



Virginia Register of Regulations

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THE VIRGINIA REGISTER INFORMATION PAGE

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

ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS

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

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

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

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

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

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

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

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

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

FAST-TRACK RULEMAKING PROCESS

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

EMERGENCY REGULATIONS

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

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

STATEMENT

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

CITATION TO THE VIRGINIA REGISTER

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

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

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

April 2008 through March 2009

<u>Volume: Issue</u>	<u>Material Submitted By Noon*</u>	<u>Will Be Published On</u>
24:16	March 26, 2008	April 14, 2008
24:17	April 9, 2008	April 28, 2008
24:18	April 23, 2008	May 12, 2008
24:19	May 7, 2008	May 26, 2008
24:20	May 21, 2008	June 9, 2008
INDEX 3 Volume 24		July 2008
24:21	June 4, 2008	June 23, 2008
24:22	June 18, 2008	July 7, 2008
24:23	July 2, 2008	July 21, 2008
24:24	July 16, 2008	August 4, 2008
24:25	July 30, 2008	August 18, 2008
24:26	August 13, 2008	September 1, 2008
FINAL INDEX Volume 24		October 2008
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
INDEX 1 Volume 25		January 2009
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
Title 1. Administration			
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	--
Title 2. Agriculture			
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 5-390-180	Amended	24:15 VA.R. 2023	3/11/08
2 VAC 5-580-10 through 2 VAC 5-580-310	Repealed	24:2 VA.R. 72	10/16/07
2 VAC 5-585-10 through 2 VAC 5-585-4070	Added	24:2 VA.R. 72-133	10/16/07
Title 3. Alcoholic Beverages			
3 VAC 5-50-40	Amended	23:25 VA.R. 4107	*
3 VAC 5-50-50	Amended	23:25 VA.R. 4108	*
3 VAC 5-50-80	Amended	23:25 VA.R. 4108	*
3 VAC 5-50-100	Amended	23:25 VA.R. 4108	*
3 VAC 5-50-130	Amended	23:25 VA.R. 4109	*
3 VAC 5-50-140	Amended	23:25 VA.R. 4110	*
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
Title 4. Conservation and Natural Resources			
4 VAC 5-36-50	Amended	24:6 VA.R. 638	1/1/08
4 VAC 5-36-60	Amended	24:6 VA.R. 644	1/1/08
4 VAC 5-36-70	Amended	24:6 VA.R. 645	1/1/08
4 VAC 5-36-90	Amended	24:6 VA.R. 647	1/1/08
4 VAC 5-36-100	Amended	24:6 VA.R. 649	1/1/08
4 VAC 5-36-110	Amended	24:6 VA.R. 654	1/1/08
4 VAC 5-36-120	Amended	24:6 VA.R. 655	1/1/08
4 VAC 5-36-130	Amended	24:6 VA.R. 656	1/1/08
4 VAC 5-36-140	Amended	24:6 VA.R. 657	1/1/08
4 VAC 5-36-150	Amended	24:6 VA.R. 659	1/1/08
4 VAC 5-36-200	Amended	24:6 VA.R. 662	1/1/08
4 VAC 5-36-210	Amended	24:6 VA.R. 670	1/1/08
4 VAC 5-36-220	Amended	24:6 VA.R. 675	1/1/08
4 VAC 15-20-50	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

* Objection to Fast-Track Rulemaking 24:1

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
4 VAC 15-20-210	Amended	24:10 VA.R. 1261	1/1/08
4 VAC 15-30-5	Amended	24:10 VA.R. 1262	1/1/08
4 VAC 15-30-40	Amended	24:10 VA.R. 1262	1/1/08
4 VAC 15-200-10	Amended	24:6 VA.R. 676	10/26/07
4 VAC 15-270-40	Amended	24:6 VA.R. 676	7/1/08
4 VAC 15-270-80	Added	24:6 VA.R. 676	10/26/07
4 VAC 15-270-90	Added	24:6 VA.R. 677	1/1/08
4 VAC 15-320-25	Amended	24:10 VA.R. 1265	1/1/08
4 VAC 15-330-30	Amended	24:10 VA.R. 1272	1/1/08
4 VAC 15-330-100	Amended	24:10 VA.R. 1272	1/1/08
4 VAC 15-330-120	Amended	24:10 VA.R. 1272	1/1/08
4 VAC 15-330-160	Amended	24:10 VA.R. 1272	1/1/08
4 VAC 15-330-171	Amended	24:10 VA.R. 1273	1/1/08
4 VAC 15-330-200	Amended	24:10 VA.R. 1273	1/1/08
4 VAC 15-340-10	Amended	24:10 VA.R. 1273	1/1/08
4 VAC 15-340-30	Amended	24:10 VA.R. 1274	1/1/08
4 VAC 15-350-20	Amended	24:10 VA.R. 1275	1/1/08
4 VAC 15-350-30	Amended	24:10 VA.R. 1275	1/1/08
4 VAC 15-350-60	Amended	24:10 VA.R. 1275	1/1/08
4 VAC 15-350-70	Amended	24:10 VA.R. 1275	1/1/08
4 VAC 15-360-10	Amended	24:10 VA.R. 1276	1/1/08
4 VAC 20-20-50	Amended	24:5 VA.R. 555	11/1/07
4 VAC 20-150-30	Amended	24:10 VA.R. 1277	1/1/08
4 VAC 20-252-55	Amended	24:10 VA.R. 1278	1/1/08
4 VAC 20-252-90	Amended	24:4 VA.R. 471	10/1/07
4 VAC 20-252-100	Amended	24:4 VA.R. 471	10/1/07
4 VAC 20-252-120	Amended	24:10 VA.R. 1278	1/1/08
4 VAC 20-252-150	Amended	24:10 VA.R. 1279	1/1/08
4 VAC 20-252-160	Amended	24:10 VA.R. 1279	1/1/08
4 VAC 20-252-230	Amended	24:10 VA.R. 1281	1/1/08
4 VAC 20-260-10	Amended	24:4 VA.R. 472	10/1/07
4 VAC 20-260-20	Amended	24:4 VA.R. 472	10/1/07
4 VAC 20-260-30	Amended	24:4 VA.R. 473	10/1/07
4 VAC 20-260-35	Added	24:4 VA.R. 474	10/1/07
4 VAC 20-260-40	Amended	24:4 VA.R. 474	10/1/07
4 VAC 20-260-60	Amended	24:4 VA.R. 474	10/1/07
4 VAC 20-270-55	Amended	24:15 VA.R. 2023	3/1/08
4 VAC 20-320-50	Amended	24:12 VA.R. 1456	2/1/08
4 VAC 20-530-20	Amended	24:12 VA.R. 1456	2/1/08
4 VAC 20-530-31	Amended	24:13 VA.R. 1735	2/5/08
4 VAC 20-530-32	Repealed	24:12 VA.R. 1457	2/1/08
4 VAC 20-610-20	Amended	24:8 VA.R. 959	12/1/07
4 VAC 20-610-25	Added	24:8 VA.R. 959	12/1/07
4 VAC 20-610-30	Amended	24:8 VA.R. 960	12/1/07
4 VAC 20-610-30	Amended	24:15 VA.R. 2024	3/1/08
4 VAC 20-610-50	Amended	24:8 VA.R. 961	12/1/07
4 VAC 20-610-60	Amended	24:8 VA.R. 961	12/1/07
4 VAC 20-620-30	Amended	24:10 VA.R. 1281	12/27/07
4 VAC 20-620-40 emer	Amended	24:8 VA.R. 962	11/28/07-12/27/07
4 VAC 20-620-40	Amended	24:10 VA.R. 1282	12/27/07
4 VAC 20-620-50	Amended	24:15 VA.R. 2025	3/1/08

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
4 VAC 20-620-70	Amended	24:15 VA.R. 2026	3/1/08
4 VAC 20-650-20	Amended	24:4 VA.R. 474	10/1/07
4 VAC 20-650-30	Amended	24:4 VA.R. 475	10/1/07
4 VAC 20-650-40	Amended	24:4 VA.R. 475	10/1/07
4 VAC 20-700-20	Amended	24:15 VA.R. 2026	3/1/08
4 VAC 20-720-20	Amended	24:4 VA.R. 475	10/1/07
4 VAC 20-720-20	Erratum	24:5 VA.R. 621	--
4 VAC 20-720-40 through 4 VAC 20-720-80	Amended	24:4 VA.R. 478-480	10/1/07
4 VAC 20-720-40	Amended	24:12 VA.R. 1457	2/1/08
4 VAC 20-720-50	Amended	24:12 VA.R. 1458	2/1/08
4 VAC 20-720-60	Amended	24:12 VA.R. 1458	2/1/08
4 VAC 20-720-80	Amended	24:12 VA.R. 1458	2/1/08
4 VAC 20-720-95	Added	24:4 VA.R. 480	10/1/07
4 VAC 20-720-110	Amended	24:4 VA.R. 480	10/1/07
4 VAC 20-750-10	Amended	24:15 VA.R. 2026	3/1/08
4 VAC 20-750-30	Amended	24:15 VA.R. 2026	3/1/08
4 VAC 20-751-15	Added	24:15 VA.R. 2027	3/1/08
4 VAC 20-751-20	Amended	24:15 VA.R. 2027	3/1/08
4 VAC 20-755-10	Amended	24:2 VA.R. 133	9/1/07
4 VAC 20-755-20	Amended	24:2 VA.R. 133	9/1/07
4 VAC 20-755-30	Amended	24:2 VA.R. 136	9/1/07
4 VAC 20-910-45	Amended	24:5 VA.R. 556	11/1/07
4 VAC 20-950-47	Amended	24:15 VA.R. 2028	3/1/08
4 VAC 20-950-48	Amended	24:15 VA.R. 2028	3/1/08
4 VAC 20-950-48.1	Amended	24:15 VA.R. 2029	3/1/08
4 VAC 20-960-45	Amended	24:8 VA.R. 964	1/1/08
4 VAC 20-960-47	Amended	24:8 VA.R. 964	1/1/08
4 VAC 20-1040-20	Amended	24:8 VA.R. 964	1/1/08
4 VAC 20-1040-35	Added	24:12 VA.R. 1459	2/1/08
4 VAC 20-1090-30	Amended	24:8 VA.R. 965	12/1/07
4 VAC 20-1120-20	Amended	23:23 VA.R. 3871	6/28/07
4 VAC 20-1130-10 through 4 VAC 20-1130-70	Added	24:8 VA.R. 968-970	12/1/07
4 VAC 25-20 (Forms)	Amended	23:24 VA.R. 3968	--
4 VAC 25-50-10 through 4 VAC 25-50-110	Repealed	23:22 VA.R. 3696	8/8/07
4 VAC 25-130 (Forms)	Amended	24:11 VA.R. 1424	--
4 VAC 25-130-777.17	Amended	23:22 VA.R. 3696	8/8/07
Title 5. Corporations			
5 VAC 5-20-20	Amended	24:11 VA.R. 1347	2/15/08
5 VAC 5-20-140	Amended	24:11 VA.R. 1347	2/15/08
5 VAC 5-20-150	Amended	24:11 VA.R. 1348	2/15/08
5 VAC 5-20-170	Amended	24:11 VA.R. 1348	2/15/08
5 VAC 5-20-240	Amended	24:11 VA.R. 1349	2/15/08
5 VAC 5-30-10	Amended	23:23 VA.R. 3872	7/1/07
5 VAC 5-30-20	Amended	23:23 VA.R. 3872	7/1/07
5 VAC 5-30-30	Amended	23:23 VA.R. 3873	7/1/07
5 VAC 5-30-40	Amended	23:23 VA.R. 3873	7/1/07
5 VAC 5-30-50	Amended	23:23 VA.R. 3874	7/1/07
5 VAC 5-30-60	Amended	23:23 VA.R. 3874	7/1/07
5 VAC 5-30-70	Amended	23:23 VA.R. 3875	7/1/07

