disclosure through careful organization of information in the disclosure. Avoid technical language and unnecessary detail. Make the format and chronological order consistent within each Item. Disclosure instructions.

1. Disclose all required information clearly, legibly, and concisely in a single document using plain English.

B. Since prospective franchisees shall have sufficient disclosure to understand economic commitments and to develop a business plan, Items 5, 6, 7, and 8 of the UFOC shall disclose the minimum and maximum franchisee cost. The franchisor shall provide reasonably available information to allow franchisees to forecast future charges listed in these Items and to be paid to persons who are independent of the franchisor. Future payments to the franchisor shall be specific as is required by individual Items.

C. 2. The disclosure for each UFOC FDD item shall be separately titled and in the required order. Do not repeat the UFOC question in the offering circular FDD. Respond to each question fully. If the disclosure is not applicable, respond in the negative, but if an answer is required "if applicable," respond only if the requested information applies. Do not qualify a response with a reference to another document unless permitted by the instructions to that Item.

3. For each Item in the UFOC FDD, type the requirement's Arabic number and item title and number. Sub-items may be designated by descriptive headings, but do not use sub-item letters and numbers. Exhibits should be identified by a letter of the alphabet.

D. Additional requirements for disclosure are:

1. Separate documents (for example, a confidential operations manual) must not make representations or impose terms that contradict or are materially different from the disclosure in the offering circular.

2. Use 8½ by 11 inch paper for the entire application.

3. When the applicant is a master franchisor seeking to sell subfranchises, references in these requirements and instructions to "franchisee" include the subfranchisor unless the language context requires a different meaning.

4. The offer of subfranchises is an offer separate from the offer of franchises and usually requires a separate registration. A single application may register the sale of single unit and multi unit franchises if the offering circular is not confusing.

5. When the applicant is a subfranchisor, disclose to the extent applicable the same information concerning the subfranchisor that is required about the franchisor.

6. In offerings by a subfranchisor, "franchisor" means both the franchisor and subfranchisor.

7. The commission may modify or waive these rules or may require additional documentation or information.

8. Grossly deficient applications may be rejected summarily by the commission as incomplete for filing.

E. The instructions on the preparation of the UFOC that continue after these provisions use the following format:

1. The title of the item follows the item number. It is capitalized and centered on the page.

2. The "Item" is a restatement of the UFOC item requirement. It is capitalized and follows the title of the item.

3. The "Instruction" appears beneath the item. It explains portions of the item requirements.

4. The "Sample Answer" at the end of each item provides sample disclosures. Double horizontal lines divide the Sample Answer from the Instructions.

4. The disclosure must be in a form that permits each prospective franchisee to store, download, print, or otherwise maintain the disclosure document for future reference.

5. Separate documents (for example, a confidential operations manual) must not make representations or impose terms that contradict or are materially different from the disclosure in the FDD.

6. Use 8½ by 11 inch paper for the FDD and other forms. All documents and disclosures must be readable, using not less than 11-point type.

7. Franchisors may prepare multistate disclosure documents by including nonpreempted, state-specific information in the text of the FDD or in a Virginia Addendum attached to the FDD. The Virginia Addendum may be included in an exhibit to the FDD. Any amendments to the franchise agreement may be included in the Virginia Addendum or in a separate exhibit immediately following the franchise agreement.

8. The two copies of the Item 23 receipt pages should be the last two pages of the FDD and should be attached after all exhibits.

# Regulations

9. Before furnishing a FDD, the franchisor must advise the prospective franchisee of the formats in which the FDD is made available, any prerequisites for obtaining the FDD in a particular format, and any conditions necessary for reviewing the FDD in a particular format.

10. Grossly deficient applications may be rejected summarily by the commission as incomplete for filing.

## B. Master franchises.

1. When the applicant is a master franchisor seeking to grant master franchises (subfranchises), references in these regulations to "franchisee" include the master franchisee (subfranchisor).

2. The offer of master franchises (subfranchises) is an offer separate from the offer of franchises and usually requires a separate registration or exemption. A single application may register the grant of a single unit and multiunit franchises if the FDD is not confusing.

3. In an offering by a master franchisee (subfranchisor), "franchisor" means both the master franchisor and master franchisee.

4. Master franchisees (subfranchisors) must disclose the required information about the master franchisor and to the extent applicable, the same information concerning the master franchisee.

## C. Electronic disclosure.

1. A franchisor may deliver a franchise disclosure document over the Internet or by other electronic means, or in machine-readable media, provided:

a. The disclosure document is delivered as a single, integrated document or file;

b. The disclosure document has no extraneous content beyond what is required or permitted by law or regulation, but which may include customary devices for manipulating electronic documents in machine-readable form and tools or access to tools that may be necessary or convenient to enable the recipient to receive and view the disclosure document;

c. The disclosure document has no links to or from external documents or content;

d. The disclosure document is delivered in a form that intrinsically enables the recipient to store, retrieve, and print the disclosure document;

e. The disclosure document conforms as to its content and format to the requirements of applicable law or regulation;

f. The franchisor can prove that it delivered the disclosure document electronically in compliance with

this subsection, and that it did so at or before the time required by applicable law or regulation; and

g. The franchisor keeps records of its electronic delivery of disclosure documents and makes those records available on demand by the commission.

2. For the sole purpose of enhancing the prospective franchisee's ability to maneuver through an electronic version of a disclosure document, the franchisor may include scroll bars, internal links, and search features. All other features such as audio, video, animation, pop-up screens or links to external information are prohibited.

3. "Delivery" requires that the disclosure document be conveyed to and received by the prospective franchisee, or that the storage media in which the disclosure is stored be physically delivered to the prospective franchisee in accordance with subdivision 1 a of this subsection.

4. This subsection does not change or waive any other requirement of law or regulation concerning registration or presale disclosure of franchise offerings.

## D. Other requirements.

1. If the franchise agreement requires a franchisee to sign a release or waiver as a condition of consenting to some future action, such as a transfer or assignment of the franchise, include a sample copy of the document the franchisee will be asked to sign. This requirement does not apply to negotiated releases or waivers that a franchisee may sign to resolve a dispute with the franchisor.

2. The commission may modify or waive the provisions of this chapter or may require additional documentation or information.

<sup>4</sup>Avoid these legal antiques. Preferred substitutes are in parentheses; aforesaid; arising from (from); as between; as an inducement for; as part of the consideration; as set forth in (in); as the case may be; at a later point in time; binding upon and inure; commerce (begin); condition precedent (before); condition subsequent (after); consist of (are); engaged in the business of offering (offers); for and in consideration of the grant of the franchise; for a period of (for); foregoing; forthwith; from time to time; further; hereby; herein; hereinafter; hereto; heretofore; if necessary; in the event (if); including but not limited to (including); in any manner whatsoever; including without limitation (including); in conjunction with; in no event; in the event of (if); in whole or in part; it will be specifically understood that; manner in which; not later than (within, by); not less than (at least); notwithstanding; offers to an individual, corporation or partnership (offer); on behalf of (for); precedent (before); prescribed (required); prior to (before); provided however (but, unless); provided that (if, unless); purporting to; relating to (under); subsequent (after); such (this); so as to (to); so

long as (while); thereafter; therefrom; thereof; thereunder; without limiting the foregoing; whatsoever; with respect to;

<sup>2</sup>Avoid repetitive phrases. Preferred substitutes are in parentheses; agrees, acknowledges and recognizes; any and all; are and remain; based upon, related to, or growing out of (because); certified as true and correct (certified); consultation, assistance and guidance (guidance); each and every; equipment, furniture, supplies and inventory; set forth on the equipment list attached as Exhibit \_\_\_\_ (items on Exhibit \_\_\_\_); necessary and appropriate; sample, test and review (test); and twenty three (23) (write as 23).

<sup>3</sup>The preferred phrase is in parentheses. As the franchisor prescribes (you must); being offered (offers); consist of (is); engaged in the business of offering (offer); giving rise to; if it becomes necessary; for (if); inure to the benefit of (benefits); is granted the right to (can); is given an opportunity to (can); is required to (must); shall be no less than (a minimum of); shall continue in effect (continues); with the exception of (except).

## **21VAC5-110-90. Requirements for UFOC preparation.**

**(Repealed.)**

## **21VAC5-110-95. Requirements for Franchise Disclosure Document preparation.**

Applications for registration of a franchise, or applications for renewal or amendment of an existing franchise registration, must comply with the following requirements for preparing the contents of a Franchise Disclosure Document. Except for financial statement requirements for start-up franchise systems, as further discussed in Item 21, these requirements are substantively equivalent to the requirements adopted under the Federal Trade Commission Franchise Rule, 16 CFR 436.3 through 16 CFR 436.5, effective July 1, 2007.

### **Contents of the Franchise Disclosure Document**

#### **The Cover Page**

Begin the disclosure document with a cover page, in the order and form as follows:

1. The title "**FRANCHISE DISCLOSURE DOCUMENT**" in capital letters and bold type.
2. The franchisor's name, type of business organization, principal business address, telephone number, and, if applicable, email address and primary home page address.
3. A sample of the primary business trademark that the franchisee will use in its business.
4. A brief description of the franchised business.
5. The following statements:
  - a. The total investment necessary to begin operation of a [franchise system name] franchise is [the total amount of

Item 7]. This includes [the total amount in Item 5] that must be paid to the franchisor or affiliate.

b. This disclosure document summarizes certain provisions of your franchise agreement and other information in plain English. Read this disclosure document and all accompanying agreements carefully. You must receive this disclosure document at least 14 calendar days before you sign a binding agreement with, or make any payment to, the franchisor or an affiliate in connection with the proposed franchise sale or grant. [The following sentence in bold type] Note, however, that no governmental agency has verified the information contained in this document.

c. The terms of your contract will govern your franchise relationship. Don't rely on the disclosure document alone to understand your contract. Read all of your contract carefully. Show your contract and this disclosure document to an advisor, such as a lawyer or an accountant.

d. Buying a franchise is a complex investment. The information in this disclosure document can help you make up your mind. More information on franchising, such as "A Consumer's Guide to Buying a Franchise," which can help you understand how to use this disclosure document, is available from the Federal Trade Commission. You can contact the FTC at 1-877-FTC-HELP or by writing to the FTC at 600 Pennsylvania Avenue, NW, Washington, D.C. 20580. You can also visit the FTC's home page at [www.ftc.gov](http://www.ftc.gov) for additional information. Call your state agency or visit your public library for other sources of information on franchising.

e. There may also be laws on franchising in your state. Ask your state agencies about them.

f. [The issuance date].

6. A franchisor may include the following statement between the statements set out at subdivisions b and c of the cover page: "You may wish to receive your disclosure document in another format that is more convenient for you. To discuss the availability of disclosures in different formats, contact [name or office] at [address] and [telephone number]."

7. Franchisors may include additional disclosures on the cover page, on a separate cover page, or addendum to comply with state presale disclosure laws.

#### **The Table of Contents**

Include the following table of contents. State the page where each disclosure item begins. List all exhibits by letter, as shown in the following example.

# Regulations

## Table of Contents

1. The Franchisor and any Parents, Predecessors, and Affiliates
2. Business Experience
3. Litigation
4. Bankruptcy
5. Initial Fees
6. Other Fees
7. Estimated Initial Investment
8. Restrictions on Sources of Products and Services
9. Franchisee's Obligations
10. Financing
11. Franchisor's Assistance, Advertising, Computer Systems, and Training
12. Territory
13. Trademarks
14. Patents, Copyrights, and Proprietary Information
15. Obligation to Participate in the Actual Operation of the Franchise Business
16. Restrictions on What the Franchisee May Sell
17. Renewal, Termination, Transfer, and Dispute Resolution
18. Public Figures
19. Financial Performance Representations
20. Outlets and Franchisee Information
21. Financial Statements
22. Contracts
23. Receipts

## Exhibits

### A. Franchise Agreement

### B. The Disclosure Items

1. Item 1: The Franchisor, and any Parents, Predecessors, and Affiliates.

#### Disclose:

- a. The name and principal business address of the franchisor; any parents; and any affiliates that offer franchises in any line of business or provide products or services to the franchisees of the franchisor.
- b. The name and principal business address of any predecessors during the 10-year period immediately

before the close of the franchisor's most recent fiscal year.

c. The name that the franchisor uses and any names it intends to use to conduct business.

d. The identity and principal business address of the franchisor's agent for service of process.

e. The type of business organization used by the franchisor (for example, corporation, partnership) and the state in which it was organized.

f. The following information about the franchisor's business and the franchises offered:

(1) Whether the franchisor operates businesses of the type being franchised.