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
Title 6. Criminal Justice and Corrections			
6 VAC 15-20-10 through 6 VAC 15-20-230	Amended	23:22 VA.R. 3697-3703	8/9/07
6 VAC 15-61-10 through 6 VAC 15-61-300	Repealed	24:8 VA.R. 970	1/24/08
6 VAC 15-62-10 through 6 VAC 15-62-120	Added	24:8 VA.R. 970-979	1/24/08
6 VAC 15-62-110	Amended	24:13 VA.R. 1736	3/3/08
6 VAC 15-62 (Forms)	Amended	24:12 VA.R. 1523	--
6 VAC 20-120-40	Amended	23:25 VA.R. 4177	9/19/07
6 VAC 35-20-37 emer	Amended	23:25 VA.R. 4178	8/1/07-7/31/08
6 VAC 35-180-10 through 6 VAC 35-180-170	Added	24:5 VA.R. 557-561	1/1/08
6 VAC 35-190-10 through 6 VAC 35-190-110	Added	24:2 VA.R. 137-139	10/31/07
6 VAC 40-50-10 through 6 VAC 40-50-80 emer	Added	23:23 VA.R. 3876	7/1/06-12/29/07
6 VAC 40-50-10 through 6 VAC 40-50-80	Added	24:9 VA.R. 1103-1104	2/6/08
Title 8. Education			
8 VAC 20-21-10 through 8 VAC 20-21-730	Repealed	23:25 VA.R. 4179	9/21/07
8 VAC 20-22-10 through 8 VAC 20-22-760	Added	23:25 VA.R. 4179-4214	9/21/07
8 VAC 20-160-10	Amended	23:23 VA.R. 3876	8/27/07
8 VAC 20-160-20	Amended	23:23 VA.R. 3878	8/27/07
8 VAC 20-160-30	Amended	23:23 VA.R. 3878	8/27/07
8 VAC 20-160-40	Amended	23:23 VA.R. 3879	8/27/07
8 VAC 20-160-50	Amended	23:23 VA.R. 3879	8/27/07
8 VAC 20-160-60	Amended	23:23 VA.R. 3879	8/27/07
8 VAC 20-190-10	Repealed	24:5 VA.R. 562	1/1/08
8 VAC 20-500-10	Repealed	24:5 VA.R. 563	1/1/08
8 VAC 20-541-10 through 8 VAC 20-541-60	Repealed	23:25 VA.R. 4214	9/21/07
8 VAC 20-542-10 through 8 VAC 20-542-600	Added	23:25 VA.R. 4214-4270	9/21/07
8 VAC 35-60-10	Added	24:1 VA.R. 25	8/28/07
8 VAC 35-60-20	Added	24:1 VA.R. 25	8/28/07
8 VAC 35-60-30	Added	24:1 VA.R. 25	8/28/07
8 VAC 40-140-10 through 8 VAC 40-140-90	Added	23:22 VA.R. 3704-3706	7/1/07
Title 9. Environment			
9 VAC 5-20-203	Amended	24:5 VA.R. 564	12/12/07
9 VAC 5-20-204	Amended	24:5 VA.R. 565	12/12/07
9 VAC 5-40-20	Amended	24:5 VA.R. 566	12/12/07
9 VAC 5-50-20	Amended	24:5 VA.R. 570	12/12/07
9 VAC 5-50-400	Amended	24:5 VA.R. 573	12/12/07
9 VAC 5-50-410	Amended	24:5 VA.R. 573	12/12/07
9 VAC 5-60-60	Amended	24:5 VA.R. 579	12/12/07
9 VAC 5-60-90	Amended	24:5 VA.R. 579	12/12/07
9 VAC 5-60-92	Added	24:5 VA.R. 579	12/12/07
9 VAC 5-60-95	Amended	24:5 VA.R. 579	12/12/07
9 VAC 5-60-100	Amended	24:5 VA.R. 580	12/12/07
9 VAC 5-91-20	Amended	24:5 VA.R. 587	12/12/07
9 VAC 5-140-1061	Added	24:6 VA.R. 679	12/26/07
9 VAC 5-140-1062	Added	24:6 VA.R. 680	12/26/07
9 VAC 5-140-2061	Added	24:6 VA.R. 681	12/26/07
9 VAC 5-140-2062	Added	24:6 VA.R. 682	12/26/07
9 VAC 5-140-3061	Added	24:6 VA.R. 683	12/26/07
9 VAC 5-140-3062	Added	24:6 VA.R. 683	12/26/07
9 VAC 5-140-3400	Amended	24:5 VA.R. 594	12/12/07
9 VAC 20-60-18	Amended	24:9 VA.R. 1106	2/6/08
9 VAC 20-130-10	Amended	24:4 VA.R. 480	11/28/07

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
9 VAC 20-130-40	Amended	24:4 VA.R. 484	11/28/07
9 VAC 20-130-60	Amended	24:4 VA.R. 484	11/28/07
9 VAC 20-130-70	Amended	24:4 VA.R. 484	11/28/07
9 VAC 20-130-90	Amended	24:4 VA.R. 485	11/28/07
9 VAC 20-130-110	Amended	24:4 VA.R. 485	11/28/07
9 VAC 20-130-120	Amended	24:4 VA.R. 486	11/28/07
9 VAC 20-130-120	Erratum	24:6 VA.R. 889	--
9 VAC 20-130-125	Added	24:4 VA.R. 488	11/28/07
9 VAC 20-130-125	Erratum	24:6 VA.R. 889	--
9 VAC 20-130-130	Amended	24:4 VA.R. 489	11/28/07
9 VAC 20-130-140	Repealed	24:4 VA.R. 489	11/28/07
9 VAC 20-130-150	Repealed	24:4 VA.R. 489	11/28/07
9 VAC 20-130-165	Amended	24:4 VA.R. 489	11/28/07
9 VAC 20-130-175 through 9 VAC 20-130-230	Amended	24:4 VA.R. 490-493	11/28/07
9 VAC 20-130-200	Erratum	24:6 VA.R. 889	--
9 VAC 25-20-10	Amended	24:6 VA.R. 701	1/1/08
9 VAC 25-20-20	Amended	24:6 VA.R. 702	1/1/08
9 VAC 25-20-30	Repealed	24:6 VA.R. 702	1/1/08
9 VAC 25-20-40	Amended	24:6 VA.R. 702	1/1/08
9 VAC 25-20-50	Amended	24:6 VA.R. 703	1/1/08
9 VAC 25-20-60	Amended	24:6 VA.R. 703	1/1/08
9 VAC 25-20-90	Amended	24:6 VA.R. 704	1/1/08
9 VAC 25-20-100	Amended	24:6 VA.R. 704	1/1/08
9 VAC 25-20-110	Amended	24:6 VA.R. 705	1/1/08
9 VAC 25-20-120	Amended	24:6 VA.R. 706	1/1/08
9 VAC 25-20-130	Amended	24:6 VA.R. 708	1/1/08
9 VAC 25-20-146	Added	24:6 VA.R. 708	1/1/08
9 VAC 25-20-147	Added	24:6 VA.R. 709	1/1/08
9 VAC 25-20-148	Added	24:6 VA.R. 709	1/1/08
9 VAC 25-20-149	Added	24:6 VA.R. 709	1/1/08
9 VAC 25-31-100	Amended	24:3 VA.R. 313	11/14/07
9 VAC 25-31-100	Amended	24:6 VA.R. 711	1/1/08
9 VAC 25-31-120	Amended	24:3 VA.R. 309	11/14/07
9 VAC 25-31-165	Amended	24:3 VA.R. 333	11/14/07
9 VAC 25-31-220	Amended	24:6 VA.R. 731	1/1/08
9 VAC 25-31-290	Amended	24:6 VA.R. 735	1/1/08
9 VAC 25-31-460	Amended	24:6 VA.R. 738	1/1/08
9 VAC 25-31-475	Added	24:6 VA.R. 738	1/1/08
9 VAC 25-31-485	Added	24:6 VA.R. 738	1/1/08
9 VAC 25-31-505	Added	24:6 VA.R. 739	1/1/08
9 VAC 25-32 (Forms)	Amended	24:6 VA.R. 739	--
9 VAC 25-32 (Forms)	Amended	24:13 VA.R. 1738	--
9 VAC 25-32-40	Amended	24:6 VA.R. 739	1/1/08
9 VAC 25-32-60	Amended	24:6 VA.R. 739	1/1/08
9 VAC 25-32-80	Amended	24:6 VA.R. 740	1/1/08
9 VAC 25-32-100	Amended	24:6 VA.R. 743	1/1/08
9 VAC 25-32-140	Amended	24:6 VA.R. 743	1/1/08
9 VAC 25-32-210	Amended	24:6 VA.R. 744	1/1/08
9 VAC 25-32-220	Amended	24:6 VA.R. 745	1/1/08
9 VAC 25-32-240	Amended	24:6 VA.R. 745	1/1/08

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
9 VAC 25-32-300	Amended	24:6 VA.R. 745	1/1/08
9 VAC 25-32-310 through 9 VAC 25-32-760	Added	24:6 VA.R. 746-781	1/1/08
9 VAC 25-120-10	Amended	24:9 VA.R. 1107	2/6/08
9 VAC 25-120-20	Amended	24:9 VA.R. 1107	2/6/08
9 VAC 25-120-50	Amended	24:9 VA.R. 1108	2/6/08
9 VAC 25-120-60	Amended	24:9 VA.R. 1108	2/6/08
9 VAC 25-120-70	Amended	24:9 VA.R. 1108	2/6/08
9 VAC 25-120-80	Amended	24:9 VA.R. 1109	2/6/08
9 VAC 25-196-20	Amended	24:9 VA.R. 1124	2/6/08
9 VAC 25-196-40	Amended	24:9 VA.R. 1124	2/6/08
9 VAC 25-196-60	Amended	24:9 VA.R. 1124	2/6/08
9 VAC 25-196-70	Amended	24:9 VA.R. 1125	2/6/08
9 VAC 25-210-10	Amended	24:9 VA.R. 1132	2/6/08
9 VAC 25-210-60	Amended	24:9 VA.R. 1136	2/6/08
9 VAC 25-210-116	Amended	24:9 VA.R. 1140	2/6/08
9 VAC 25-210-130	Amended	24:9 VA.R. 1142	2/6/08
9 VAC 25-260-5	Amended	24:4 VA.R. 536	8/14/07
9 VAC 25-260-30	Amended	24:2 VA.R. 139	9/11/07
9 VAC 25-260-30	Amended	24:2 VA.R. 140	9/11/07
9 VAC 25-260-30	Amended	24:7 VA.R. 908	*
9 VAC 25-260-30	Amended	24:13 VA.R. 1741	*
9 VAC 25-260-50	Amended	24:4 VA.R. 536	8/14/07
9 VAC 25-260-187	Added	24:4 VA.R. 536	8/14/07
9 VAC 25-260-310	Amended	24:4 VA.R. 536	8/14/07
9 VAC 25-260-480	Amended	24:4 VA.R. 536	8/14/07
9 VAC 25-660-10	Amended	24:9 VA.R. 1144	2/6/08
9 VAC 25-660-60	Amended	24:9 VA.R. 1145	2/6/08
9 VAC 25-660-70	Amended	24:9 VA.R. 1147	2/6/08
9 VAC 25-660-80	Amended	24:9 VA.R. 1148	2/6/08
9 VAC 25-660-100	Amended	24:9 VA.R. 1148	2/6/08
9 VAC 25-670-10	Amended	24:9 VA.R. 1156	2/6/08
9 VAC 25-670-70	Amended	24:9 VA.R. 1157	2/6/08
9 VAC 25-670-80	Amended	24:9 VA.R. 1158	2/6/08
9 VAC 25-670-100	Amended	24:9 VA.R. 1159	2/6/08
9 VAC 25-680-10	Amended	24:9 VA.R. 1170	2/6/08
9 VAC 25-680-60	Amended	24:9 VA.R. 1172	2/6/08
9 VAC 25-680-70	Amended	24:9 VA.R. 1174	2/6/08
9 VAC 25-680-80	Amended	24:9 VA.R. 1175	2/6/08
9 VAC 25-680-100	Amended	24:9 VA.R. 1176	2/6/08
9 VAC 25-690-10	Amended	24:9 VA.R. 1188	2/6/08
9 VAC 25-690-70	Amended	24:9 VA.R. 1190	2/6/08
9 VAC 25-690-80	Amended	24:9 VA.R. 1191	2/6/08
9 VAC 25-690-100	Amended	24:9 VA.R. 1191	2/6/08
9 VAC 25-720-50	Amended	23:23 VA.R. 3881	10/22/07
9 VAC 25-720-50	Amended	23:23 VA.R. 3888	10/22/07
9 VAC 25-720-50	Amended	23:23 VA.R. 3895	10/22/07
9 VAC 25-720-50	Amended	24:2 VA.R. 140	11/15/07
9 VAC 25-720-80	Amended	23:23 VA.R. 3901	10/22/07
9 VAC 25-720-90	Amended	24:2 VA.R. 147	11/15/07

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

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
9 VAC 25-790-10	Amended	24:6 VA.R. 784	1/1/08
9 VAC 25-790-50	Amended	24:6 VA.R. 787	1/1/08
9 VAC 25-790-60	Amended	24:6 VA.R. 787	1/1/08
9 VAC 25-790-120	Amended	24:6 VA.R. 788	1/1/08
9 VAC 25-790-130	Amended	24:6 VA.R. 790	1/1/08
9 VAC 25-790-150	Amended	24:6 VA.R. 790	1/1/08
9 VAC 25-790-180	Amended	24:6 VA.R. 791	1/1/08
9 VAC 25-790-200	Amended	24:6 VA.R. 791	1/1/08
9 VAC 25-790-240	Amended	24:6 VA.R. 791	1/1/08
9 VAC 25-790-540	Amended	24:6 VA.R. 792	1/1/08
9 VAC 25-790-550	Amended	24:6 VA.R. 792	1/1/08
9 VAC 25-790-570	Amended	24:6 VA.R. 795	1/1/08
9 VAC 25-790-580	Amended	24:6 VA.R. 797	1/1/08
9 VAC 25-790-590	Amended	24:6 VA.R. 797	1/1/08
9 VAC 25-790-600	Amended	24:6 VA.R. 798	1/1/08
9 VAC 25-790-660	Amended	24:6 VA.R. 799	1/1/08
9 VAC 25-790-880	Amended	24:6 VA.R. 799	1/1/08
Title 11. Gaming			
11 VAC 10-45-10	Amended	24:5 VA.R. 595	12/12/07
11 VAC 10-45-25	Added	24:5 VA.R. 596	12/12/07
Title 12. Health			
12 VAC 5-31-2300 through 12 VAC 5-31-2970	Added	24:6 VA.R. 806-818	1/1/08
12 VAC 5-40-10 through 12 VAC 5-40-190	Repealed	24:6 VA.R. 806	1/1/08
12 VAC 5-90-80 emer	Amended	24:5 VA.R. 597	10/24/07-10/23/08
12 VAC 5-125-10 through 12 VAC 5-125-180	Added	23:23 VA.R. 3904-3919	9/1/07
12 VAC 5-220-10	Amended	24:11 VA.R. 1350	3/5/08
12 VAC 5-220-110	Amended	24:11 VA.R. 1353	3/5/08
12 VAC 5-220-130	Amended	24:11 VA.R. 1354	3/5/08
12 VAC 5-220-200	Amended	24:11 VA.R. 1354	3/5/08
12 VAC 5-371-150	Amended	24:11 VA.R. 1357	3/5/08
12 VAC 5-381-10 through 12VAC5-381-40	Amended	24:11 VA.R. 1358-1361	3/5/08
12 VAC 5-381-60 through 12VAC5-381-100	Amended	24:11 VA.R. 1361-1362	3/5/08
12 VAC 5-381-120	Amended	24:11 VA.R. 1362	3/5/08
12 VAC 5-381-140	Amended	24:11 VA.R. 1362	3/5/08
12 VAC 5-381-150	Amended	24:11 VA.R. 1362	3/5/08
12 VAC 5-381-240	Amended	24:11 VA.R. 1363	3/5/08
12 VAC 5-381-280	Amended	24:11 VA.R. 1363	3/5/08
12 VAC 5-391-10	Amended	24:11 VA.R. 1364	3/5/08
12 VAC 5-391-30 through 12 VAC 5-391-100	Amended	24:11 VA.R. 1366-1368	3/5/08
12 VAC 5-391-120	Amended	24:11 VA.R. 1368	3/5/08
12 VAC 5-391-130	Amended	24:11 VA.R. 1368	3/5/08
12 VAC 5-391-150	Amended	24:11 VA.R. 1369	3/5/08
12 VAC 5-391-160	Amended	24:11 VA.R. 1369	3/5/08
12 VAC 5-391-250	Amended	24:11 VA.R. 1370	3/5/08
12 VAC 5-391-280	Amended	24:11 VA.R. 1370	3/5/08
12 VAC 5-410-230	Amended	24:11 VA.R. 1371	3/5/08
12 VAC 5-421-10	Amended	24:2 VA.R. 149	10/16/07
12 VAC 5-421-90	Amended	24:2 VA.R. 157	10/16/07
12 VAC 5-421-100	Amended	24:2 VA.R. 157	10/16/07
12 VAC 5-421-120	Amended	24:2 VA.R. 158	10/16/07

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
12 VAC 5-421-140	Amended	24:2 VA.R. 158	10/16/07
12 VAC 5-421-160	Amended	24:2 VA.R. 159	10/16/07
12 VAC 5-421-170	Amended	24:2 VA.R. 159	10/16/07
12 VAC 5-421-180	Amended	24:2 VA.R. 159	10/16/07
12 VAC 5-421-190	Amended	24:2 VA.R. 159	10/16/07
12 VAC 5-421-200	Amended	24:2 VA.R. 160	10/16/07
12 VAC 5-421-230	Amended	24:2 VA.R. 160	10/16/07
12 VAC 5-421-250	Amended	24:2 VA.R. 160	10/16/07
12 VAC 5-421-270	Amended	24:2 VA.R. 160	10/16/07
12 VAC 5-421-295	Added	24:2 VA.R. 160	10/16/07
12 VAC 5-421-300	Amended	24:2 VA.R. 160	10/16/07
12 VAC 5-421-330	Amended	24:2 VA.R. 161	10/16/07
12 VAC 5-421-340	Amended	24:2 VA.R. 161	10/16/07
12 VAC 5-421-350	Amended	24:2 VA.R. 161	10/16/07
12 VAC 5-421-360	Amended	24:2 VA.R. 161	10/16/07
12 VAC 5-421-430	Amended	24:2 VA.R. 162	10/16/07
12 VAC 5-421-440	Amended	24:2 VA.R. 162	10/16/07
12 VAC 5-421-450	Amended	24:2 VA.R. 162	10/16/07
12 VAC 5-421-460	Added	24:2 VA.R. 162	10/16/07
12 VAC 5-421-500	Amended	24:2 VA.R. 162	10/16/07
12 VAC 5-421-520	Amended	24:2 VA.R. 163	10/16/07
12 VAC 5-421-530	Amended	24:2 VA.R. 163	10/16/07
12 VAC 5-421-550	Amended	24:2 VA.R. 163	10/16/07
12 VAC 5-421-560	Amended	24:2 VA.R. 163	10/16/07
12 VAC 5-421-570	Amended	24:2 VA.R. 163	10/16/07
12 VAC 5-421-580	Amended	24:2 VA.R. 163	10/16/07
12 VAC 5-421-590	Amended	24:2 VA.R. 164	10/16/07
12 VAC 5-421-600	Amended	24:2 VA.R. 164	10/16/07
12 VAC 5-421-620	Amended	24:2 VA.R. 164	10/16/07
12 VAC 5-421-670	Amended	24:2 VA.R. 164	10/16/07
12 VAC 5-421-680	Amended	24:2 VA.R. 164	10/16/07
12 VAC 5-421-700	Amended	24:2 VA.R. 164	10/16/07
12 VAC 5-421-720	Amended	24:2 VA.R. 166	10/16/07
12 VAC 5-421-760	Amended	24:2 VA.R. 166	10/16/07
12 VAC 5-421-765	Added	24:2 VA.R. 166	10/16/07
12 VAC 5-421-780	Amended	24:2 VA.R. 166	10/16/07
12 VAC 5-421-790	Amended	24:2 VA.R. 166	10/16/07
12 VAC 5-421-800	Amended	24:2 VA.R. 167	10/16/07
12 VAC 5-421-820	Amended	24:2 VA.R. 167	10/16/07
12 VAC 5-421-830	Amended	24:2 VA.R. 167	10/16/07
12 VAC 5-421-840	Amended	24:2 VA.R. 169	10/16/07
12 VAC 5-421-850	Amended	24:2 VA.R. 169	10/16/07
12 VAC 5-421-860	Amended	24:2 VA.R. 170	10/16/07
12 VAC 5-421-870	Amended	24:2 VA.R. 170	10/16/07
12 VAC 5-421-880	Added	24:2 VA.R. 171	10/16/07
12 VAC 5-421-890	Added	24:2 VA.R. 171	10/16/07
12 VAC 5-421-900	Added	24:2 VA.R. 171	10/16/07
12 VAC 5-421-910	Added	24:2 VA.R. 171	10/16/07
12 VAC 5-421-920	Added	24:2 VA.R. 171	10/16/07
12 VAC 5-421-930	Added	24:2 VA.R. 171	10/16/07
12 VAC 5-421-940	Amended	24:2 VA.R. 172	10/16/07