(2) The franchisor's other business activities.

(3) The business the franchisee will conduct.

(4) The general market for the product or service the franchisee will offer. In describing the general market, consider factors such as whether the market is developed or developing, whether the goods will be sold primarily to a certain group, and whether sales are seasonal.

(5) In general terms, any laws or regulations specific to the industry in which the franchise business operates.

(6) A general description of the competition.

g. The prior business experience of the franchisor; any predecessors listed in Item 1 b; and any affiliates that offer franchises in any line of business or provide products or services to the franchisees of the franchisor, including:

(1) The length of time each has conducted the type of business the franchisee will operate.

(2) The length of time each has offered franchises providing the type of business the franchisee will operate.

(3) Whether each has offered franchises in other lines of business. If so, include:

(a) A description of each other line of business.

(b) The number of franchises sold in each other line of business.

(c) The length of time each has offered franchises in each other line of business.

2. Item 2: Business Experience.

Disclose by name and position the franchisor's directors, trustees, general partners, principal officers, and any other individuals who will have management responsibility relating to the sale, grant or operation of franchises offered by this document. For each person listed in this section,

state his principal positions and employers during the past five years, including each position's starting date, ending date, and location.

### 3. Item 3: Litigation.

a. Disclose whether the franchisor; a predecessor; a parent or affiliate who induces franchise sales or grants by promising to back the franchisor financially or otherwise guarantees the franchisor's performance; an affiliate who offers franchises under the franchisor's principal trademark; and any person identified in Item 2:

#### (1) Has pending against that person:

(a) An administrative, criminal, or material civil action alleging a violation of a franchise, antitrust, or securities law, or alleging fraud, unfair or deceptive practices, or comparable allegations.

(b) Civil actions, other than ordinary routine litigation incidental to the business, which are material in the context of the number of franchisees and the size, nature, or financial condition of the franchise system or its business operations.

(2) Was a party to any material civil action involving the franchise relationship in the last fiscal year. For purposes of this item, "franchise relationship" means contractual obligations between the franchisor and franchisee directly relating to the operation of the franchised business (such as royalty payment and training obligations). It does not include actions involving suppliers or other third parties, or indemnification for tort liability.

(3) Has in the 10-year period immediately before the disclosure document's issuance date:

(a) Been convicted of or pleaded nolo contendere to a felony charge.

(b) Been held liable in a civil action involving an alleged violation of a franchise, antitrust, or securities law, or involving allegations of fraud, unfair or deceptive practices, or comparable allegations. "Held liable" means that, as a result of claims or counterclaims, the person must pay money or other consideration, must reduce an indebtedness by the amount of an award, cannot enforce its rights, or must take action adverse to its interests.

b. Disclose whether the franchisor; a predecessor; a parent or affiliate who guarantees the franchisor's performance; an affiliate who has offered, sold or granted franchises in any line of business within the last 10 years; or any other person identified in Item 2 is subject to a currently effective injunctive or restrictive order or decree resulting from a pending or concluded action brought by a public agency and relating to the franchise

or to a federal, state, or Canadian franchise, securities, antitrust, trade regulation, or trade practice law.

c. For each action identified in subdivision a and b of Item 3, state the title, case number or citation, the initial filing date, the names of the parties, the forum, and the relationship of the opposing party to the franchisor (for example, competitor, supplier, lessor, franchisee, former franchisee, or class of franchisees). Except as provided in subdivision d of Item 3, summarize the legal and factual nature of each claim in the action, the relief sought or obtained, and any conclusions of law or fact.<sup>1</sup> In addition, state:

(1) For pending actions, the status of the action.

(2) For prior actions, the date when the judgment was entered and any damages or settlement terms.<sup>2</sup>

(3) For injunctive or restrictive orders, the nature, terms, and conditions of the order or decree.

(4) For convictions or pleas, the crime or violation, the date of conviction, and the sentence or penalty imposed.

d. For any other franchisor-initiated suit identified in subdivision a (2) of Item 3, the franchisor may comply with the requirements of subdivision c (1) through (4) of Item 3 by listing individual suits under one common heading that will serve as the case summary (for example, "royalty collection suits").

### 4. Item 4: Bankruptcy.

a. Disclose whether the franchisor; any parent; predecessor; affiliate; officer, or general partner of the franchisor, or any other individual who will have management responsibility relating to the sale, grant or operation of franchises offered by this document, has, during the 10-year period immediately before the date of this disclosure document:

(1) Filed as debtor (or had filed against it) a petition under the United States Bankruptcy Code (Bankruptcy Code).

(2) Obtained a discharge of its debts under the Bankruptcy Code.

(3) Been a principal officer of a company or a general partner in a partnership that either filed as a debtor (or had filed against it) a petition under the Bankruptcy Code, or that obtained a discharge of its debts under the Bankruptcy Code while, or within one year after, the officer or general partner held the position in the company.

b. For each bankruptcy, state:

(1) The current name, address, and principal place of business of the debtor.

# Regulations

(2) Whether the debtor is the franchisor. If not, state the relationship of the debtor to the franchisor (for example, affiliate, officer).

(3) The date of the original filing and the material facts, including the bankruptcy court, and the case name and number. If applicable, state the debtor's discharge date, including discharges under Chapter 7 and confirmation of any plans of reorganization under Chapters 11 and 13 of the Bankruptcy Code.

c. Disclose cases, actions, and other proceedings under the laws of foreign nations relating to bankruptcy.

## 5. Item 5: Initial Fees.

Disclose the initial fees and any conditions under which these fees are refundable. If the initial fees are not uniform, disclose the range or formula used to calculate the initial fees paid in the fiscal year before the issuance date and the factors that determined the amount. For this item, "initial fees" means all fees and payments, or commitments to pay, for services or goods received from the franchisor or any affiliate before the franchisee's business opens, whether payable in lump sum or installments. Disclose installment payment terms in this section or in Item 10.

## 6. Item 6: Other Fees.

Disclose, in the following tabular form, all other fees that the franchisee must pay to the franchisor or its affiliates, or that the franchisor or its affiliates impose or collect in whole or in part for a third party. State the title "OTHER FEES" in capital letters using bold type. Include any formula used to compute the fees.<sup>3</sup>

Item 6 Table

### OTHER FEES

Column 1 Type of fee	Column 2 Amount	Column 3 Due Date	Column 4 Remarks

a. In column 1, list the type of fee (for example, royalties, and fees for lease negotiations, construction, remodeling, additional training or assistance, advertising, advertising cooperatives, purchasing cooperatives, audits, accounting, inventory, transfers, and renewals).

b. In column 2, state the amount of the fee.

c. In column 3, state the due date for each fee.

d. In column 4, include remarks, definitions, or caveats that elaborate on the information in the table. If remarks are long, franchisors may use footnotes instead of the remarks column. If applicable, include the following information in the remarks column or in a footnote:

(1) Whether the fees are payable only to the franchisor.

(2) Whether the fees are imposed and collected by the franchisor.

(3) Whether the fees are nonrefundable or describe the circumstances when the fees are refundable.

(4) Whether the fees are uniformly imposed.

(5) The voting power of franchisor-owned outlets on any fees imposed by cooperatives. If franchisor-owned outlets have controlling voting power, disclose the maximum and minimum fees that may be imposed.

## 7. Item 7: Estimated Initial Investment.

Disclose, in the following tabular form, the franchisee's estimated initial investment. State the title "YOUR ESTIMATED INITIAL INVESTMENT" in capital letters using bold type. Franchisors may include additional expenditure tables to show expenditure variations caused by differences such as in site location and premises size.

Item 7 Table

### YOUR ESTIMATED INITIAL INVESTMENT

Column 1 Type of expenditure	Column 2 Amount	Column 3 Method of payment	Column 4 When due	Column 5 To whom payment is to be made
Total				

a. In column 1:

(1) List each type of expense, beginning with pre-opening expenses. Include the following expenses, if applicable. Use footnotes to include remarks, definitions, or caveats that elaborate on the information in the table.

(a) The initial franchise fee.

(b) Training expenses.

(c) Real property, whether purchased or leased.

(d) Equipment, fixtures, other fixed assets, construction, remodeling, leasehold improvements, and decorating costs, whether purchased or leased.

(e) Inventory to begin operating.

(f) Security deposits, utility deposits, business licenses, and other prepaid expenses.

(2) List separately and by name any other specific required payments (for example, additional training,

travel, or advertising expenses) that the franchisee must make to begin operations.

(3) Include a category titled "Additional funds – [initial period]" for any other required expenses the franchisee will incur before operations begin and during the initial period of operations. State the initial period. A reasonable initial period is at least three months or a reasonable period for the industry. Describe in general terms the factors, basis, and experience that the franchisor considered or relied upon in formulating the amount required for additional funds.

b. In column 2, state the amount of the payment. If the amount is unknown, use a low-high range based on the franchisor's current experience. If real property costs cannot be estimated in a low-high range, describe the approximate size of the property and building and the probable location of the building (for example, strip shopping center, mall, downtown, rural, or highway).

c. In column 3, state the method of payment.

d. In column 4, state the due date.

e. In column 5, state to whom payment will be made.

f. Total the initial investment, incorporating ranges of fees, if used.

g. In a footnote, state:

(1) Whether each payment is nonrefundable, or describe the circumstances when each payment is refundable.

(2) If the franchisor or an affiliate finances part of the initial investment, the amount that it will finance, the required down payment, the annual interest rate, rate factors, and the estimated loan repayments. Franchisors may refer to Item 10 for additional details.

## 8. Item 8: Restrictions on Sources of Products and Services.

Disclose the franchisee's obligations to purchase or lease goods, services, supplies, fixtures, equipment, inventory, computer hardware and software, real estate, or comparable items related to establishing or operating the franchised business either from the franchisor, its designee, or suppliers approved by the franchisor, or under the franchisor's specifications. Include obligations to purchase imposed by the franchisor's written agreement or by the franchisor's practice.<sup>4</sup> For each applicable obligation, state:

a. The good or service required to be purchased or leased.

b. Whether the franchisor or its affiliates are approved suppliers or the only approved suppliers of that good or service.

c. Any supplier in which an officer of the franchisor owns an interest.

d. How the franchisor grants and revokes approval of alternative suppliers, including:

(1) Whether the franchisor's criteria for approving suppliers are available to franchisees.

(2) Whether the franchisor permits franchisees to contract with alternative suppliers who meet the franchisor's criteria.

(3) Any fees and procedures to secure approval to purchase from alternative suppliers.

(4) The time period in which the franchisee will be notified of approval or disapproval.

(5) How approvals are revoked.

e. Whether the franchisor issues specifications and standards to franchisees, subfranchisees, or approved suppliers. If so, describe how the franchisor issues and modifies specifications.

f. Whether the franchisor or its affiliates will or may derive revenue or other material consideration from required purchases or leases by franchisees. If so, describe the precise basis by which the franchisor or its affiliates will or may derive that consideration by stating:

(1) The franchisor's total revenue.<sup>5</sup>

(2) The franchisor's revenues from all required purchases and leases of products and services.

(3) The percentage of the franchisor's total revenues that are from required purchases or leases.

(4) If the franchisor's affiliates also sell or lease products or services to franchisees, the affiliates' revenues from those sales or leases.

g. The estimated proportion of these required purchases and leases by the franchisee to all purchases and leases by the franchisee of goods and services in establishing and operating the franchised businesses.

h. If a designated supplier will make payments to the franchisor from franchisee purchases, disclose the basis for the payment (for example, specify a percentage or a flat amount). For purposes of this disclosure, a "payment" includes the sale of similar goods or services to the franchisor at a lower price than to franchisees.

i. The existence of purchasing or distribution cooperatives.

j. Whether the franchisor negotiates purchase arrangements with suppliers, including price terms, for the benefit of franchisees.

k. Whether the franchisor provides material benefits (for example, renewal or granting additional franchises) to a

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franchisee based on a franchisee's purchase of particular products or services or use of particular suppliers.

## 9. Item 9: Franchisee's Obligations.

Disclose, in the following tabular form, a list of the franchisee's principal obligations. State the title "**FRANCHISEE'S OBLIGATIONS**" in capital letters using bold type. Cross-reference each listed obligation with any applicable section of the franchise or other agreement and with the relevant disclosure document provision. If a particular obligation is not applicable, state "Not Applicable." Include additional obligations, as warranted.