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
12 VAC 5-421-950	Amended	24:2 VA.R. 172	10/16/07
12 VAC 5-421-960	Amended	24:2 VA.R. 173	10/16/07
12 VAC 5-421-970	Amended	24:2 VA.R. 173	10/16/07
12 VAC 5-421-990	Amended	24:2 VA.R. 173	10/16/07
12 VAC 5-421-1000	Amended	24:2 VA.R. 173	10/16/07
12 VAC 5-421-1010	Amended	24:2 VA.R. 173	10/16/07
12 VAC 5-421-1020	Amended	24:2 VA.R. 173	10/16/07
12 VAC 5-421-1030	Amended	24:2 VA.R. 173	10/16/07
12 VAC 5-421-1040	Amended	24:2 VA.R. 173	10/16/07
12 VAC 5-421-1070	Amended	24:2 VA.R. 174	10/16/07
12 VAC 5-421-1090	Amended	24:2 VA.R. 174	10/16/07
12 VAC 5-421-1120	Amended	24:2 VA.R. 174	10/16/07
12 VAC 5-421-1200	Amended	24:2 VA.R. 174	10/16/07
12 VAC 5-421-1260	Amended	24:2 VA.R. 174	10/16/07
12 VAC 5-421-1270	Amended	24:2 VA.R. 174	10/16/07
12 VAC 5-421-1300	Amended	24:2 VA.R. 174	10/16/07
12 VAC 5-421-1310	Amended	24:2 VA.R. 174	10/16/07
12 VAC 5-421-1320	Amended	24:2 VA.R. 175	10/16/07
12 VAC 5-421-1330	Amended	24:2 VA.R. 175	10/16/07
12 VAC 5-421-1340	Amended	24:2 VA.R. 175	10/16/07
12 VAC 5-421-1350	Amended	24:2 VA.R. 175	10/16/07
12 VAC 5-421-1360	Amended	24:2 VA.R. 175	10/16/07
12 VAC 5-421-1370	Amended	24:2 VA.R. 176	10/16/07
12 VAC 5-421-1460	Amended	24:2 VA.R. 176	10/16/07
12 VAC 5-421-1510	Amended	24:2 VA.R. 176	10/16/07
12 VAC 5-421-1520	Amended	24:2 VA.R. 176	10/16/07
12 VAC 5-421-1530	Amended	24:2 VA.R. 177	10/16/07
12 VAC 5-421-1540	Amended	24:2 VA.R. 177	10/16/07
12 VAC 5-421-1620	Amended	24:2 VA.R. 177	10/16/07
12 VAC 5-421-1640	Amended	24:2 VA.R. 177	10/16/07
12 VAC 5-421-1660	Amended	24:2 VA.R. 177	10/16/07
12 VAC 5-421-1670	Amended	24:2 VA.R. 178	10/16/07
12 VAC 5-421-1680	Amended	24:2 VA.R. 178	10/16/07
12 VAC 5-421-1690	Amended	24:2 VA.R. 178	10/16/07
12 VAC 5-421-1700	Amended	24:2 VA.R. 178	10/16/07
12 VAC 5-421-1710	Amended	24:2 VA.R. 179	10/16/07
12 VAC 5-421-1720	Amended	24:2 VA.R. 179	10/16/07
12 VAC 5-421-1730	Amended	24:2 VA.R. 179	10/16/07
12 VAC 5-421-1750	Amended	24:2 VA.R. 179	10/16/07
12 VAC 5-421-1760	Amended	24:2 VA.R. 179	10/16/07
12 VAC 5-421-1780	Amended	24:2 VA.R. 179	10/16/07
12 VAC 5-421-1810	Amended	24:2 VA.R. 180	10/16/07
12 VAC 5-421-1820	Amended	24:2 VA.R. 180	10/16/07
12 VAC 5-421-1880	Amended	24:2 VA.R. 180	10/16/07
12 VAC 5-421-1890	Amended	24:2 VA.R. 180	10/16/07
12 VAC 5-421-1900	Amended	24:2 VA.R. 180	10/16/07
12 VAC 5-421-1960	Amended	24:2 VA.R. 181	10/16/07
12 VAC 5-421-2010	Amended	24:2 VA.R. 181	10/16/07
12 VAC 5-421-2080	Amended	24:2 VA.R. 181	10/16/07
12 VAC 5-421-2190	Amended	24:2 VA.R. 181	10/16/07

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
12 VAC 5-421-2200	Amended	24:2 VA.R. 181	10/16/07
12 VAC 5-421-2210	Amended	24:2 VA.R. 181	10/16/07
12 VAC 5-421-2270	Amended	24:2 VA.R. 181	10/16/07
12 VAC 5-421-2310	Amended	24:2 VA.R. 182	10/16/07
12 VAC 5-421-2320	Amended	24:2 VA.R. 182	10/16/07
12 VAC 5-421-2520	Amended	24:2 VA.R. 182	10/16/07
12 VAC 5-421-2630	Amended	24:2 VA.R. 182	10/16/07
12 VAC 5-421-2680	Amended	24:2 VA.R. 182	10/16/07
12 VAC 5-421-2710	Amended	24:2 VA.R. 182	10/16/07
12 VAC 5-421-2790	Amended	24:2 VA.R. 182	10/16/07
12 VAC 5-421-2810	Amended	24:2 VA.R. 182	10/16/07
12 VAC 5-421-2820	Amended	24:2 VA.R. 183	10/16/07
12 VAC 5-421-2840	Amended	24:2 VA.R. 183	10/16/07
12 VAC 5-421-2850	Amended	24:2 VA.R. 183	10/16/07
12 VAC 5-421-2870	Amended	24:2 VA.R. 183	10/16/07
12 VAC 5-421-2880	Amended	24:2 VA.R. 183	10/16/07
12 VAC 5-421-2930	Amended	24:2 VA.R. 183	10/16/07
12 VAC 5-421-2990	Amended	24:2 VA.R. 184	10/16/07
12 VAC 5-421-3040	Amended	24:2 VA.R. 184	10/16/07
12 VAC 5-421-3120	Amended	24:2 VA.R. 184	10/16/07
12 VAC 5-421-3200	Amended	24:2 VA.R. 184	10/16/07
12 VAC 5-421-3210	Amended	24:2 VA.R. 184	10/16/07
12 VAC 5-421-3230	Amended	24:2 VA.R. 184	10/16/07
12 VAC 5-421-3310	Amended	24:2 VA.R. 184	10/16/07
12 VAC 5-421-3370	Amended	24:2 VA.R. 185	10/16/07
12 VAC 5-421-3380	Amended	24:2 VA.R. 185	10/16/07
12 VAC 5-421-3450	Amended	24:2 VA.R. 185	10/16/07
12 VAC 5-421-3510	Amended	24:2 VA.R. 185	10/16/07
12 VAC 5-421-3560	Amended	24:2 VA.R. 185	10/16/07
12 VAC 5-421-3580	Amended	24:2 VA.R. 185	10/16/07
12 VAC 5-421-3590	Amended	24:2 VA.R. 186	10/16/07
12 VAC 5-421-3620	Amended	24:2 VA.R. 186	10/16/07
12 VAC 5-421-3660	Amended	24:2 VA.R. 186	10/16/07
12 VAC 5-421-3700	Amended	24:2 VA.R. 186	10/16/07
12 VAC 5-421-3750	Amended	24:2 VA.R. 187	10/16/07
12 VAC 5-421-3760	Amended	24:2 VA.R. 188	10/16/07
12 VAC 5-421-3800	Amended	24:2 VA.R. 188	10/16/07
12 VAC 5-421-3815	Added	24:2 VA.R. 188	10/16/07
12 VAC 5-421-3860	Amended	24:2 VA.R. 188	10/16/07
12 VAC 5-421-3900	Amended	24:2 VA.R. 188	10/16/07
12 VAC 5-421-3960	Amended	24:2 VA.R. 189	10/16/07
12 VAC 5-421-3970	Amended	24:2 VA.R. 189	10/16/07
12 VAC 5-421-4000	Amended	24:2 VA.R. 189	10/16/07
12 VAC 5-421-4035	Added	24:2 VA.R. 190	10/16/07
12 VAC 5-421-4050	Amended	24:2 VA.R. 191	10/16/07
12 VAC 5-421-4070	Amended	24:2 VA.R. 191	10/16/07
12 VAC 5-585-70	Amended	24:5 VA.R. 602	12/17/07
12 VAC 5-585-510	Amended	24:5 VA.R. 602	12/17/07
12 VAC 5-585-600	Amended	24:5 VA.R. 607	12/17/07
12 VAC 5-585-610	Amended	24:5 VA.R. 607	12/17/07
12 VAC 5-585-620	Amended	24:5 VA.R. 612	12/17/07

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
12 VAC 5-585-630	Amended	24:5 VA.R. 614	12/17/07
12 VAC 5-585-760 through 12 VAC 5-585-830	Added	23:25 VA.R. 4298-4301	10/1/07
12 VAC 30-10-820	Added	24:2 VA.R. 191	10/31/07
12 VAC 30-60-500 emer	Added	23:26 VA.R. 4427	8/8/07-8/7/08
12 VAC 30-80-40 emer	Amended	24:3 VA.R. 377	10/1/07-9/30/08
12 VAC 30-120	Erratum	23:24 VA.R. 4080	--
12 VAC 30-120-70	Amended	24:13 VA.R. 1791	7/1/08
12 VAC 30-120-90	Amended	24:13 VA.R. 1793	7/1/08
12 VAC 30-120-140	Amended	24:13 VA.R. 1794	7/1/08
12 VAC 30-120-211	Amended	24:13 VA.R. 1797	7/1/08
12 VAC 30-120-213	Amended	24:13 VA.R. 1800	7/1/08
12 VAC 30-120-225	Amended	24:13 VA.R. 1802	7/1/08
12 VAC 30-120-229	Amended	24:13 VA.R. 1804	7/1/08
12 VAC 30-120-237	Amended	24:13 VA.R. 1805	7/1/08
12 VAC 30-120-247	Amended	24:13 VA.R. 1807	7/1/08
12 VAC 30-120-370 emer	Amended	23:24 VA.R. 4029	9/1/07-8/31/08
12 VAC 30-120-380 emer	Amended	23:24 VA.R. 4032	9/1/07-8/31/08
12 VAC 30-120-700	Amended	24:13 VA.R. 1808	7/1/08
12 VAC 30-120-710	Amended	24:13 VA.R. 1812	7/1/08
12 VAC 30-120-754	Amended	24:13 VA.R. 1813	7/1/08
12 VAC 30-120-758	Amended	24:13 VA.R. 1815	7/1/08
12 VAC 30-120-762	Amended	24:13 VA.R. 1815	7/1/08
12 VAC 30-120-770	Amended	24:13 VA.R. 1816	7/1/08
12 VAC 30-120-900	Amended	24:13 VA.R. 1818	7/1/08
12 VAC 30-120-910	Amended	24:13 VA.R. 1820	7/1/08
12 VAC 30-120-920	Amended	24:13 VA.R. 1821	7/1/08
12 VAC 30-120-970	Amended	24:13 VA.R. 1823	7/1/08
12 VAC 30-120-1500 through 12 VAC 30-120-1550	Added	24:6 VA.R. 819-829	12/26/07
12 VAC 30-120-1500	Amended	24:13 VA.R. 1825	7/1/08
12 VAC 30-120-1510	Amended	24:13 VA.R. 1827	7/1/08
12 VAC 30-120-1550	Amended	24:13 VA.R. 1828	7/1/08
12 VAC 30-120-1560	Added	24:13 VA.R. 1830	7/1/08
12 VAC 30-120-2000	Added	24:13 VA.R. 1832	7/1/08
12 VAC 30-120-2010	Added	24:13 VA.R. 1833	7/1/08
12 VAC 30-135-100 through 12 VAC 30-135-360	Added	24:2 VA.R. 196-218	12/1/07
12 VAC 35-105-115	Added	24:11 VA.R. 1372	3/5/08
12 VAC 35-115-10 through 12 VAC 35-115-250	Amended	23:25 VA.R. 4301-4340	9/19/07
12 VAC 35-115-90	Erratum	24:6 VA.R. 889	--
12 VAC 35-115-145	Added	23:25 VA.R. 4329	9/19/07
12 VAC 35-115-146	Added	23:25 VA.R. 4330	9/19/07
12 VAC 35-115-160	Repealed	23:25 VA.R. 4332	9/19/07
Title 13. Housing			
13 VAC 5-21-10	Amended	24:14 VA.R. 1894	5/1/08
13 VAC 5-21-20	Amended	24:14 VA.R. 1894	5/1/08
13 VAC 5-21-31	Amended	24:14 VA.R. 1895	5/1/08
13 VAC 5-21-41	Amended	24:14 VA.R. 1895	5/1/08
13 VAC 5-21-45	Amended	24:14 VA.R. 1895	5/1/08
13 VAC 5-21-51	Amended	24:14 VA.R. 1895	5/1/08
13 VAC 5-21-61	Amended	24:14 VA.R. 1896	5/1/08
13 VAC 5-31-20 through 13 VAC 5-31-50	Amended	24:14 VA.R. 1897-1898	5/1/08

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
13 VAC 5-31-70 through 13 VAC 5-31-170	Repealed	24:14 VA.R. 1898-1903	5/1/08
13 VAC 5-31-75	Added	24:14 VA.R. 1898	5/1/08
13 VAC 5-31-85	Added	24:14 VA.R. 1900	5/1/08
13 VAC 5-31-200	Amended	24:14 VA.R. 1904	5/1/08
13 VAC 5-31-210	Amended	24:14 VA.R. 1904	5/1/08
13 VAC 5-31-215 through 13 VAC 5-31-270	Added	24:14 VA.R. 1904-1905	5/1/08
13 VAC 5-51-21 through 13 VAC 5-51-51	Amended	24:14 VA.R. 1907-1910	5/1/08
13 VAC 5-51-81	Amended	24:14 VA.R. 1910	5/1/08
13 VAC 5-51-85	Amended	24:14 VA.R. 1921	5/1/08
13 VAC 5-51-91	Amended	24:14 VA.R. 1924	5/1/08
13 VAC 5-51-130 through 13 VAC 5-51-135	Amended	24:14 VA.R. 1925-1928	5/1/08
13 VAC 5-51-143	Added	24:14 VA.R. 1928	5/1/08
13 VAC 5-51-145	Amended	24:14 VA.R. 1932	5/1/08
13 VAC 5-51-150	Amended	24:14 VA.R. 1932	5/1/08
13 VAC 5-51-152	Repealed	24:14 VA.R. 1937	5/1/08
13 VAC 5-51-154	Amended	24:14 VA.R. 1937	5/1/08
13 VAC 5-51-155	Amended	24:14 VA.R. 1939	5/1/08
13 VAC 5-63-10 through 13 VAC 5-63-50	Amended	24:14 VA.R. 1941	5/1/08
13 VAC 5-63-70	Amended	24:14 VA.R. 1941	5/1/08
13 VAC 5-63-80	Amended	24:14 VA.R. 1941	5/1/08
13 VAC 5-63-100 through 13 VAC 5-63-130	Amended	24:14 VA.R. 1941	5/1/08
13 VAC 5-63-150	Amended	24:14 VA.R. 1941	5/1/08
13 VAC 5-63-160	Amended	24:14 VA.R. 1941	5/1/08
13 VAC 5-63-190 through 13 VAC 5-63-260	Amended	24:14 VA.R. 1941	5/1/08
13 VAC 5-63-225	Repealed	24:14 VA.R. 1941	5/1/08
13 VAC 5-63-265	Repealed	24:14 VA.R. 1941	5/1/08
13 VAC 5-63-267	Added	24:14 VA.R. 1941	5/1/08
13 VAC 5-63-270	Amended	24:14 VA.R. 1941	5/1/08
13 VAC 5-63-280	Amended	24:14 VA.R. 1941	5/1/08
13 VAC 5-63-300 through 13 VAC 5-63-360	Amended	24:14 VA.R. 1941	5/1/08
13 VAC 5-63-335	Added	24:14 VA.R. 1941	5/1/08
13 VAC 5-63-400	Amended	24:14 VA.R. 1941	5/1/08
13 VAC 5-63-430	Amended	24:14 VA.R. 1941	5/1/08
13 VAC 5-63-432	Repealed	24:14 VA.R. 1941	5/1/08
13 VAC 5-63-434 through 13 VAC 5-63-450	Amended	24:14 VA.R. 1941	5/1/08
13 VAC 5-63-470 through 13 VAC 5-63-500	Amended	24:14 VA.R. 1941	5/1/08
13 VAC 5-63-520	Amended	24:14 VA.R. 1941	5/1/08
13 VAC 5-63-525	Added	24:14 VA.R. 1941	5/1/08
13 VAC 5-63-550	Repealed	24:14 VA.R. 1941	5/1/08
13 VAC 5-91-20	Amended	24:14 VA.R. 1943	5/1/08
13 VAC 5-91-100	Amended	24:14 VA.R. 1943	5/1/08
13 VAC 5-91-110	Repealed	24:14 VA.R. 1944	5/1/08
13 VAC 5-91-115	Added	24:14 VA.R. 1944	5/1/08
13 VAC 5-91-120	Amended	24:14 VA.R. 1944	5/1/08
13 VAC 5-91-160	Amended	24:14 VA.R. 1945	5/1/08
13 VAC 5-91-270	Amended	24:14 VA.R. 1945	5/1/08
13 VAC 5-95-10	Amended	24:14 VA.R. 1947	5/1/08
13 VAC 5-95-30	Amended	24:14 VA.R. 1948	5/1/08
13 VAC 5-112-340	Amended	24:8 VA.R. 979	1/23/08
13 VAC 10-40-20	Amended	24:7 VA.R. 911	11/13/07
13 VAC 10-40-60	Amended	24:7 VA.R. 914	11/13/07

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13 VAC 10-40-80	Amended	24:7 VA.R. 915	11/13/07
13 VAC 10-40-100	Amended	24:7 VA.R. 916	11/13/07
13 VAC 10-40-110	Amended	24:7 VA.R. 917	11/13/07
13 VAC 10-40-120	Amended	24:7 VA.R. 917	11/13/07
13 VAC 10-40-130	Amended	24:7 VA.R. 917	11/13/07
13 VAC 10-40-170	Amended	24:7 VA.R. 920	11/13/07
13 VAC 10-40-190	Amended	24:7 VA.R. 920	11/13/07
13 VAC 10-40-210	Amended	24:7 VA.R. 921	11/13/07
13 VAC 10-40-230	Amended	24:7 VA.R. 921	11/13/07
13 VAC 10-180-10	Amended	24:11 VA.R. 1373	2/4/08
13 VAC 10-180-50	Amended	24:11 VA.R. 1374	2/4/08
13 VAC 10-180-60	Amended	24:11 VA.R. 1376	2/4/08
13 VAC 10-180-60	Amended	24:11 VA.R. 1387	2/4/08
13 VAC 10-180-100	Amended	24:11 VA.R. 1397	2/4/08
Title 14. Insurance			
14 VAC 5-30-30	Amended	24:15 VA.R. 2153	4/1/08
14 VAC 5-200-185	Amended	24:15 VA.R. 2155	4/1/08
14 VAC 5-215-20	Amended	23:22 VA.R. 3768	7/1/07
14 VAC 5-215-30	Amended	23:22 VA.R. 3768	7/1/07
14 VAC 5-215-50	Amended	23:22 VA.R. 3769	7/1/07
14 VAC 5-215-60	Amended	23:22 VA.R. 3770	7/1/07
14 VAC 5-215-80	Amended	23:22 VA.R. 3770	7/1/07
14 VAC 5-270-10 through 14 VAC 5-270-150	Amended	24:12 VA.R. 1460-1470	1/1/10
14 VAC 5-270-144	Added	24:12 VA.R. 1467	1/1/10
14 VAC 5-270-146	Added	24:12 VA.R. 1468	1/1/10
14 VAC 5-270-148	Added	24:12 VA.R. 1469	1/1/10
14 VAC 5-270-170	Amended	24:12 VA.R. 1470	1/1/10
14 VAC 5-270-174	Added	24:12 VA.R. 1470	1/1/10
14 VAC 5-270-180	Amended	24:12 VA.R. 1470	1/1/10
14 VAC 5-420-10 through 14 VAC 5-420-60	Added	24:7 VA.R. 926-931	2/15/08
Title 16. Labor and Employment			
16 VAC 15-21-30	Amended	23:23 VA.R. 3933	8/23/07
16 VAC 25-90-1910.6	Amended	24:1 VA.R. 26	12/15/07
16 VAC 25-90-1910.66 Appendix D	Amended	24:1 VA.R. 26	12/15/07
16 VAC 25-90-1910.302 through 16 VAC 25-90-1910.308	Amended	24:1 VA.R. 26	12/15/07
16 VAC 25-90-1910.399 Subpart S Appendix A	Amended	24:1 VA.R. 26	12/15/07
Title 18. Professional and Occupational Licensing			
18 VAC 30-20-80	Amended	24:10 VA.R. 1284	2/20/08
18 VAC 30-20-170	Amended	24:10 VA.R. 1284	2/20/08
18 VAC 30-20-171	Amended	24:10 VA.R. 1285	2/20/08
18 VAC 41-70-10 through 18 VAC 41-70-280	Added	23:25 VA.R. 4349-4359	9/20/07
18 VAC 50-30-10	Amended	24:3 VA.R. 416	11/15/07
18 VAC 50-30-40	Amended	24:3 VA.R. 418	11/15/07
18 VAC 50-30-90	Amended	24:3 VA.R. 419	11/15/07
18 VAC 50-30-100	Amended	24:3 VA.R. 419	11/15/07
18 VAC 50-30-120	Amended	24:3 VA.R. 419	11/15/07
18 VAC 50-30-130	Amended	24:3 VA.R. 420	11/15/07
18 VAC 50-30-190	Amended	24:3 VA.R. 421	11/15/07
18 VAC 50-30-200	Amended	24:3 VA.R. 422	11/15/07
18 VAC 50-30-220	Amended	24:3 VA.R. 422	11/15/07