Item 9 Table <u>FRANCHISEE'S OBLIGATIONS</u>		
Obligation	Section in agree- ment	Dis- closure document item
a. Site selection and acquisition/lease		
b. Pre-opening purchase/leases		
c. Site development and other pre-opening requirements		
d. Initial and ongoing training		
e. Opening		
f. Fees		
g. Compliance with standards and policies/operating manual		
h. Trademarks and proprietary information		
i. Restrictions on products/services offered		
j. Warranty and customer service requirements		
k. Territorial development and sales quotas		
l. Ongoing product/service purchases		
m. Maintenance, appearance, and remodeling requirements		

<u>n. Insurance</u>	
<u>o. Advertising</u>	
<u>p. Indemnification</u>	
<u>q. Owner's participation/management/staffing</u>	
<u>r. Records and reports</u>	
<u>s. Inspections and audits</u>	
<u>t. Transfer</u>	
<u>u. Renewal</u>	
<u>v. Posttermination obligations</u>	
<u>w. Noncompetition covenants</u>	
<u>x. Dispute resolution</u>	
<u>y. Other (describe)</u>	

## 10. Item 10: Financing.

a. Disclose the terms of each financing arrangement, including leases and installment contracts, that the franchisor, its agent, or affiliates offer directly or indirectly to the franchisee.<sup>6</sup> The franchisor may summarize the terms of each financing arrangement in tabular form, using footnotes to provide additional information. For a sample Item 10 table, see Appendix A. For each financing arrangement, state:

(1) What the financing covers (for example, the initial franchise fee, site acquisition, construction or remodeling, initial or replacement equipment or fixtures, opening or ongoing inventory or supplies, or other continuing expenses).<sup>7</sup>

(2) The identity of each lender providing financing and their relationship to the franchisor (for example, affiliate).

(3) The amount of financing offered or, if the amount depends on an actual cost that may vary, the percentage of the cost that will be financed.

(4) The rate of interest, plus finance charges, expressed on an annual basis. If the rate of interest, plus finance charges, expressed on an annual basis, may differ depending on when the financing is issued, state what that rate was on a specified recent date.

(5) The number of payments or the period of repayment.

(6) The nature of any security interest required by the lender.

(7) Whether a person other than the franchisee must personally guarantee the debt.

(8) Whether the debt can be prepaid and the nature of any prepayment penalty.

(9) The franchisee's potential liabilities upon default, including any:

(a) Accelerated obligation to pay the entire amount due;  
(b) Obligations to pay court costs and attorney's fees incurred in collecting the debt;

(c) Termination of the franchise; and

(d) Liabilities from cross defaults such as those resulting directly from nonpayment, or indirectly from the loss of business property.

(10) Other material financing terms.

b. Disclose whether the loan agreement requires franchisees to waive defenses or other legal rights (for example, confession of judgment), or bars franchisees from asserting a defense against the lender, the lender's assignee or the franchisor. If so, describe the relevant provisions.

c. Disclose whether the franchisor's practice or intent is to sell, assign, or discount to a third party all or part of the financing arrangement. If so, state:

(1) The assignment terms, including whether the franchisor will remain primarily obligated to provide the financed goods or services; and

(2) That the franchisee may lose all its defenses against the lender as a result of the sale or assignment.

d. Disclose whether the franchisor or an affiliate receives any consideration for placing financing with the lender. If such payments exist:

(1) Disclose the amount or the method of determining the payment; and

(2) Identify the source of the payment and the relationship of the source to the franchisor or its affiliates.

## 11. Item 11: Franchisor's Assistance, Advertising, Computer Systems, and Training.

Disclose the franchisor's principal assistance and related obligations of both the franchisor and franchisee as follows. For each obligation, cite the section number of the franchise agreement imposing the obligation. Begin by stating the following sentence in bold type: "Except as listed below, [the franchisor] is not required to provide you with any assistance."

a. Disclose the franchisor's pre-opening obligations to the franchisee, including any assistance in:

(1) Locating a site and negotiating the purchase or lease of the site. If such assistance is provided, state:

(a) Whether the franchisor generally owns the premises and leases it to the franchisee.

(b) Whether the franchisor selects the site or approves an area in which the franchisee selects a site. If so, state further whether and how the franchisor must approve a franchisee-selected site.

(c) The factors that the franchisor considers in selecting or approving sites (for example, general location and neighborhood, traffic patterns, parking, size, physical characteristics of existing buildings, and lease terms).

(d) The time limit for the franchisor to locate or approve or disapprove the site and the consequences if the franchisor and franchisee cannot agree on a site.

(2) Conforming the premises to local ordinances and building codes and obtaining any required permits.

(3) Constructing, remodeling, or decorating the premises.

(4) Hiring and training employees.

(5) Providing for necessary equipment, signs, fixtures, opening inventory, and supplies. If any such assistance is provided, state:

(a) Whether the franchisor provides these items directly or only provides the names of approved suppliers.

(b) Whether the franchisor provides written specifications for these items.

(c) Whether the franchisor delivers or installs these items.

b. Disclose the typical length of time between the earlier of the signing of the franchise agreement or the first payment of consideration for the franchise and the opening of the franchisee's business. Describe the factors that may affect the time period, such as ability to obtain a lease, financing or building permits, zoning and local ordinances, weather conditions, shortages, or delayed installation of equipment, fixtures, and signs.

c. Disclose the franchisor's obligations to the franchisee during the operation of the franchise, including any assistance in:

(1) Developing products or services the franchisee will offer to its customers.

(2) Hiring and training employees.

(3) Improving and developing the franchised business.

(4) Establishing prices.

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(5) Establishing and using administrative, bookkeeping, accounting, and inventory control procedures.

(6) Resolving operating problems encountered by the franchisee.

d. Describe the advertising program for the franchise system, including the following:

(1) The franchisor's obligation to conduct advertising, including:

(a) The media the franchisor may use.

(b) Whether media coverage is local, regional, or national.

(c) The source of the advertising (for example, an in-house advertising department or a national or regional advertising agency).

(d) Whether the franchisor must spend any amount on advertising in the area or territory where the franchisee is located.

(2) The circumstances when the franchisor will permit franchisees to use their own advertising material.

(3) Whether there is an advertising council composed of franchisees that advises the franchisor on advertising policies. If so, disclose:

(a) How members of the council are selected.

(b) Whether the council serves in an advisory capacity only or has operational or decision-making power.

(c) Whether the franchisor has the power to form, change, or dissolve the advertising council.

(4) Whether the franchisee must participate in a local or regional advertising cooperative. If so, state:

(a) How the area or membership of the cooperative is defined.

(b) How much the franchisee must contribute to the fund and whether other franchisees must contribute a different amount or at a different rate.

(c) Whether the franchisor-owned outlets must contribute to the fund and, if so, whether those contributions are on the same basis as those for franchisees.

(d) Who is responsible for administering the cooperative (for example, franchisor, franchisees, or advertising agency).

(e) Whether cooperatives must operate from written governing documents and whether the documents are available for the franchisee to review.

(f) Whether cooperatives must prepare annual or periodic financial statements and whether the statements are available for review by the franchisee.

(g) Whether the franchisor has the power to require cooperatives to be formed, changed, dissolved, or merged.

(5) Whether the franchisee must participate in any other advertising fund. If so, state:

(a) Who contributes to the fund.

(b) How much the franchisee must contribute to the fund and whether other franchisees must contribute a different amount or at a different rate.

(c) Whether the franchisor-owned outlets must contribute to the fund and, if so, whether it is on the same basis as franchisees.

(d) Who administers the fund.

(e) Whether the fund is audited and when it is audited.

(f) Whether financial statements of the fund are available for review by the franchisee.

(g) How the funds were used in the most recently concluded fiscal year, including the percentages spent on production, media placement, administrative expenses, and a description of any other use.

(6) If not all advertising funds are spent in the fiscal year in which they accrue, how the franchisor uses the remaining amount, including whether franchisees receive a periodic accounting of how advertising fees are spent.

(7) The percentage of advertising funds, if any, that the franchisor uses principally to solicit new franchise sales or grants.

e. Disclose whether the franchisor requires the franchisee to buy or use electronic cash registers or computer systems. If so, describe the systems generally in nontechnical language, including the types of data to be generated or stored in these systems, and state the following:

(1) The cost of purchasing or leasing the systems.

(2) Any obligation of the franchisor, any affiliate, or third party to provide ongoing maintenance, repairs, upgrades, or updates.

(3) Any obligations of the franchisee to upgrade or update any system during the term of the franchise, and, if so, any contractual limitations on the frequency and cost of the obligation.

(4) The annual cost of any optional or required maintenance, updating, upgrading, or support contracts.

(5) Whether the franchisor will have independent access to the information that will be generated or stored in any electronic cash register or computer system. If so, describe the information that the franchisor may access

and whether there are any contractual limitations on the franchisor's right to access the information.

f. Disclose the table of contents of the franchisor's operating manual provided to franchisees as of the franchisor's last fiscal year-end or a more recent date. State the number of pages devoted to each subject and the total number of pages in the manual as of this date. This disclosure may be omitted if the franchisor offers the prospective franchisee the opportunity to view the manual before buying the franchise.

g. Disclose the franchisor's training program as of the franchisor's last fiscal year-end or a more recent date.

(1) Describe the training program in the following tabular form. Title the table "TRAINING PROGRAM" in capital letters and bold type.

Item 11 Table TRAINING PROGRAM			
Column 1	Column 2	Column 3	Column 4
Subject	Hours of Classroom Training	Hours of On-The-Job Training	Location

(a) In column 1, state the subjects taught.

(b) In column 2, state the hours of classroom training for each subject.

(c) In column 3, state the hours of on-the-job training for each subject.

(d) In column 4, state the location of the training for each subject.

(2) State further:

(a) How often training classes are held and the nature of the location or facility where training is held (for example, company, home, office, franchisor-owned store).

(b) The nature of instructional materials and the instructor's experience, including the instructor's length of experience in the field and with the franchisor. State only experience relevant to the subject taught and the franchisor's operations.

(c) Any charges franchisees must pay for training and who must pay travel and living expenses of the training program enrollees.

(d) Who may and who must attend training. State whether the franchisee or other persons must complete the program to the franchisor's satisfaction. If successful completion is required, state how long after signing the

agreement or before opening the business the training must be completed. If training is not mandatory, state the percentage of new franchisees that enrolled in the training program during the preceding 12 months.

(e) Whether additional training programs or refresher courses are required.

## 12. Item 12: Territory.

Disclose:

a. Whether the franchise is for a specific location or a location to be approved by the franchisor.

b. Any minimum territory granted to the franchisee (for example, a specific radius, a distance sufficient to encompass a specified population, or another specific designation).

c. The conditions under which the franchisor will approve the relocation of the franchised business or the franchisee's establishment of additional franchised outlets.

d. Franchisee options, rights of first refusal, or similar rights to acquire additional franchises.

e. Whether the franchisor grants an exclusive territory.

(1) If the franchisor does not grant an exclusive territory, state: "You will not receive an exclusive territory. You may face competition from other franchisees, from outlets that we own, or from other channels of distribution or competitive brands that we control."

(2) If the franchisor grants an exclusive territory, disclose:

(a) Whether continuation of territorial exclusivity depends on achieving a certain sales volume, market penetration, or other contingency, and the circumstances when the franchisee's territory may be altered. Describe any sales or other conditions. State the franchisor's rights if the franchisee fails to meet the requirements.

(b) Any other circumstances that permit the franchisor to modify the franchisee's territorial rights (for example, a population increase in the territory giving the franchisor the right to grant an additional franchise in the area) and the effect of such modifications on the franchisee's rights.

f. For all territories (exclusive and nonexclusive):

(1) Any restrictions on the franchisor from soliciting or accepting orders from consumers inside the franchisee's territory, including:

(a) Whether the franchisor or an affiliate has used or reserves the right to use other channels of distribution such as the Internet, catalog sales, telemarketing, or other

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direct marketing sales to make sales within the franchisee's territory using the franchisor's principal trademarks.

(b) Whether the franchisor or an affiliate has used or reserves the right to use other channels of distribution such as the Internet, catalog sales, telemarketing, or other direct marketing to make sales within the franchisee's territory of products or services under trademarks different from the ones the franchisee will use under the franchise agreement.

(c) Any compensation that the franchisor must pay for soliciting or accepting orders from inside the franchisee's territory.

(2) Any restrictions on the franchisee from soliciting or accepting orders from consumers outside of his territory, including whether the franchisee has the right to use other channels of distribution such as the Internet, catalog sales, telemarketing, or other direct marketing to make sales outside of his territory.

(3) If the franchisor or an affiliate operates, franchises, or has plans to operate or franchise a business under a different trademark and that business sells or will sell goods or services similar to those the franchisee will offer, describe:

(a) The similar goods and services.

(b) The different trademark.

(c) Whether outlets will be franchisor-owned or -operated.

(d) Whether the franchisor or its franchisees who use the different trademark will solicit or accept orders within the franchisee's territory.

(e) The timetable for the plan.

(f) How the franchisor will resolve conflicts between the franchisor and franchisees and between the franchisees of each system regarding territory, customers, and franchisor support.

(g) The principal business address of the franchisor's similar operating business. If it is the same as the franchisor's principal business address stated in Item 1, disclose whether the franchisor maintains (or plans to maintain) physically separate offices and training facilities for the similar competing business.

## 13. Item 13: Trademarks.

a. Disclose each principal trademark to be licensed to the franchisee. For this item, "principal trademark" means the primary trademarks, service marks, names, logos, and commercial symbols the franchisee will use to identify the franchised business. It may not include every trademark the franchisor owns.

b. Disclose whether each principal trademark is registered with the United States Patent and Trademark Office. If so, state:

(1) The date and identification number of each trademark registration.

(2) Whether the franchisor has filed all required affidavits.

(3) Whether any registration has been renewed.

(4) Whether the principal trademarks are registered on the Principal or Supplemental Register of the United States Patent and Trademark Office.

c. If the principal trademark is not registered with the United States Patent and Trademark Office, state whether the franchisor has filed any trademark application, including any "intent to use" application or an application based on actual use. If so, state the date and identification number of the application.

d. If the trademark is not registered on the Principal Register of the United States Patent and Trademark Office, state: "We do not have a federal registration for our principal trademark. Therefore, our trademark does not have many legal benefits and rights as a federally registered trademark. If our right to use the trademark is challenged, you may have to change to an alternative trademark, which may increase your expenses."

e. Disclose any currently effective material determinations of the United States Patent and Trademark Office, the Trademark Trial and Appeal Board, or any state trademark administrator or court; and any pending infringement, opposition, or cancellation proceeding. Include infringement, opposition, or cancellation proceedings in which the franchisor unsuccessfully sought to prevent registration of a trademark in order to protect a trademark licensed by the franchisor. Describe how the determination affects the ownership, use, or licensing of the trademark.

f. Disclose any pending material federal or state court litigation regarding the franchisor's use or ownership rights in a trademark. For each pending action, disclose:<sup>8</sup>

(1) The forum and case number.

(2) The nature of claims made opposing the franchisor's use of the trademark or by the franchisor opposing another person's use of the trademark.

(3) Any effective court or administrative agency ruling in the matter.

g. Disclose any currently effective agreements that significantly limit the franchisor's rights to use or license the use of trademarks listed in this section in a manner material to the franchise. For each agreement, disclose:

(1) The manner and extent of the limitation or grant.

(2) The extent to which the agreement may affect the franchisee.

(3) The agreement's duration.

(4) The parties to the agreement.

(5) The circumstances when the agreement may be canceled or modified.

(6) All other material terms.

h. Disclose:

(1) Whether the franchisor must protect the franchisee's right to use the principal trademarks listed in this section, and must protect the franchisee against claims of infringement or unfair competition arising out of the franchisee's use of the trademarks.

(2) The franchisee's obligation to notify the franchisor of the use of, or claims of rights to, a trademark identical to or confusingly similar to a trademark licensed to the franchisee.

(3) Whether the franchise agreement requires the franchisor to take affirmative action when notified of these uses or claims.

(4) Whether the franchisor or franchisee has the right to control any administrative proceedings or litigation involving a trademark licensed by the franchisor to the franchisee.

(5) Whether the franchise agreement requires the franchisor to participate in the franchisee's defense and/or indemnify the franchisee for expenses or damages if the franchisee is a party to an administrative or judicial proceeding involving a trademark licensed by the franchisor to the franchisee, or if the proceeding is resolved unfavorably to the franchisee.

(6) The franchisee's rights under the franchise agreement if the franchisor requires the franchisee to modify or discontinue using a trademark.

i. Disclose whether the franchisor knows of either superior prior rights or infringing uses that could materially affect the franchisee's use of the principal trademarks in the state where the franchised business will be located. For each use of a principal trademark that the franchisor believes is an infringement that could materially affect the franchisee's use of a trademark, disclose:

(1) The nature of the infringement.

(2) The locations where the infringement is occurring.

(3) The length of time of the infringement (to the extent known).

(4) Any action taken or anticipated by the franchisor.

14. Item 14: Patents, Copyrights, and Proprietary Information.

a. Disclose whether the franchisor owns rights in, or licenses to, patents or copyrights that are material to the franchise. Also, disclose whether the franchisor has any pending patent applications that are material to the franchise. If so, state:

(1) The nature of the patent, patent application, or copyright and its relationship to the franchise.

(2) For each patent:

(a) The duration of the patent.

(b) The type of patent (for example, mechanical, process, or design).

(c) The patent number, issuance date, and title.

(3) For each patent application:

(a) The type of patent application (for example, mechanical, process, or design).

(b) The serial number, filing date, and title.

(4) For each copyright:

(a) The duration of the copyright.

(b) The registration number and date.

(c) Whether the franchisor can and intends to renew the copyright.

b. Describe any current material determination of the United States Patent and Trademark Office, the United States Copyright Office, or a court regarding the patent or copyright. Include the forum and matter number. Describe how the determination affects the franchised business.

c. State the forum, case number, claims asserted, issues involved, and effective determinations for any material proceeding pending in the United States Patent and Trademark Office or any court.<sup>9</sup>

d. If an agreement limits the use of the patent, patent application, or copyright, state the parties to and duration of the agreement, the extent to which the agreement may affect the franchisee, and other material terms of the agreement.

e. Disclose the franchisor's obligation to protect the patent, patent application, or copyright; and to defend the franchisee against claims arising from the franchisee's use of patented or copyrighted items, including:

(1) Whether the franchisor's obligation is contingent upon the franchisee notifying the franchisor of any

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infringement claims or whether the franchisee's notification is discretionary.

(2) Whether the franchise agreement requires the franchisor to take affirmative action when notified of infringement.

(3) Who has the right to control any litigation.

(4) Whether the franchisor must participate in the defense of a franchisee or indemnify the franchisee for expenses or damages in a proceeding involving a patent, patent application, or copyright licensed to the franchisee.

(5) Whether the franchisor's obligation is contingent upon the franchisee modifying or discontinuing the use of the subject matter covered by the patent or copyright.

(6) The franchisee's rights under the franchise agreement if the franchisor requires the franchisee to modify or discontinue using the subject matter covered by the patent or copyright.

f. If the franchisor knows of any patent or copyright infringement that could materially affect the franchisee, disclose:

(1) The nature of the infringement.

(2) The locations where the infringement is occurring.

(3) The length of time of the infringement (to the extent known).

(4) Any action taken or anticipated by the franchisor.

g. If the franchisor claims proprietary rights in other confidential information or trade secrets, describe in general terms the proprietary information communicated to the franchisee and the terms for use by the franchisee. The franchisor need only describe the general nature of the proprietary information, such as whether a formula or recipe is considered to be a trade secret.

## 15. Item 15: Obligation to Participate in the Actual Operation of the Franchise Business.

a. Disclose the franchisee's obligation to participate personally in the direct operation of the franchisee's business and whether the franchisor recommends participation. Include obligations arising from any written agreement or from the franchisor's practice.

b. If personal "on-premises" supervision is not required, disclose the following:

(1) If the franchisee is an individual, whether the franchisor recommends on-premises supervision by the franchisee.

(2) Limits on whom the franchisee can hire as an on-premises supervisor.

(3) Whether an on-premises supervisor must successfully complete the franchisor's training program.

(4) If the franchisee is a business entity, the amount of equity interest, if any, that the on-premises supervisor must have in the franchisee's business.

c. Disclose any restrictions that the franchisee must place on its manager (for example, maintain trade secrets, covenants not to compete).

## 16. Item 16: Restrictions on What the Franchisee May Sell.

Disclose any franchisor-imposed restrictions or conditions on the goods or services that the franchisee may sell or that limit access to customers, including:

a. Any obligation on the franchisee to sell only goods or services approved by the franchisor.

b. Any obligation on the franchisee to sell all goods or services authorized by the franchisor.

c. Whether the franchisor has the right to change the types of authorized goods or services and whether there are limits on the franchisor's right to make changes.

## (q) Item 17: Renewal, Termination, Transfer, and Dispute Resolution.

Disclose, in the following tabular form, a table that cross-references each enumerated franchise relationship item with the applicable provision in the franchise or related agreement. Title the table "THE FRANCHISE RELATIONSHIP" in capital letters and bold type.

a. Describe briefly each contractual provision. If a particular item is not applicable, state "Not Applicable."

b. If the agreement is silent about one of the listed provisions, but the franchisor unilaterally offers to provide certain benefits or protections to franchisees as a matter of policy, use a footnote to describe the policy and state whether the policy is subject to change.

c. In the summary column for Item 17 c, state what the term "renewal" means for your franchise system, including, if applicable, a statement that franchisees may be asked to sign a contract with materially different terms and conditions than their original contract.

<u>Item 17 Table</u> <u>THE FRANCHISE RELATIONSHIP</u>		
<p><u>[In bold] This table lists certain important provisions of the franchise and related agreements. You should read these provisions in the agreements attached to this disclosure document.</u></p>		
<u>Provision</u>	<u>Section in franchise or other agreement</u>	<u>Summary</u>
a. Length of the franchise term		
b. Renewal or extension of the term		
c. Requirements for franchisee to renew or extend		
d. Termination by franchisee		
e. Termination by franchisor without cause		
f. Termination by franchisor with cause		
g. "Cause" defined - curable defaults		
h. "Cause" defined - noncurable defaults		
i. Franchisee's obligations on termination/nonrenewal		
j. Assignment of contract by franchisor		
k. "Transfer" by franchisee – defined		
l. Franchisor approval of transfer by franchisee		
m. Conditions for franchisor approval of transfer		
n. Franchisor's right of first refusal to acquire franchisee's business		
o. Franchisor's option to purchase franchisee's business		
p. Death or disability of franchisee		
q. Noncompetition covenants during the term of the franchise		
r. Noncompetition covenants after the franchise is terminated or expires		
s. Modification of the agreement		
t. Integration/merger clause		
u. Dispute resolution by arbitration or mediation		
v. Choice of forum		
w. Choice of law		

18. Item 18: Public Figures.

Disclose:

a. Any compensation or other benefit given or promised to a public figure arising from either the use of the public figure in the franchise name or symbol, or the public figure's endorsement or recommendation of the franchise to prospective franchisees.

b. The extent to which the public figure is involved in the management or control of the franchisor. Describe the public figure's position and duties in the franchisor's business structure.

c. The public figure's total investment in the franchisor, including the amount the public figure contributed in services performed or to be performed. State the type of investment (for example, common stock, promissory note).

d. For purposes of this section, a public figure means a person whose name or physical appearance is generally known to the public in the geographic area where the franchise will be located.

19. Item 19: Financial Performance Representations.

a. Begin by stating the following:

The FTC's Franchise Rule permits a franchisor to provide information about the actual or potential financial performance of its franchised and/or franchisor-

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owned outlets, if there is a reasonable basis for the information, and if the information is included in the disclosure document. Financial performance information that differs from that included in Item 19 may be given only if: (i) a franchisor provides the actual records of an existing outlet you are considering buying; or (ii) a franchisor supplements the information provided in this Item 19, for example, by providing information about possible performance at a particular location or under particular circumstances.

b. If a franchisor does not provide any financial performance representation in Item 19, also state:

We do not make any representations about a franchisee's future financial performance or the past financial performance of company-owned or franchised outlets. We also do not authorize our employees or representatives to make any such representations either orally or in writing. If you are purchasing an existing outlet, however, we may provide you with the actual records of that outlet. If you receive any other financial performance information or projections of your future income, you should report it to the franchisor's management by contacting [name, address, and telephone number], the Federal Trade Commission, and the appropriate state regulatory agencies.

c. If the franchisor makes any financial performance representation to prospective franchisees, the franchisor must have a reasonable basis and written substantiation for the representation at the time the representation is made and must state the representation in the Item 19 disclosure. The franchisor must also disclose the following:

(1) Whether the representation is an historic financial performance representation about the franchise system's existing outlets, or a subset of those outlets, or is a forecast of the prospective franchisee's future financial performance.