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18 VAC 60-20-17	Amended	24:3 VA.R. 424	11/29/07
18 VAC 60-20-71	Amended	23:23 VA.R. 3934	8/22/07
18 VAC 60-20-81	Added	24:14 VA.R. 1949	4/16/08
18 VAC 60-20-108	Amended	24:14 VA.R. 1950	4/16/08
18 VAC 60-20-190	Amended	24:14 VA.R. 1951	4/16/08
18 VAC 60-20-220	Amended	24:10 VA.R. 1287	3/10/08
18 VAC 60-20-220	Amended	24:14 VA.R. 1951	4/16/08
18 VAC 65-10-10 through 18 VAC 65-10-80	Amended	24:2 VA.R. 226-228	11/15/07
18 VAC 65-10-100	Amended	24:2 VA.R. 228	11/15/07
18 VAC 65-10-110	Amended	24:2 VA.R. 228	11/15/07
18 VAC 65-10-120	Amended	24:2 VA.R. 228	11/15/07
18 VAC 85-20-22	Amended	24:11 VA.R. 1404	3/5/08
18 VAC 85-20-22	Amended	24:14 VA.R. 1952	4/16/08
18 VAC 85-20-140	Amended	24:1 VA.R. 27	10/17/07
18 VAC 85-20-226	Added	24:11 VA.R. 1404	3/5/08
18 VAC 85-20-235	Amended	23:25 VA.R. 4360	9/20/07
18 VAC 85-20-235	Amended	23:25 VA.R. 4361	9/20/07
18 VAC 85-20-290	Amended	23:23 VA.R. 3934	8/22/07
18 VAC 85-20-400 through 18 VAC 85-20-420	Adding	23:25 VA.R. 4362-4363	9/20/07
18 VAC 115-30-150	Amended	24:14 VA.R. 1953	4/16/08
18 VAC 115-30-160	Amended	24:14 VA.R. 1953	4/16/08
18 VAC 85-40-35	Amended	24:11 VA.R. 1404	3/5/08
18 VAC 85-40-61	Amended	24:1 VA.R. 28	10/17/07
18 VAC 85-40-61	Amended	24:1 VA.R. 29	10/18/07
18 VAC 85-40-65	Amended	24:1 VA.R. 28	10/17/07
18 VAC 85-40-67	Added	24:11 VA.R. 1405	3/5/08
18 VAC 85-50-35	Amended	24:11 VA.R. 1405	3/5/08
18 VAC 85-50-58	Amended	24:1 VA.R. 29	10/18/07
18 VAC 85-50-61	Added	24:11 VA.R. 1405	3/5/08
18 VAC 85-80-26	Amended	24:11 VA.R. 1406	3/5/08
18 VAC 85-80-72	Amended	24:1 VA.R. 29	10/18/07
18 VAC 85-80-73	Added	24:11 VA.R. 1406	3/5/08
18 VAC 85-101-25	Amended	24:11 VA.R. 1406	3/5/08
18 VAC 85-101-152	Amended	24:1 VA.R. 30	10/18/07
18 VAC 85-101-153	Added	24:11 VA.R. 1407	3/5/08
18 VAC 85-110-35	Amended	24:11 VA.R. 1407	3/5/08
18 VAC 85-110-155	Amended	24:1 VA.R. 30	10/18/07
18 VAC 85-110-161	Added	24:11 VA.R. 1407	3/5/08
18 VAC 85-120-130	Amended	24:2 VA.R. 229	10/31/07
18 VAC 85-130-30	Amended	24:14 VA.R. 1952	4/16/08
18 VAC 90-20-10	Amended	24:13 VA.R. 1842	4/2/08
18 VAC 90-20-30	Amended	23:25 VA.R. 4363	10/1/07
18 VAC 90-20-35	Amended	24:13 VA.R. 1843	4/2/08
18 VAC 90-20-40 through 18 VAC 90-20-60	Amended	24:13 VA.R. 1843-1845	4/2/08
18 VAC 90-20-65	Repealed	24:13 VA.R. 1844	4/2/08
18 VAC 90-20-70	Amended	24:13 VA.R. 1844	4/2/08
18 VAC 90-20-90	Amended	24:13 VA.R. 1845	4/2/08
18 VAC 90-20-95	Amended	24:13 VA.R. 1846	4/2/08
18 VAC 90-20-96	Added	24:13 VA.R. 1846	4/2/08
18 VAC 90-20-110 through 18 VAC 90-20-140	Amended	24:13 VA.R. 1846-1848	4/2/08
18 VAC 90-20-151	Added	24:13 VA.R. 1848	4/2/08

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18 VAC 90-20-160	Amended	24:13 VA.R. 1849	4/2/08
18 VAC 90-20-190	Amended	24:13 VA.R. 1849	4/2/08
18 VAC 90-20-200	Amended	24:13 VA.R. 1850	4/2/08
18 VAC 90-20-220	Amended	24:13 VA.R. 1850	4/2/08
18 VAC 90-20-225	Added	23:25 VA.R. 4364	10/1/07
18 VAC 90-20-230	Amended	24:13 VA.R. 1851	4/2/08
18 VAC 90-20-275	Amended	24:13 VA.R. 1851	4/2/08
18 VAC 90-20-280	Amended	24:13 VA.R. 1851	4/2/08
18 VAC 90-20-300	Amended	24:13 VA.R. 1851	4/2/08
18 VAC 90-20-370	Amended	24:13 VA.R. 1852	4/2/08
18 VAC 90-20-390	Amended	24:13 VA.R. 1852	4/2/08
18 VAC 90-20-410	Amended	24:13 VA.R. 1853	4/2/08
18 VAC 90-30-10	Amended	24:10 VA.R. 1288	2/20/08
18 VAC 90-30-120	Amended	24:10 VA.R. 1288	2/20/08
18 VAC 90-30-121	Added	24:10 VA.R. 1289	2/20/08
18 VAC 90-30-240	Added	24:3 VA.R. 427	11/29/07
18 VAC 90-40-100	Amended	24:6 VA.R. 831	1/11/08
18 VAC 90-60-100	Amended	24:3 VA.R. 429	11/29/07
18 VAC 95-10-10 through 18 VAC 95-10-80	Amended	24:2 VA.R. 231-232	11/15/07
18 VAC 95-10-100	Amended	24:2 VA.R. 232	11/15/07
18 VAC 95-10-110	Amended	24:2 VA.R. 232	11/15/07
18 VAC 95-10-120	Amended	24:2 VA.R. 232	11/15/07
18 VAC 95-30-10 through 18 VAC 95-30-210	Added	24:6 VA.R. 832-837	1/2/08
18 VAC 105-20-10	Amended	23:22 VA.R. 3791	9/24/07
18 VAC 110-20-10	Amended	24:8 VA.R. 983	1/23/08
18 VAC 110-20-180	Erratum	24:3 VA.R. 444	--
18 VAC 110-20-321	Added	24:8 VA.R. 986	1/23/08
18 VAC 110-20-411 through 18 VAC 110-20-416	Repealed	24:8 VA.R. 986-987	1/23/08
18 VAC 110-30-15	Amended	24:10 VA.R. 1290	2/20/08
18 VAC 110-40-10 through 18 VAC 110-40-50	Amended	24:3 VA.R. 430-431	11/14/07
18 VAC 110-50-10	Amended	24:10 VA.R. 1290	2/20/08
18 VAC 110-50-160	Added	24:10 VA.R. 1291	2/20/08
18 VAC 110-50-170	Added	24:10 VA.R. 1291	2/20/08
18 VAC 110-50-180	Added	24:10 VA.R. 1292	2/20/08
18 VAC 110-50-190	Added	24:10 VA.R. 1292	2/20/08
18 VAC 112-20-81 emer	Added	24:4 VA.R. 497	11/1/07-10/31/08
18 VAC 112-20-90 emer	Amended	24:4 VA.R. 497	11/1/07-10/31/08
18 VAC 112-20-130 emer	Amended	24:4 VA.R. 498	11/1/07-10/31/08
18 VAC 112-20-131 emer	Amended	24:4 VA.R. 498	11/1/07-10/31/08
18 VAC 112-20-150 emer	Amended	24:4 VA.R. 499	11/1/07-10/31/08
18 VAC 115-30-150	Amended	24:14 VA.R. 1953	4/16/08
18 VAC 115-30-160	Amended	24:14 VA.R. 1953	4/16/08
18 VAC 120-40-10	Amended	23:24 VA.R. 4038	9/5/07
18 VAC 120-40-15	Added	23:24 VA.R. 4039	9/5/07
18 VAC 120-40-20	Amended	23:24 VA.R. 4039	9/5/07
18 VAC 120-40-60	Repealed	24:3 VA.R. 433	12/29/07
18 VAC 120-40-80 through 18 VAC 120-40-360	Amended	23:24 VA.R. 4040-4052	9/5/07
18 VAC 120-40-221	Added	23:24 VA.R. 4043	9/5/07
18 VAC 120-40-222	Added	23:24 VA.R. 4043	9/5/07
18 VAC 120-40-295	Added	23:24 VA.R. 4048	9/5/07