(2) If the representation relates to past performance of the franchise system's existing outlets, the material basis for the representation, including:

(a) Whether the representation relates to the performance of all of the franchise system's existing outlets or only to a subset of outlets that share a particular set of characteristics (for example, geographic location, type of location such as free standing vs. shopping center, degree of competition, length of time the outlets have operated, services or goods sold, services supplied by the franchisor, and whether the outlets are franchised or franchisor-owned or -operated).

(b) The dates when the reported level of financial performance was achieved.

(c) The total number of outlets that existed in the relevant period and, if different, the number of outlets that had the described characteristics.

(d) The number of outlets with the described characteristics whose actual financial performance data were used in arriving at the representation.

(e) Of those outlets whose data were used in arriving at the representation, the number and percent that actually attained or surpassed the stated results.

(f) Characteristics of the included outlets, such as those characteristics noted in subdivision c (2)(a) of Item 19, that may differ materially from those of the outlet that may be offered to a prospective franchisee.

(3) If the representation is a forecast of future financial performance, state the material basis and assumptions on which the projection is based. The material assumptions underlying a forecast include significant factors upon which a franchisee's future results are expected to depend. These factors include, for example, economic or market conditions that are basic to a franchisee's operation, and encompass matters affecting, among other things, a franchisee's sales, the cost of goods or services sold, and operating expenses.

(4) A clear and conspicuous admonition that a new franchisee's individual financial results may differ from the result stated in the financial performance representation.

(5) A statement that written substantiation for the financial performance representation will be made available to the prospective franchisee upon reasonable request.

d. If a franchisor wishes to disclose only the actual operating results for a specific outlet being offered for sale, it need not comply with this section, provided the information is given only to potential purchasers of that outlet.

e. If a franchisor furnishes financial performance information according to this section, the franchisor may deliver to a prospective franchisee a supplemental financial performance representation about a particular location or variation, apart from the disclosure document. The supplemental representation must:

(1) Be in writing.

(2) Explain the departure from the financial performance representation in the disclosure document.

(3) Be prepared in accordance with the requirements of subdivision c (1) through (4) of this item.

(4) Be furnished to the prospective franchisee.

## 20. Item 20: Outlets and Franchisee Information.

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a. Disclose, in the following tabular form, the total number of franchised and company-owned outlets for each of the franchisor's last three fiscal years. For this item, "outlet" includes outlets of a type substantially similar to that offered to the prospective franchisee. A sample Item 20a table is attached as Appendix B.

<u>Table No. 1</u> <u>Systemwide Outlet Summary</u> <u>For years [ ] to [ ]</u>				
<u>Column 1</u> <u>Outlet Type</u>	<u>Column 2</u> <u>Year</u>	<u>Column 3</u> <u>Outlets at the Start of the Year</u>	<u>Column 4</u> <u>Outlets at the End of the Year</u>	<u>Column 5</u> <u>Net Change</u>
Franchised	<u>2004</u>			
	<u>2005</u>			
	<u>2006</u>			
Company-Owned	<u>2004</u>			
	<u>2005</u>			
	<u>2006</u>			
Total Outlets	<u>2004</u>			
	<u>2005</u>			
	<u>2006</u>			

(1) In column 1, include three outlet categories titled "franchised," "company-owned," and "total outlets."

(2) In column 2, state the last three fiscal years.

(3) In column 3, state the total number of each type of outlet operating at the beginning of each fiscal year.

(4) In column 4, state the total number of each type of outlet operating at the end of each fiscal year.

(5) In column 5, state the net change, and indicate whether the change is positive or negative, for each type of outlet during each fiscal year.

b. Disclose, in the following tabular form, the number of franchised and company-owned outlets and changes in the number and ownership of outlets located in each state during each of the last three fiscal years. Except as noted, each change in ownership shall be reported only once in the following tables. If multiple events occurred in the process of transferring ownership of an outlet, report the event that occurred last in time. If a single outlet changed ownership two or more times during the same fiscal year, use footnotes to describe the types of changes involved and the order in which the changes occurred.

(1) Disclose, in the following tabular form, the total number of franchised outlets transferred in each state during each of the franchisor's last three fiscal years. For this item, "transfer" means the acquisition of a controlling interest in a franchised outlet, during its term, by a person other than the franchisor or an affiliate. A sample Item 20 b Table is attached as Appendix C.

<u>Table No. 2</u> <u>Transfers of Outlets from Franchisees to New Owners (other than the Franchisor)</u> <u>For years [ ] to [ ]</u>		
<u>Column 1</u> <u>State</u>	<u>Column 2</u> <u>Year</u>	<u>Column 3</u> <u>Number of Transfers</u>
	<u>2004</u>	
	<u>2005</u>	
	<u>2006</u>	
	<u>2004</u>	
	<u>2005</u>	
	<u>2006</u>	
<u>Total</u>	<u>2004</u>	
	<u>2005</u>	
	<u>2006</u>	

(a) In column 1, list each state with one or more franchised outlets.

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(b) In column 2, state the last three fiscal years.

(c) In column 3, state the total number of completed transfers in each state during each fiscal year.

(2) Disclose, in the following tabular form, the status of franchisee-owned outlets located in each state for each of the franchisor's last three fiscal years. A sample Item 20 c table is attached as Appendix D.

Table No. 3

Status of Franchised Outlets

For years [ ] to [ ]

<u>Col. 1</u> <u>State</u>	<u>Col. 2</u> <u>Year</u>	<u>Col. 3</u> <u>Outlets at Start of Year</u>	<u>Col. 4</u> <u>Outlets Opened</u>	<u>Col. 5</u> <u>Termina- tions</u>	<u>Col. 6</u> <u>Non- Renewals</u>	<u>Col. 7</u> <u>Reacquired by Franchisor</u>	<u>Col. 8</u> <u>Ceased Operations- Other</u>	<u>Col. 9</u> <u>Outlets at End of the Year</u>
	<u>2004</u>							
	<u>2005</u>							
	<u>2006</u>							
Totals								

(a) In column 1, list each state with one or more franchised outlets.

(b) In column 2, state the last three fiscal years.

(c) In column 3, state the total number of franchised outlets in each state at the start of each fiscal year.

(d) In column 4, state the total number of franchised outlets opened in each state during each fiscal year. Include both new outlets and existing company-owned outlets that a franchisee purchased from the franchisor. (Also report the number of existing company-owned outlets that are sold or granted to a franchisee in Column 7 of Table 4).

(e) In column 5, state the total number of franchised outlets that were terminated in each state during each fiscal year. For purposes of this item, "termination" means the franchisor's termination of a franchise agreement prior to the end of its term and without providing any consideration to the franchisee (whether by payment or forgiveness or assumption of debt).

(f) In column 6, state the total number of nonrenewals in each state during each fiscal year. For purposes of this item, "nonrenewal" occurs when the franchise agreement for a franchised outlet is not renewed at the end of its term.

(g) In column 7, state the total number of franchised outlets reacquired by the franchisor in each state during each fiscal year. For purposes of this item, a "reacquisition" means the franchisor's acquisition for consideration (whether by payment or forgiveness or assumption of debt) of a franchised outlet during its term. (Also report franchised outlets reacquired by the franchisor in column 5 of Table 4).

(h) In column 8, state the total number of outlets in each state not operating as one of the franchisor's outlets at the end of each fiscal year for reasons other than termination, nonrenewal, or reacquisition by the franchisor.

(i) In column 9, state the total number of franchised outlets in each state at the end of the fiscal year.

(3) Disclose, in the following tabular form, the status of company-owned outlets located in each state for each of the franchisor's last three fiscal years. A sample Item 20 d table is attached as Appendix E.

<u>Table No. 4</u> <u>Status of Company-Owned Outlets</u> <u>For years [ ] to [ ]</u>							
<u>Col. 1</u> <u>State</u>	<u>Col. 2</u> <u>Year</u>	<u>Col. 3</u> <u>Outlets at Start of the Year</u>	<u>Col. 4</u> <u>Outlets Opened</u>	<u>Col. 5</u> <u>Outlets Reacquired From Franchisee</u>	<u>Col. 6</u> <u>Outlets Closed</u>	<u>Col. 7</u> <u>Outlets Sold to Franchisee</u>	<u>Col. 8</u> <u>Outlets at End of the Year</u>
	<u>2004</u>						
	<u>2005</u>						
	<u>2006</u>						
	<u>2004</u>						
	<u>2005</u>						
	<u>2006</u>						
<u>Totals</u>	<u>2004</u>						
	<u>2005</u>						
	<u>2006</u>						

- (a) In column 1, list each state with one or more company-owned outlets.
- (b) In column 2, state the last three fiscal years.
- (c) In column 3, state the total number of company-owned outlets in each state at the start of the fiscal year.
- (d) In column 4, state the total number of company-owned outlets opened in each state during each fiscal year.
- (e) In column 5, state the total number of franchised outlets reacquired from franchisees in each state during each fiscal year.
- (f) In column 6, state the total number of company-owned outlets closed in each state during each fiscal year. Include both actual closures and instances when an outlet ceases to operate under the franchisor's trademark.
- (g) In column 7, state the total number of company-owned outlets sold or granted to franchisees in each state during each fiscal year.
- (h) In column 8, state the total number of company-owned outlets operating in each state at the end of each fiscal year.

c. Disclose, in the following tabular form, projected new franchised and company-owned outlets. A sample Item 20 e table is attached as Appendix F.

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Table No. 5

Projected Openings As Of [Last Day of Last Fiscal Year]

<u>Column 1</u>	<u>Column 2</u>	<u>Column 3</u>	<u>Column 4</u>
<u>State</u>	<u>Franchise Agreements Signed But Outlet Not Opened</u>	<u>Projected New Franchised Outlet In The Next Fiscal Year</u>	<u>Projected New Company-Owned Outlet In the Next Fiscal Year</u>
<u>Total</u>			

(1) In column 1, list each state where one or more franchised or company-owned outlets are located or are projected to be located.

(2) In column 2, state the total number franchise agreements that had been signed for new outlets to be located in each state as of the end of the previous fiscal year where the outlet had not yet opened.

(3) In column 3, state the total number of new franchised outlets in each state projected to be opened during the next fiscal year.

(4) In column 4, state the total number of new company-owned outlets in each state that are projected to be opened during the next fiscal year.

d. Disclose the names of all current franchisees and the address and telephone number of each of their outlets. Alternatively, disclose this information for all franchised outlets in the state, but if these franchised outlets total fewer than 100, disclose this information for franchised outlets from contiguous states and then the next closest states until at least 100 franchised outlets are listed.

e. Disclose the name, city and state, and current business telephone number, or if unknown, the last known home telephone number of every franchisee who had an outlet terminated, canceled, not renewed, or otherwise voluntarily or involuntarily ceased to do business under the franchise agreement during the most recently completed fiscal year or who has not communicated with the franchisor within 10 weeks of the disclosure document issuance date.<sup>10</sup> State in immediate conjunction with this information: "If you buy this franchise, your contact information may be disclosed to other buyers when you leave the franchise system."

f. If a franchisor is selling or granting a previously-owned franchised outlet now under its control, disclose the following additional information for that outlet for the last five fiscal years. This information may be attached as an addendum to a disclosure document, or, if

disclosure has already been made, then in a supplement to the previously furnished disclosure document.

(1) The name, city and state, current business telephone number, or if unknown, last known home telephone number of each previous owner of the outlet;

(2) The time period when each previous owner controlled the outlet;

(3) The reason for each previous change in ownership (for example, termination, nonrenewal, voluntary transfer, ceased operations); and

(4) The time period(s) when the franchisor retained control of the outlet (for example, after termination, nonrenewal, or reacquisition).

g. Disclose whether franchisees signed confidentiality clauses during the last three fiscal years. If so, state the following: "In some instances, current and former franchisees sign provisions restricting their ability to speak openly about their experience with [name of franchise system]. You may wish to speak with current and former franchisees, but be aware that not all such franchisees will be able to communicate with you." Franchisors may also disclose the number and percentage of current and former franchisees who during each of the last three fiscal years signed agreements that include confidentiality clauses and may disclose the circumstances under which such clauses were signed.

h. Disclose, to the extent known, the name, address, telephone number, email address, and website address (to the extent known) of each trademark-specific franchisee organization associated with the franchise system being offered, if such organization:

(1) Has been created, sponsored, or endorsed by the franchisor. If so, state the relationship between the organization and the franchisor (for example, the organization was created by the franchisor, sponsored by the franchisor, or endorsed by the franchisor).

(2) Is incorporated or otherwise organized under state law and asks the franchisor to be included in the franchisor's disclosure document during the next fiscal year. Such organizations must renew their request on an annual basis by submitting a request no later than 60 days after the close of the franchisor's fiscal year. The franchisor has no obligation to verify the organization's continued existence at the end of each fiscal year. Franchisors may also include the following statement: "The following independent franchisee organizations have asked to be included in this disclosure document."

## 21. Item 21: Financial Statements.

a. Include the following financial statements prepared according to United States generally accepted accounting

principles as revised by any future United States government mandated accounting principles, or as permitted by the Securities and Exchange Commission. Except as provided in subdivision b of this item, these financial statements must be audited by an independent certified public accountant using generally accepted United States auditing standards. Present the required financial statements in a tabular form that compares at least two fiscal years.

(1) The franchisor's balance sheet for the previous two fiscal year-ends before the disclosure document issuance date.

(2) Statements of operations, stockholders equity, and cash flows for each of the franchisor's previous three fiscal years.

(3) Instead of the financial disclosures required by subdivisions a (1) and (2) of this item, the franchisor may include financial statements of any of its affiliates if the affiliate's financial statements satisfy subdivisions a (1) and (2) of this item and the affiliate absolutely and unconditionally guarantees to assume the duties and obligations of the franchisor under the franchise agreement. The affiliate's guarantee must cover all of the franchisor's obligations to the franchisee, but need not extend to third parties. If this alternative is used, attach a copy of the guarantee to the disclosure document.

(4) When a franchisor owns a direct or beneficial controlling financial interest in a subsidiary, its financial statements should reflect the financial condition of the franchisor and its subsidiary.

(5) Include separate financial statements for the franchisor and any subfranchisor, as well as for any parent that commits to perform postsale obligations for the franchisor or guarantees the franchisor's obligations. Attach a copy of any guarantee to the disclosure document.

b. A start-up franchise system may phase-in the use of the financial statements specified in subdivisions a (1) and (2) of this item by providing, at a minimum, the following statements at the indicated times:

<p>(1) The franchisor's first partial or full fiscal year selling or granting franchises.</p>	<p>An audited opening balance sheet.</p>
<p>(2) The franchisor's second fiscal year selling or granting franchises.</p>	<p>Audited balance sheet opinion as of the end of the first partial or full fiscal year selling or granting franchises.</p>

(3) The franchisor's third and subsequent fiscal years selling or granting franchises.

All required financial statements for the previous fiscal year, plus any previously disclosed audited statements that still must be disclosed according to subdivisions a (1) and (2) of this item.

(4) Start-up franchisors may phase-in the disclosure of all financial statements required in subdivisions a (1) and (2) of this item, provided the franchisor:

(a) Prepares audited statements of operations, stockholders equity, and cash flows as soon as practicable.

(b) Prepares all unaudited statements in a format that conforms as closely as possible to audited statements.

(c) Includes one or more years of unaudited statements of operations or clearly and conspicuously discloses in this section that the franchisor has not been in business for three years or more, and cannot include all financial statements required in subdivisions a (1) and (2) of this item.

## 22. Item 22: Contracts.

Attach a copy of all proposed agreements regarding the franchise offering, including the franchise agreement and any lease, options, and purchase agreements.

## 23. Item 23: Receipts.

Include two copies of the following detachable acknowledgment of receipt in the following form as the last pages of the disclosure document:

a. State the following:

Receipt

This disclosure document summarizes certain provisions of the franchise agreement and other information in plain language. Read this disclosure document and all agreements carefully.

If [name of franchisor] offers you a franchise, it must provide this disclosure document to you 14 calendar days before you sign a binding agreement with, or make a payment to, the franchisor or an affiliate in connection with the proposed franchise sale or grant.

If [name of franchisor] does not deliver this disclosure document on time or if it contains a false or misleading statement, or a material omission, a violation of federal law and state law may have occurred and should be reported to the Federal Trade Commission, Washington, D.C. 20580 and [state agency].

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b. Disclose the name, principal business address, and telephone number of each franchise seller offering the franchise.

c. State the issuance date.

d. If not disclosed in Item 1, state the name and address of the franchisor's registered agent authorized to receive service of process.

e. State the following:

I received a disclosure document dated \_\_\_\_\_ that included the following Exhibits:

f. List the title(s) of all attached Exhibits.

g. Provide space for the prospective franchisee's signature and date.

h. Franchisors may include any specific instructions for returning the receipt (for example, street address, email address, facsimile telephone number).

Appendix A: Sample Item 10 Table

Summary of Financing Offered

<u>Item Financed</u>	<u>Source of Financing</u>	<u>Down Payment</u>	<u>Amount Financed</u>	<u>Term (Yrs)</u>	<u>Interest Rate</u>	<u>Monthly Payment</u>	<u>Prepay Penalty</u>	<u>Security Required</u>	<u>Liability Upon Default</u>	<u>Loss of Legal Right on Default</u>
<u>Initial Fee</u>										
<u>Land/ Constr</u>										
<u>Leased Space</u>										
<u>Equip. Lease</u>										
<u>Equip. Purchase</u>										
<u>Opening Inventory</u>										
<u>Other Financing</u>										

Appendix B: Sample Item 20(1) Table – Systemwide Outlet Summary

Systemwide Outlet Summary

For years 2004 to 2006

<u>Column 1 Outlet Type</u>	<u>Column 2 Year</u>	<u>Column 3 Outlets at the Start of the Year</u>	<u>Column 4 Outlets at the End of the Year</u>	<u>Column 5 Net Change</u>
<u>Franchised</u>	<u>2004</u>	<u>859</u>	<u>1,062</u>	<u>+203</u>
	<u>2005</u>	<u>1,062</u>	<u>1,296</u>	<u>+234</u>
	<u>2006</u>	<u>1,296</u>	<u>2,720</u>	<u>+1,424</u>

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<u>Company</u>	<u>2004</u>	<u>125</u>	<u>145</u>	<u>+20</u>
<u>Owned</u>	<u>2005</u>	<u>145</u>	<u>76</u>	<u>-69</u>
	<u>2006</u>	<u>76</u>	<u>141</u>	<u>+65</u>
<u>Total Outlets</u>	<u>2004</u>	<u>984</u>	<u>1,207</u>	<u>+223</u>
	<u>2005</u>	<u>1,207</u>	<u>1,372</u>	<u>+165</u>
	<u>2006</u>	<u>1,372</u>	<u>2,861</u>	<u>+1,489</u>

## Appendix C: Sample Item 20(2) Table – Transfers of Franchised Outlets

### Transfers of Outlets from Franchisees to New Owners (other than the Franchisor)

For years 2004 to 2006

<u>Column 1</u> <u>State</u>	<u>Column 2</u> <u>Year</u>	<u>Column 3</u> <u>Number of Transfers</u>
<u>NC</u>	<u>2004</u>	<u>1</u>
	<u>2005</u>	<u>0</u>
	<u>2006</u>	<u>2</u>
<u>SC</u>	<u>2004</u>	<u>0</u>
	<u>2005</u>	<u>0</u>
	<u>2006</u>	<u>2</u>
<u>Total</u>	<u>2004</u>	<u>1</u>
	<u>2005</u>	<u>0</u>
	<u>2006</u>	<u>4</u>

## Appendix D: Sample Item 20(3) Table – Status of Franchise Outlets

### Status of Franchise Outlets

For years 2004 to 2006

<u>Col. 1</u> <u>State</u>	<u>Col. 2</u> <u>Year</u>	<u>Col. 3</u> <u>Outlets at Start of Year</u>	<u>Col. 4</u> <u>Outlets Opened</u>	<u>Col. 5</u> <u>Terminations</u>	<u>Col. 6</u> <u>Non- Renewals</u>	<u>Col. 7</u> <u>Reacquired by Franchisor</u>	<u>Col. 8</u> <u>Ceased Operations- Other Reasons</u>	<u>Col. 9</u> <u>Outlets at End of the Year</u>
<u>AL</u>	<u>2004</u>	<u>10</u>	<u>2</u>	<u>1</u>	<u>0</u>	<u>0</u>	<u>1</u>	<u>10</u>
	<u>2005</u>	<u>11</u>	<u>5</u>	<u>0</u>	<u>1</u>	<u>0</u>	<u>0</u>	<u>15</u>
	<u>2006</u>	<u>15</u>	<u>4</u>	<u>1</u>	<u>0</u>	<u>1</u>	<u>2</u>	<u>15</u>
<u>AZ</u>	<u>2004</u>	<u>20</u>	<u>5</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>25</u>
	<u>2005</u>	<u>25</u>	<u>4</u>	<u>1</u>	<u>0</u>	<u>0</u>	<u>2</u>	<u>26</u>

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	2006	26	4	0	0	0	0	30
Totals	2004	30	7	1	0	0	1	35
	2005	36	9	1	1	0	2	41
	2006	41	8	1	0	1	2	45

Appendix E: Sample Item 20(4) Table – Status of Company-Owned Outlets

## Status of Company-Owned Outlets

For years 2004 to 2006

<u>Col. 1</u> <u>State</u>	<u>Col. 2</u> <u>Year</u>	<u>Col. 3</u> <u>Outlets at Start of the Year</u>	<u>Col. 4</u> <u>Outlets Opened</u>	<u>Col. 5</u> <u>Outlets Reacquired From Franchisees</u>	<u>Col. 6</u> <u>Outlets Closed</u>	<u>Col. 7</u> <u>Outlets Sold to Franchisees</u>	<u>Col. 8</u> <u>Outlets at End of the Year</u>
NY	2004	1	0	1	0	0	2
	2005	2	2	0	1	0	3
	2006	3	0	0	3	0	0
OR	2004	4	0	1	0	0	5
	2005	5	0	0	2	0	3
	2006	3	0	0	0	1	2
Totals	2004	5	0	2	0	0	7
	2005	7	2	0	3	0	6
	2006	6	0	0	3	1	2

Appendix F: Sample Item 20(5) Table – Projected New Franchised Outlets

## Projected New Franchised Outlets

As of December 31, 2006

<u>Column 1</u> <u>State</u>	<u>Column 2</u> <u>Franchise Agreements Signed But Outlet Not Opened</u>	<u>Column 3</u> <u>Projected New Franchised Outlet in the Next Fiscal Year</u>	<u>Column 4</u> <u>Projected New Company- Owned Outlets in the Current Fiscal Year</u>
CO	2	3	1
NM	0	4	2
Total	2	7	3

<sup>1</sup> Franchisors may include a summary opinion of counsel concerning any action if counsel consent to use the summary opinion and the full opinion is attached to the disclosure document.

<sup>2</sup> If a settlement agreement must be disclosed in this item, all material settlement terms must be disclosed, whether or not the agreement is confidential. However, franchisors need not disclose the terms of confidential settlements entered into before commencing franchise sales.

<sup>3</sup> If fees may increase, disclose the formula that determines the increase or the maximum amount of the increase. For example, a percentage of gross sales is acceptable if the franchisor defines the term "gross sales."

<sup>4</sup> Franchisors may include the reason for the requirement. Franchisors need not disclose in this item the purchase or lease of goods or services provided as part of the franchise without a separate charge (such as initial training, if the cost is included in the franchise fee). Describe such fees in Item 5. Do not disclose fees already described in Item 6.

<sup>5</sup> Take figures from the franchisor's most recent annual audited financial statement required in Item 21. If the entity deriving the income is an affiliate, disclose the sources of information used in computing revenues.

<sup>6</sup> Indirect offers of financing include a written arrangement between a franchisor or its affiliate and a lender, for the lender to offer financing to a franchisee; an arrangement in which a franchisor or its affiliate receives a benefit from a lender in exchange for financing a franchise purchase; and a franchisor's guarantee of a note, lease, or other obligation of the franchisee.

<sup>7</sup> Include sample copies of the financing documents as an exhibit to Item 22. Cite the section and name of the document containing the financing terms and conditions.

<sup>8</sup> The franchisor may include an attorney's opinion relative to the merits of litigation or of an action if the attorney issuing the opinion consents to its use. The text of the disclosure may include a summary of the opinion if the full opinion is attached and the attorney issuing the opinion consents to the use of the summary.

<sup>9</sup> If counsel consents, the franchisor may include a counsel's opinion or a summary of the opinion if the full opinion is attached.

<sup>10</sup> Franchisors may substitute alternative contact information at the request of the former franchisee, such as a home address, post office address, or a personal or business email address.

**NOTICE:** The forms used in administering the above regulation are not being published; however, the name of each form is listed below. The forms are available for public inspection by contacting the agency contact for this regulation, or at the office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia.

## FORMS

FORM A, "Facing Page"—Uniform Franchise Registration Application (eff. 7/1/95; rev. [ ]).