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
18 VAC 120-40-342	Added	23:24 VA.R. 4050	9/5/07
18 VAC 120-40-370	Repealed	23:24 VA.R. 4052	9/5/07
18 VAC 120-40-380	Repealed	23:24 VA.R. 4052	9/5/07
18 VAC 120-40-385	Added	23:24 VA.R. 4052	9/5/07
18 VAC 120-40-390	Amended	23:24 VA.R. 4053	9/5/07
18 VAC 120-40-400	Repealed	23:24 VA.R. 4053	9/5/07
18 VAC 120-40-410	Amended	23:24 VA.R. 4053	9/5/07
18 VAC 120-40-411	Added	23:24 VA.R. 4053	9/5/07
18 VAC 120-40-411.1 through 18 VAC 120-40-411.21	Added	23:24 VA.R. 4054-4064	9/5/07
18 VAC 120-40-415	Added	23:24 VA.R. 4064	9/5/07
18 VAC 120-40-415.1	Added	23:24 VA.R. 4065	9/5/07
18 VAC 120-40-415.2	Added	23:24 VA.R. 4065	9/5/07
18 VAC 120-40-415.3	Added	23:24 VA.R. 4065	9/5/07
18 VAC 120-40-420	Amended	23:24 VA.R. 4066	9/5/07
18 VAC 120-40-430	Amended	23:24 VA.R. 4066	9/5/07
18 VAC 125-20-170	Amended	24:12 VA.R. 1471	3/19/08
18 VAC 125-30-120	Amended	24:12 VA.R. 1471	3/19/08
18 VAC 130-20-10	Amended	24:6 VA.R. 838	1/1/08
18 VAC 130-20-30	Amended	24:6 VA.R. 842	1/1/08
18 VAC 130-20-60	Amended	24:6 VA.R. 843	1/1/08
18 VAC 130-20-110	Amended	24:6 VA.R. 844	1/1/08
18 VAC 130-20-170	Amended	24:6 VA.R. 844	1/1/08
18 VAC 130-20-180	Amended	24:6 VA.R. 844	1/1/08
18 VAC 130-20-210	Amended	24:6 VA.R. 846	1/1/08
18 VAC 130-20-220	Amended	24:6 VA.R. 847	1/1/08
18 VAC 130-20-230	Amended	24:6 VA.R. 847	1/1/08
18 VAC 135-20-10	Amended	24:11 VA.R. 1408	4/1/08
18 VAC 135-20-30	Amended	24:11 VA.R. 1409	4/1/08
18 VAC 135-20-60	Amended	24:11 VA.R. 1410	4/1/08
18 VAC 135-20-100	Amended	24:11 VA.R. 1410	4/1/08
18 VAC 135-20-101	Added	24:11 VA.R. 1412	4/1/08
18 VAC 135-20-105	Amended	24:11 VA.R. 1413	4/1/08
18 VAC 135-20-160	Amended	24:11 VA.R. 1413	4/1/08
18 VAC 135-20-170	Amended	24:11 VA.R. 1414	4/1/08
18 VAC 135-20-180	Amended	24:11 VA.R. 1414	4/1/08
18 VAC 135-20-190	Amended	24:11 VA.R. 1416	4/1/08
18 VAC 135-20-210	Amended	24:11 VA.R. 1417	4/1/08
18 VAC 135-20-220	Amended	24:11 VA.R. 1417	4/1/08
18 VAC 135-20-280	Amended	24:11 VA.R. 1417	4/1/08
18 VAC 135-20-300	Amended	24:11 VA.R. 1418	4/1/08
18 VAC 135-20-345	Added	24:11 VA.R. 1418	4/1/08
18 VAC 135-20-360	Amended	24:11 VA.R. 1419	4/1/08
18 VAC 135-20-370	Amended	24:11 VA.R. 1419	4/1/08
18 VAC 135-20-390	Amended	24:11 VA.R. 1420	4/1/08
18 VAC 135-30 (Forms)	Amended	24:1 VA.R. 41	--
18 VAC 135-40 (Forms)	Amended	24:1 VA.R. 43	--
18 VAC 135-50-10	Amended	23:22 VA.R. 3794	9/22/07
18 VAC 135-50-20	Amended	23:22 VA.R. 3795	9/22/07
18 VAC 135-50-220	Amended	23:22 VA.R. 3795	9/22/07
18 VAC 135-50-400	Amended	23:22 VA.R. 3795	9/22/07
18 VAC 135-60-60	Amended	24:9 VA.R. 1230	3/1/08

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
18 VAC 150-10-10	Amended	23:23 VA.R. 3937	10/7/07
18 VAC 150-10-20	Amended	23:23 VA.R. 3937	10/7/07
18 VAC 150-10-30	Amended	23:23 VA.R. 3937	10/7/07
18 VAC 150-10-40	Amended	23:23 VA.R. 3938	10/7/07
18 VAC 150-10-50	Amended	23:23 VA.R. 3938	10/7/07
18 VAC 150-10-60	Amended	23:23 VA.R. 3938	10/7/07
18 VAC 150-10-70	Amended	23:23 VA.R. 3938	10/7/07
18 VAC 150-10-80	Amended	23:23 VA.R. 3938	10/7/07
18 VAC 150-10-100	Amended	23:23 VA.R. 3939	10/7/07
18 VAC 150-10-110	Amended	23:23 VA.R. 3939	10/7/07
18 VAC 150-10-120	Amended	23:23 VA.R. 3939	10/7/07
18 VAC 150-20-30	Amended	24:3 VA.R. 436	11/29/07
18 VAC 150-20-100	Amended	24:3 VA.R. 436	11/29/07
18 VAC 150-20-140	Amended	24:3 VA.R. 437	11/29/07
18 VAC 150-20-220	Added	24:3 VA.R. 438	11/29/07
18 VAC 150-20-230	Added	24:3 VA.R. 438	11/29/07
18 VAC 150-20-240	Added	24:3 VA.R. 438	11/29/07
Title 19. Public Safety			
19 VAC 30-20-115	Added	24:11 VA.R. 1421	3/6/08
19 VAC 30-70-6	Amended	24:8 VA.R. 988	3/1/08
19 VAC 30-70-7	Amended	24:8 VA.R. 988	3/1/08
19 VAC 30-70-9	Amended	24:8 VA.R. 989	3/1/08
19 VAC 30-70-10	Amended	24:8 VA.R. 991	3/1/08
19 VAC 30-70-40	Amended	24:8 VA.R. 994	3/1/08
19 VAC 30-70-50	Amended	24:8 VA.R. 995	3/1/08
19 VAC 30-70-60	Amended	24:8 VA.R. 997	3/1/08
19 VAC 30-70-80	Amended	24:8 VA.R. 998	3/1/08
19 VAC 30-70-90	Amended	24:8 VA.R. 1001	3/1/08
19 VAC 30-70-110 through 19 VAC 30-70-660	Amended	24:8 VA.R. 1001-1070	3/1/08
19 VAC 30-170-15	Amended	24:2 VA.R. 233	10/1/07
19 VAC 30-170-50	Amended	24:2 VA.R. 233	10/1/07
19 VAC 30-190-10 through 19 VAC 30-190-140	Added	24:11 VA.R. 1421-1423	3/6/08
Title 20. Public Utilities and Telecommunications			
20 VAC 5-417-10	Amended	24:4 VA.R. 513	10/9/07
20 VAC 5-417-50	Amended	24:4 VA.R. 513	10/9/07
Title 21. Securities and Retail Franchising			
21 VAC 5-10-40	Amended	23:23 VA.R. 3940	7/1/07
21 VAC 5-20-65	Added	23:23 VA.R. 3942	7/1/07
21 VAC 5-20-95	Added	23:23 VA.R. 3942	7/1/07
21 VAC 5-20-280	Amended	23:23 VA.R. 3943	7/1/07
21 VAC 5-20-330	Amended	23:23 VA.R. 3947	7/1/07
21 VAC 5-80-65	Added	23:23 VA.R. 3949	7/1/07
21 VAC 5-80-160	Amended	23:23 VA.R. 3950	7/1/07
21 VAC 5-80-200	Amended	23:23 VA.R. 3954	7/1/07
21 VAC 5-110	Erratum	23:24 VA.R. 4079	--
21 VAC 5-110-65	Added	23:23 VA.R. 3959	7/1/07
21 VAC 5-110-75	Added	23:23 VA.R. 3960	7/1/07
Title 22. Social Services			
22 VAC 15-30-310	Amended	24:10 VA.R. 1295	3/6/08
22 VAC 40-35-10	Amended	23:23 VA.R. 3962	9/1/07

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
22 VAC 40-35-80	Amended	23:23 VA.R. 3965	9/1/07
22 VAC 40-35-90	Amended	23:23 VA.R. 3965	9/1/07
22 VAC 40-35-100	Amended	23:23 VA.R. 3966	9/1/07
22 VAC 40-41-10 through 22 VAC 40-41-50	Amended	23:22 VA.R. 3796-3799	9/1/07
22 VAC 40-41-55	Amended	23:22 VA.R. 3799	9/1/07
22 VAC 40-41-60	Amended	23:22 VA.R. 3799	9/1/07
22 VAC 40-72-55	Added	24:5 VA.R. 616	12/12/07
22 VAC 40-72-367	Added	24:5 VA.R. 616	12/12/07
22 VAC 40-72-930	Amended	24:1 VA.R. 38	11/1/07
22 VAC 40-72-960	Amended	24:1 VA.R. 39	11/1/07
22 VAC 40-375-10 through 22 VAC 40-375-60	Repealed	24:5 VA.R. 616	12/12/07
22 VAC 40-470-10	Amended	24:9 VA.R. 1231	2/6/08
22 VAC 40-685-30	Amended	24:9 VA.R. 1231	2/6/08
22 VAC 40-705-10 emer	Amended	24:14 VA.R. 1987	3/1/08-2/28/09
22 VAC 40-705-30 emer	Amended	24:14 VA.R. 1990	3/1/08-2/28/09
22 VAC 40-770-10 through 22 VAC 40-770-160	Repealed	24:2 VA.R. 234	11/1/07
22 VAC 40-771-10 through 22 VAC 40-771-160	Added	24:2 VA.R. 234-242	11/1/07
22 VAC 42-10-10 through 22 VAC 42-10-1000	Repealed	24:6 VA.R. 849	12/28/07
22 VAC 42-11-10 through 22 VAC 42-11-1090	Added	24:6 VA.R. 850-885	12/28/07
Title 23. Taxation			
23 VAC 10-10-10 through 23 VAC 10-10-80	Amended	24:12 VA.R. 1520-1521	4/19/08
23 VAC 10-10-80	Amended	24:12 VA.R. 1521	4/19/08
23 VAC 10-10-90	Repealed	24:12 VA.R. 1522	4/19/08
23 VAC 10-210-485	Amended	23:24 VA.R. 4069	9/6/07
23 VAC 10-210-693 emer	Amended	23:25 VA.R. 4364	7/26/07-07/25/08
23 VAC 10-210-6041	Amended	23:24 VA.R. 4068	9/6/07
23 VAC 10-210-6042	Amended	23:24 VA.R. 4069	9/6/07
23 VAC 10-210-6043	Amended	23:24 VA.R. 4069	9/6/07
23 VAC 10-240-20 through 23 VAC 10-240-60	Repealed	23:25 VA.R. 4372-4373	10/04/07
23 VAC 10-240-100	Repealed	23:25 VA.R. 4373	10/04/07
23 VAC 10-240-130	Repealed	23:25 VA.R. 4373	10/04/07
23 VAC 10-240-140	Repealed	23:25 VA.R. 4373	10/04/07
23 VAC 10-240-150	Repealed	23:25 VA.R. 4373	10/04/07
23 VAC 10-240-200	Repealed	23:25 VA.R. 4373	10/04/07
23 VAC 10-240-210	Repealed	23:25 VA.R. 4373	10/04/07
23 VAC 10-240-240	Repealed	23:25 VA.R. 4373	10/04/07
23 VAC 10-240-270	Repealed	23:25 VA.R. 4373	10/04/07
23 VAC 10-240-280	Repealed	23:25 VA.R. 4373	10/04/07
23 VAC 10-240-300	Repealed	23:25 VA.R. 4374	10/04/07
23 VAC 10-240-310	Repealed	23:25 VA.R. 4374	10/04/07
23 VAC 10-240-330	Repealed	23:25 VA.R. 4374	10/04/07
23 VAC 10-240-340	Repealed	23:25 VA.R. 4374	10/04/07
23 VAC 10-240-360	Repealed	23:25 VA.R. 4374	10/04/07
23 VAC 10-240-380	Repealed	23:25 VA.R. 4374	10/04/07
23 VAC 10-240-400	Repealed	23:25 VA.R. 4375	10/04/07
23 VAC 10-240-420	Repealed	23:25 VA.R. 4375	10/04/07
23 VAC 10-240-430	Repealed	23:25 VA.R. 4375	10/04/07
23 VAC 10-240-450	Repealed	23:25 VA.R. 4375	10/04/07
23 VAC 10-240-460	Repealed	23:25 VA.R. 4375	10/04/07
Title 24. Transportation and Motor Vehicles			
24 VAC 20-120-10 through 24 VAC 20-120-180	Repealed	24:4 VA.R. 516	1/1/08