FORM B, Supplemental Information Franchisor's Costs and Sources of Funds (eff. 7/1/95; rev. [ ]).

FORM C, Certification (rev. 7/99).

FORM D C, Uniform Consent to Service of Process (rev. 7/99 rev. [ ]).

FORM E, Affidavit of Compliance —Franchise Amendment/Renewal (rev. 7/99 [ ]).

FORM F, Guarantee of Performance (rev. 7/99 [ ]).

FORM G, Franchisor's Surety Bond (rev. 7/99).

FORM H, Notice of Claim of Exemption (eff. 7/07, rev. [ ]).

FORM K, Escrow Agreement (eff. 7/07).

V.A.R. Doc. No. R08-1123; Filed March 11, 2008, 11:43 a.m.

# GENERAL NOTICES/ERRATA

## DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

### Notice of Informational Proceeding - Regulations for the Enforcement of the Virginia Gasoline and Motor Fuel Law (2VAC5-420)

Notice is hereby given that the Board of Agriculture and Consumer Services is considering amendments to the Regulations for the Enforcement of the Virginia Gasoline and Motor Fuel Law (2VAC5-420) as adopted by the Board of Agriculture and Consumer Services on July 28, 1993. Pursuant to §59.1-153 of the Code of Virginia, the board is opening a 30-day informational proceeding on the regulation, which will begin on April 1, 2008, and will close on April 30, 2008, for the purposes of providing information to the public about the amendments and for receiving public comment. A final public meeting will be held by staff of the Virginia Department of Agriculture and Consumer Services (VDACS) on April 30, 2008, from 9 a.m. – 11 a.m., in Room 220 of the Oliver Hill Building, 102 Governor Street, Richmond, Virginia, for the purpose of collecting additional public comment on the amendments.

The Purpose of the Revisions. The U. S. Environmental Protection Agency's recently mandated phase-in of Renewable Fuel Standard Requirements increases the level of ethanol required to be added to gasoline distributed and sold in the United States. The new motor fuel blend will be phased in throughout Virginia in the spring of 2008. The testing specifications used by VDACS are incompatible with the newly formulated gasoline blends containing higher levels of ethanol and need to be updated to allow for the soon to be introduced motor fuel blends.

Copies of the Amendments. A copy of the regulation that is currently in effect is available from the Regulatory Town Hall at [www.townhall.virginia.gov](http://www.townhall.virginia.gov), Department of Agriculture and Consumer Services, or on the Virginia Administrative Code website at <http://leg1.state.va.us/000/reg/TOC02005.HTM.HTM>. The draft of the proposed amendments is printed below and may be obtained from (1) the department's website at [www.vdacs.virginia.gov](http://www.vdacs.virginia.gov); (2) Division of Consumer Protection, VDACS, 102 Governor Street, LL-44, P.O. Box 1163, Richmond, Virginia 23218; (3) the Regulatory Town Hall, Future Meetings, VDACS, April 30, 2008; and (4) the following VDACS offices:

Franklin Office  
1100 Armory Drive, Apt. 120  
Franklin, VA 23851-2418

Harrisonburg Regional Animal Health Laboratory  
261 Mt. Clinton Pike  
Harrisonburg, VA 22802

Ivor Regional Animal Health Laboratory  
34591 General Mahone Blvd  
Ivor, VA 23866

Lynchburg Regional Animal Health Laboratory  
4832 Tyreeanna Rd  
Lynchburg, VA 24504

Warrenton Regional Animal Health Laboratory  
272 Academy Hill Rd  
Warrenton, VA 20186

Wytheville Regional Animal Health Laboratory  
250 Cassel Road  
Wytheville, VA 24382

All written comments concerning the amendments to the regulation may be mailed to Andres Alvarez, Director, Division of Consumer Protection, P.O. Box 1163, Richmond, VA 23218, or comments may be submitted by email to [andres.alvarez@vdacs.virginia.gov](mailto:andres.alvarez@vdacs.virginia.gov).

#### Proposed Amendments

#### 2VAC5-420-30. Specifications for gasoline and diesel fuel.

A. Gasoline. Gasoline shall meet the requirements of the following specifications when tested in compliance with the latest version of the ~~American Society for Testing and Materials (ASTM)~~ ASTM International (formerly the ~~American Society for Testing and Materials~~) Test Methods or other test methods specified below:

Specification	Test Method ASTM
1. Distillation.	D86
a. Percent evaporated during months of: January, February, November, and December at 50°C (122°F) <u>Minimum</u>	10%
March, April, May, September, and October at 55°C (131°F) <u>Minimum</u>	10%
June, July, and August at 70°C (158°F) <u>Minimum</u>	10%
b. Percent evaporated during months of: January, February, November, and December at 110°C (230°F) <u>Minimum</u>	50%
March, April, May, September, and October at 113°C (235°F) <u>Minimum</u>	50%

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June, July, and August at 121°C (250°F)	
Minimum	50%
e. Percent evaporated during the months of January, February, March, April, May, September, October, November, and December at 185°C (365°F)	
Minimum	90%
June, July, and August at 190°C (374°F)	
Minimum	90%
End point, maximum 225°C (437°F)	-
Residue, percent maximum	2%

2. a. Reid vapor pressure at 100°F, pounds per square inch (psi)

Test Method ASTM D4953 or D5191 for both oxygenated or nonoxygenated fuels.

Throughout the Commonwealth of Virginia, except for the nonattainment areas specified below during the period specified below, the Reid vapor pressure standard shall be:

June 1 to September 15	9.0 psi
September 16 to 30	13.5 psi
Maximum during months of March, April, May and October	13.5 psi
Maximum during months of November, December, January, and February	15.0 psi

For the nonattainment areas specified in Section 3-A-2 (ii) below, the Reid vapor pressure standard shall be:

Maximum during period:	-
June 1 to September 15	7.8 psi

b. The nonattainment areas referred to in subsection A-2 a of this section are:

(1) The Northern Virginia nonattainment area which includes the counties of Arlington, Fairfax, Loudoun, Prince William, Stafford, and includes the cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park.

(2) The Richmond nonattainment area which includes the counties of Charles City, Chesterfield, Hanover, Henrico, and includes the cities of Colonial Heights, Hopewell, and Richmond.

(3) The Hampton Roads nonattainment area which includes the counties of James City, York, and includes the cities of Chesapeake, Hampton, Newport News, Norfolk, Poquoson, Portsmouth, Suffolk, Virginia Beach, and Williamsburg.

The Reid vapor pressure values specified in subdivision A-2 of this section shall be increased one psi for gasoline-ethanol blends containing at least 9.0% but not more than 10% ethanol by volume.

e. Throughout the Commonwealth of Virginia, from May 1 to May 31 of each year, gasoline refiners, gasoline importers, gasoline pipeline operators, and gasoline terminal operators shall supply fuel with a maximum Reid vapor pressure standard of 9.0 psi.

- |   |  |
|---|--|
| 3. Undissolved water and sediment, percent by volume, maximum   | 0.01% VDACS<br>Method of Test <sup>4</sup> |
| 4. Existent gum, 5 mg. per 100 ml., maximum   | ASTM<br>D381                               |
| 5. The octane number shall not be more than one octane number below the octane number filed in connection with registration.  | ASTM<br>D2699 and D2700                    |
| 6. Gasoline labeled as "unleaded," "no lead," or "lead free" shall not contain more than 0.05 grams lead per gallon and not more than 0.005 grams of phosphorus per gallon. | ASTM<br>Lead: D3237<br>Phosphorus: D3231   |

<sup>4</sup>The calculation for the V.D.A.C.S. Method of Test is as follows:

$$\frac{\text{Volume of water and/or sediment}}{\text{Total volume of sample}} \times 100 = \text{Water and/or Sediment}$$

B. Diesel fuel. Diesel fuel shall meet the requirements of the following specifications when tested in compliance with the latest version of the American Society for Testing and Materials Test Methods specified below:

Specification	-	ASTM Method
1. Flash point, degrees F minimum	-	D93
(If registered and labeled as #1 Diesel)	100°F	-

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(If registered and labeled as #2 Diesel)	125°F	-
2. Water and sediment, percent by volume, maximum	0.05%	D1796
3. Sulfur, percent by weight maximum	0.5%	D2622 (D129 shall be the referee method)
4. Cetane number, minimum	40	D613
5. 90 percent distillation point, degrees, F maximum	640°F	D86
6. Corrosion ASTM copper strip scale maximum	No. 3	D130  3 hours at 50°C

ASTM D 4814, "Standard Specification for Automotive Spark Ignition Engine Fuel," except that volatility standards for unleaded gasoline blended with ethanol shall not be more restrictive than those adopted under the rules, regulations, and Clean Air Act waivers of the U.S. Environmental Protection Agency. Gasoline blended with ethanol at concentrations up to 10 percent by volume shall be blended under any of the following three options:

1. The base gasoline used in such blends shall meet the requirements of ASTM D 4814 and the ethanol shall meet the requirements of ASTM D 4806, " Standard Specification for Denatured Fuel Ethanol for Blending with Gasolines for Use as Automotive Spark-Ignition Engine Fuel," with the following exceptions:

(i) The distillation minimum temperature at the 50 volume percent evaporated point shall not be less than 66°C (150 °F).

(ii) The minimum Test Temperature at which the Vapor/Liquid Ratio is equal to 20 shall be as follows for the applicable vapor lock protection class:

Class 1 shall be 51.5 °C (125 °F)

Class 2 shall be 59.0 °C (120 °F)

Class 3 shall be 45.0 °C (113 °F)

Class 4 shall be 41.5 °C (107 °F)

Class 5 shall be 37.0 °C (99 °F)

Class 6 shall be 35.0 °C (95 °F)

or

2. The blend shall meet the requirements of ASTM D 4814, or

3. The base gasoline used in such blends shall meet all the requirements of ASTM D 4814 except distillation, and the blend shall meet the distillation requirements of ASTM D 4814.

4. Undissolved water and sediment, percent by volume, maximum 0.01% as determined by Virginia Department of Agriculture and Consumer Services (VDACS) Method of Test. The calculation for the VDACS Method of Test is as follows:

Volume of water and/or sediment ÷ total volume of sample x 100 = Percent Water and/or Sediment

B. Blends of gasoline and ethanol shall meet the following vapor pressure requirements:

1. During the period between June 1 and September 15 of each calendar year, blends containing 9 percent ethanol by volume and a maximum of 10 percent ethanol by volume shall not exceed the ASTM D 4814 vapor pressure limits by more than 1.0 psi. All other blend concentrations shall meet the ASTM D 4814 vapor pressure limits.

2. During the period between September 16 and May 31 of each calendar year, all blends of gasoline and ethanol shall not exceed the ASTM D 4814 vapor pressure standard by more than 1.0 psi.

C. Diesel fuel. Diesel fuel shall meet the requirements of ASTM D 975, "Standard Specification for Diesel Fuel Oils."

Agency Contact: Andres Alvarez, Director, Division of Consumer Protection, Department of Agriculture and Consumer Services, 102 Governor Street, LL-44, P.O. Box 1163, Richmond, Virginia 23218, telephone (804) 786-3523, email andres.alvarez@vdacs.virginia.gov.

## AIR POLLUTION CONTROL BOARD

### State Implementation Plan to Support Reasonable Available Control Technology (RACT) in Stafford County

Notice of action: The Department of Environmental Quality (DEQ) is announcing an opportunity for public comment on a proposed state implementation plan revision that is necessary to ensure Stafford County, as part of the Ozone Transport Region, meets the requirements of Reasonable Available Control Technology (RACT) set forth by the federal Clean Air Act (CAA). If adopted, the Commonwealth intends to submit the plan or portion thereof as a revision to the Commonwealth of Virginia State Implementation Plan (SIP) in accordance with the requirements of §110(a) of the federal Clean Air Act. The SIP is the plan developed by the Commonwealth in order to fulfill its responsibilities under the

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federal Clean Air Act to attain and maintain the ambient air quality standards promulgated by the U.S. Environmental Protection Agency (EPA) under the Act.

Purpose of notice: DEQ is seeking comments on the recertification of RACT for subject facilities in Stafford County based on the requirements of §184 of the federal Clean Air Act in accordance with 40 CFR 51.916.

Public comment period: March 7, 2008, to April 10, 2008.

Public hearing: DEQ Fredericksburg Satellite Office, 806 Westwood Office Park, Fredericksburg, Virginia, 11 a.m., April 9, 2008.

Description of proposal: The proposed revision, "State Implementation Plan to Support Reasonable Available Control Technology (RACT) in Stafford County, Virginia," is intended to demonstrate compliance with the requirements of §184 of the federal Clean Air Act in accordance with 40 CFR 51.916. These requirements include the submittal of a legally enforceable mechanism that requires subject facilities to implement RACT. RACT is the lowest emission limit that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility.

Federal information: This notice is being given to satisfy the public participation requirements of federal regulations (40 CFR 51.102). The proposal will be submitted as a revision to the Commonwealth of Virginia SIP under §110(a) of the federal Clean Air Act in accordance with 40 CFR 51.104. All provisions of the proposal are planned to be submitted as a revision to the Commonwealth of Virginia SIP.

How to comment: DEQ accepts written comments by email, facsimile transmission, and postal mail. In order to be considered, written comments must include the full name, address, and telephone number of the person commenting and be received by DEQ by 5 p.m. on the last day of the comment period (April 10, 2008). Due to problems with the quality of facsimile transmissions, commenters are encouraged to provide the signed original by postal mail within one week. Both oral and written comments are accepted at the public hearing. DEQ prefers that comments be provided in writing, along with any supporting documents or exhibits. All testimony, exhibits, and documents received are part of the public record. Please note this proposed plan is being concurrently reviewed by the U.S. EPA.

To review proposal: The proposal and any supporting documents are available on the DEQ Air Public Notices for Plans website: <http://www.deq.virginia.gov/air/permitting/planotes.html>. The documents may also be obtained by contacting the DEQ representative named below. The public may review the documents between 8:30 a.m. and 5 p.m. of each business day until the close of the public comment period at the following

locations: 1) DEQ Main Street Office, 8th Floor, 629 E. Main Street, Richmond, Virginia, (804) 698-4070 and 2) DEQ Fredericksburg Satellite Office, 806 Westwood Office Park, Fredericksburg, Virginia 22401, (540) 899-4600.

Contact Information: Doris McLeod, Air Quality Planner, Department of Environmental Quality, 629 East Main Street, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4197, FAX (804) 698-4510, or email [damcleod@deq.virginia.gov](mailto:damcleod@deq.virginia.gov).

## STATE CORPORATION COMMISSION

### Bureau of Insurance

March 10, 2008

ADMINISTRATIVE LETTER 2008-04

TO: All Insurers Licensed to Write Accident and Sickness Insurance in Virginia, and All Health Services Plans and Health Maintenance Organizations Licensed in Virginia

RE: 14 VAC 5-190-10 et seq.: Rules Governing the Reporting of Cost and Utilization Data Relating to Mandated Benefits and Mandated Providers - 2007 Reporting Period

The purpose of this Administrative Letter is to assist carriers in the preparation of the Annual Report of Cost and Utilization Data relating to Mandated Benefits and Providers required pursuant to 14 VAC 5-190-10 et seq. and § 38.2-3419.1 of the Code of Virginia, and to remind all affected carriers of the reporting requirements applicable to mandated benefits and providers for the 2007 reporting year. Each affected carrier must submit a completed Form MB-1 to furnish the required information. It is not acceptable to submit more than one Form MB-1 for a single carrier or to consolidate information from different carriers on one form. The completed Form MB-1 (cover sheet and sections) is due on or before May 1, 2008 and may be submitted electronically. The due date may not be extended for any reason, including the inability to file the reports electronically. The instructions, representative CPT and ICD-9-CM codes and forms for the 2007 reporting period are available on the Bureau of Insurance's website at:

<http://www.scc.virginia.gov/boi/webpages/boimandatedforms.htm>

Carriers should refer to 14 VAC 5-190-40 for an explanation of the circumstances under which a full and complete or an abbreviated report must be filed, or under which a company may be exempt from filing a report. The Virginia total annual written premium for all accident and sickness policies or contracts referred to in this section is the amount reported to the Commission on the company's Annual Statement for the year ending December 31, 2007. This is the amount used to determine if a report is required.

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The instructions explain the type of information necessary to complete Form MB-1. All sources of information, including 14 VAC 5-190-10 et seq., §§ 38.2-3408 through 38.2-3418.14, as applicable, § 38.2-4221, and CPT and ICD-9-CM codes should be consulted in the preparation of this report. Please note that the CPT and ICD-9-CM codes are not intended to exhaust all medical codes that may be used in collecting data for Form MB-1, but are representative of some of the more common codes associated with the mandated benefits.

Correspondence regarding reporting requirements should be directed to Mary Ann Mason, Senior Insurance Market Examiner, Forms and Rates Section, Bureau of Insurance, Life and Health Division, P.O. Box 1157, Richmond, VA 23218, telephone (804) 371-9348, FAX (804) 371-9944, email [maryann.mason@scc.virginia.gov](mailto:maryann.mason@scc.virginia.gov).

System related questions or problems should be directed to Andrew Iverson, Insurance Analyst, Bureau of Insurance, Automated Systems, P. O. Box 1157, Richmond, VA 23218, telephone (804) 371-9851, FAX (804) 371-9516, email [andrew.iverson@scc.virginia.gov](mailto:andrew.iverson@scc.virginia.gov).

Carriers are reminded that failure to submit a substantially complete and accurate report pursuant to the provisions of 14 VAC 5-190-10 et seq., by May 1, 2008, may be considered a violation subject to a penalty as set forth in § 38.2-218 of the Code of Virginia. Lack of notice, lack of information, lack of means of producing the required data, or other such reasons will not be accepted for not submitting a complete and accurate report in a timely manner.

/s/ Alfred W. Gross  
Commissioner of Insurance

## DEPARTMENT OF ENVIRONMENTAL QUALITY

### R & K Foundations, Inc.

Citizens may comment on a proposed consent order for a facility in Franklin County, Virginia.

Public comment period: April 1, 2008, to April 30, 2008.

Purpose of notice: To invite the public to comment on a proposed consent order. A consent order is issued to a business owner or other responsible party to perform specific actions that will bring the entity into compliance with the relevant law and regulations. It is developed cooperatively with the facility and entered into by mutual agreement.

Project description: The Department of Environmental Quality (DEQ) proposes to issue a consent order to R & K Foundations, Inc. to address violations of the Virginia regulations. The location of the facility where the violation occurred is a property on Lost Mountain Road in Franklin County, Virginia. The consent order describes a settlement to resolve unpermitted alteration of a wetland. It requires

payment of a civil charge and mitigation of the environmental impact of the alteration.

How a decision is made: After public comments have been considered, DEQ will make a final decision.

How to comment: DEQ accepts comments from the public by email, fax or postal mail. All comments must include the name, address and telephone number of the person commenting and be received by DEQ within the comment period.

To review the consent order: The public may review the proposed consent order at the DEQ West Central Regional Office every work day by appointment or on the DEQ website at [www.deq.virginia.gov](http://www.deq.virginia.gov).

Contact for public comments, document requests and additional information: Robert Steele, Department of Environmental Quality, West Central Regional Office, Roanoke, VA 24019, telephone (540) 562-6777, FAX (540) 562-6725, or email [rpssteele@deq.virginia.gov](mailto:rpssteele@deq.virginia.gov).

## STATE WATER CONTROL BOARD

### Bacteria Total Daily Maximum Load - The Appomattox River Basin

Notice is hereby given that the State Water Control Board seeks comment on proposed modifications to the bacteria total maximum daily load (TMDL) developed for the Appomattox River Basin in Appomattox, Buckingham, Cumberland, Prince Edward, Amelia, Nottoway, Powhatan, Chesterfield, Dinwiddie and Prince George Counties and Cities of Petersburg, Colonial Heights and Hopewell.

The total maximum daily load of E. coli was developed to address bacterial impairment in the Appomattox River Basin. The TMDL was approved by the Environmental Protection Agency (EPA) on 8/30/2004 and can be found at the following website <https://www.deq.virginia.gov/TMDLDataSearch/ReportSearch.jsp>.

The Virginia Department of Environmental Quality (VDEQ) seeks written comments from interested persons on the modification of this TMDL. In the Appomattox River Basin Bacterial TMDL approved by the U.S. Environmental Protection Agency and the State Water Control Board in 2004, the Grange Hall Elementary School WWTP, VA0020222, was issued a wasteload allocation of 1.15E+10 cfu/year, based on the actual flow (0.0066 mgd) of the facility. The TMDL needs to reflect a wasteload allocation of 2.79E+10 cfu/year, based on the design flow (0.016 mgd) of the facility at the time of issuance. VDEQ proposes to modify the wasteload allocation and TMDL to accommodate this change at a permitted E. coli concentration of 126 cfu/100ml. To review the proposed revisions to the

wasteload allocation tables and TMDL equation tables, please contact Margaret Smigo using the contact information below.

For the bacterial TMDL, the proposed increase will not cause a water quality violation because Virginia's Water Quality Standards for bacteria require that treated effluent discharged into a receiving stream meet the bacteria criteria for the stream. The EPA considers a less than 1% change to the TMDL to be insignificant. The proposed increase in the wasteload allocation for this facility will be 0.002% of the TMDL.

The public comment period for this modification will end on April 30, 2008. Questions or information requests should be addressed to Margaret Smigo. Written comments should include the name, address, and telephone number of the person submitting the comments and should be sent to Margaret Smigo, Piedmont Regional Office, Department of Environmental Quality, 4949-A Cox Road, Glen Allen, VA 23060, telephone (804) 527-5124, or email [mjsmigo@deq.virginia.gov](mailto:mjsmigo@deq.virginia.gov).

### **Proposed Consent Special Order - Mr. W. Scott Baugh**

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

Public comment period: March 31, 2008, to April 30, 2008.

Consent Order description: The State Water Control Board proposes to issue a consent order to Mr. W. Scott Baugh to address alleged violations of UST regulations. The location of the property where the violations occurred is at 5920 Old Buckingham Road, Powhatan, VA. The consent order settles the improper closure of two underground storage tanks, failure to provide required information and includes the payment of a civil charge.

How to comment: DEQ accepts comments from the public by email, fax or postal mail. All comments must include the name, address and telephone number of the person commenting and be received by DEQ within the comment period. The public may review the proposed consent order at the DEQ office named below or on the DEQ website at [www.deq.virginia.gov](http://www.deq.virginia.gov).

Contact for public comments, document requests and additional information: Cynthia Akers, Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, VA 23060, telephone (804) 527-5079, FAX (804) 527-5106 or email [ecakers@deq.virginia.gov](mailto:ecakers@deq.virginia.gov).

### **Proposed Consent Special Order - Dann Marine Towing, LC**

Purpose of notice: To seek public comment on a proposed consent order from the Department of Environmental Quality

for Dann Marine Towing, LC a company located in Chesapeake City, Maryland.

Public comment period: March 31, 2008, to April 30, 2008.

Consent Order description: The State Water Control Board proposes to issue a consent order to Dann Marine Towing, LC to address an unauthorized discharge of liquid asphalt into state waters that occurred in November 2005. The location of the spill was in the James River at Mile Marker 157 in Henrico County, VA. The consent order settles the unauthorized spill and includes the payment of a civil charge.

How to comment: DEQ accepts comments from the public by email, fax or postal mail. All comments must include the name, address and telephone number of the person commenting and be received by DEQ within the comment period. The public may review the proposed consent order at the DEQ office named below or on the DEQ website at [www.deq.virginia.gov](http://www.deq.virginia.gov).

Contact for public comments, document requests and additional information: Cynthia Akers, Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, VA 23060, telephone (804) 527-5079, FAX (804) 527-5106, or email [ecakers@deq.virginia.gov](mailto:ecakers@deq.virginia.gov).

### **Proposed Consent Special Order - Richmond Petroleum Marketing, Incorporated**

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

Public comment period: March 31, 2008, to April 30, 2008.

Consent Order description: The State Water Control Board proposes to issue a consent order to Richmond Petroleum Marketing, Incorporated, to address alleged violations of UST regulations. The location of the property where the violations occurred is at 2301 Mechanicsville Turnpike, Mechanicsville, VA. The consent order settles the improper operation and maintenance of four underground storage tanks, failure to provide required information and includes the payment of a civil charge.

How to comment: DEQ accepts comments from the public by email, fax or postal mail. All comments must include the name, address and telephone number of the person commenting and be received by DEQ within the comment period. The public may review the proposed consent order at the DEQ office named below or on the DEQ website at [www.deq.virginia.gov](http://www.deq.virginia.gov).

Contact for public comments, document requests and additional information: Cynthia Akers, Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, VA 23060, telephone (804) 527-5079, FAX (804) 527-5106, or email [ecakers@deq.virginia.gov](mailto:ecakers@deq.virginia.gov).

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# General Notices/Errata

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## VIRGINIA CODE COMMISSION

### **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.