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
24 VAC 20-121-10 through 24 VAC 20-121-220	Adding	24:4 VA.R. 516-529	1/1/08
24 VAC 22-20-10	Amended	24:3 VA.R. 439	12/1/07
24 VAC 22-20-20	Amended	24:3 VA.R. 440	12/1/07
24 VAC 27-10-10 through 24 VAC 27-10-120	Added	23:24 VA.R. 4071-4075	9/20/07
24 VAC 30-45-10	Added	24:2 VA.R. 243	10/1/07
24 VAC 30-45-20	Added	24:2 VA.R. 243	10/1/07
24 VAC 30-45-30	Added	24:2 VA.R. 244	10/1/07
24 VAC 30-200-10	Amended	24:4 VA.R. 529	11/28/07
24 VAC 30-200-20	Amended	24:4 VA.R. 530	11/28/07
24 VAC 30-200-30	Amended	24:4 VA.R. 531	11/28/07
24 VAC 30-200-35	Added	24:4 VA.R. 532	11/28/07
24 VAC 30-200-40	Amended	24:4 VA.R. 533	11/28/07

NOTICES OF INTENDED REGULATORY ACTION

TITLE 4. CONSERVATION AND NATURAL RESOURCES

VIRGINIA SOIL AND WATER CONSERVATION BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with §2.2-4007.01 of the Code of Virginia that the Virginia Soil and Water Conservation Board intends to consider amending the following regulations: **4VAC50-60, Virginia Stormwater Management Permit (VSMP) Regulations**. The purpose of the proposed action is to consider amendments to the applicable portions of the Virginia Soil and Water Conservation Board's Virginia Stormwater Management Program (VSMP) Permit Regulations in order to develop a new general permit for stormwater discharges from construction activities. Regulations developed under the federal Clean Water Act (33 USC §1251 et seq.) and §10.1-603.1 of the Code of Virginia require that VSMP permits be effective for a fixed term not to exceed five years (§10.1-603.2:2 B). The existing five-year general permit was issued on July 1, 2004, thus necessitating the promulgation of a new general permit by the June 30, 2009, expiration date.

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

Statutory Authority: §10.1-603.2:1 of the Code of Virginia.

Public Comments: Public comments may be submitted until 5 p.m. on May 14, 2008.

Agency Contact: David C. Dowling, Policy, Planning, and Budget Director, Department of Conservation and Recreation, 203 Governor Street, Suite 302, Richmond, VA 23219, telephone (804) 786-2291, FAX (804) 786-6141, or email david.dowling@dcr.virginia.gov.

VA.R. Doc. No. R08-1245; Filed March 24, 2008, 11:34 a.m.

TITLE 16. LABOR AND EMPLOYMENT

VIRGINIA WORKERS' COMPENSATION COMMISSION

Notice of Intended Regulatory Action

Notice is hereby given in accordance with §2.2-4007.01 of the Code of Virginia that the Virginia Workers' Compensation Commission intends to consider promulgating **16VAC30-110, Procedures for Processing Awards**. The purpose of the proposed action is to establish procedures by which agreements to pay or terminate benefits in nondisputed cases under the Virginia Workers' Compensation Act are processed by the commission.

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

Statutory Authority: §§65.2-201 and 65.2-900 of the Code of Virginia.

Public Comments: Public comments may be submitted until 5 p.m. May 14, 2008.

Agency Contact: Matthew Bryant, Director, Technology Alignment Program, Virginia Workers' Compensation Commission, 1000 DMV Drive, Richmond, VA 23220, telephone (804) 367-2253, FAX (877) 366-5495, email matthew.bryant@vwc.state.va.us.

VA.R. Doc. No. R08-1237; Filed March 25, 2008, 12:20 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

BOARD OF AGRICULTURE AND CONSUMER SERVICES

Fast-Track Regulation

Title of Regulation: 2VAC5-531. Regulations Governing Milk for Manufacturing Purposes (amending 2VAC5-531-50, 2VAC5-531-140).

Statutory Authority: §§3.1-530.1 and 3.1-530.2 of the Code of Virginia.

Public Hearing Information: No public hearings are scheduled.

Public Comments: Public comments may be submitted until May 14, 2008.

Effective Date: May 29, 2008.

Agency Contact: John Beers, Program Supervisor, Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, VA 23218, telephone (804) 786-1452, FAX (804) 371-7792, (800) 828-1120/TTY, or email john.beers@vdacs.virginia.gov.

Basis: Sections 3.1-530.1 and 3.1-530.2 of the Code of Virginia provide the discretionary authority for the regulation. Section 3.1-530.1 of the Code of Virginia authorizes the Board of Agriculture and Consumer Services "...to establish definitions, standards of quality and identity, and to adopt and enforce regulations dealing with the issuance of permits, production, importation, processing, grading, labeling, and sanitary standards for milk, milk products, and those products manufactured or sold in semblance to or as substitutes therefor." Section 3.1-530.2 directs the State Board of Agriculture and Consumer Services to be guided "...by those regulations recommended from time to time by the United States Department of Health, Education and Welfare and the United States Department of Agriculture" when adopting regulations for the purpose of sanitation and to prevent deception.

Purpose: The goals of the regulation are to (i) protect the public's health and welfare with the least possible cost and intrusiveness to the citizens and businesses of the Commonwealth, (ii) ensure the safety of manufactured dairy products through pasteurization and prevention of contamination, and (iii) facilitate the sales of Virginia manufactured dairy products in intrastate and interstate commerce.

The regulation includes the milk of goats, sheep, water buffalo, and other mammals if the milk or dairy products are intended for human consumption. The primary purpose of the regulation is to ensure the safety and wholesomeness of all milk and milk products sold or offered for sale for human consumption.

All milk and milk products have the same potential to carry pathogenic organisms. Numerous diseases of humans have been documented to be present in the milk of lactating mammals. Brucellosis and tuberculosis are two well-known and documented diseases that are capable of being spread from cows and goats to humans through their milk. Other common pathogens associated with milk and dairy products are: *Staphylococcus*, noted for its toxin production; *Streptococcus*, which causes strep-throat; *Campylobacter jejuni*, which infects the lining of the intestine and causes bloody diarrhea; *Escherichia coli*, which is responsible for causing bloody diarrhea and Hemolytic Uremic Syndrome; *Salmonella*, which also causes diarrhea; *Yersinia enterocolitica*, which causes severe abdominal pain; *Listeria monogytogenes*, which causes fever, vomiting, and can lead to still-births in pregnant women; and *Coxiella burnetii*, which causes Q fever. Some of these diseases can be fatal.

Milk is an excellent growth medium for most organisms including many pathogens. The fact that spoilage organisms and pathogens can grow in milk if they are present or introduced later by poor handling practices makes milk and milk products potentially hazardous if they are not properly processed, handled, packaged, and stored.

The requirement of pasteurization or aging at specific temperatures in the case of certain cheeses as effective means of destroying pathogens in manufactured dairy products will reduce the risk of death and illness from consuming contaminated manufactured dairy products. The regulation also requires the plant to employ certain practices that prevent contamination after pasteurization or aging. The regulation is essential to ensure the safety of these products.

The regulation is consistent with the U.S. Department of Agriculture recommended requirements for milk for manufacturing purposes and processing plant requirements.

The regulation facilitates sales of Virginia-manufactured products by providing for the labeling of dairy products to prevent deception, establishing standards of identity, and providing a level playing field on which all persons may compete.

Regulations

Rationale for Using Fast-Track Process: Each of the changes to the regulation were considered and recommended by the Attorney General's Government and Regulatory Reform Task Force, an initiative of Attorney General Robert F. McDonnell, and have been reviewed and approved by Governor Timothy Kaine's administration. All of the changes are needed to make the regulation easier to understand and user-friendly. None of the changes add any new requirements or modify any existing requirements. The regulation is essentially the same as before, except now it is easier for the reader to understand. During the public comment period there were no comments received that would conflict with any of the recommendations of the Attorney General's Government and Regulatory Reform Task Force, and agency staff does not anticipate any controversy with any of the amendments.

Substance: There are no substantive changes to the regulation.

Issues: The primary advantage to the public and businesses of implementing the amended provisions is making the regulation easier to understand and user-friendly.

The primary advantage to the agency and Commonwealth is to foster voluntary compliance with the requirements because they are easier to understand and user-friendly.

There are no disadvantages to implementing the amended regulation.

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

Summary of the Proposed Amendments to Regulation. The Board of Agriculture and Consumer Services (Board) proposes to amend the regulation to correct confusing language and correct citations to the Code of Virginia in order to make the regulation more easily understood.

Result of Analysis. There are neither benefits nor costs to the proposed changes.

Estimated Economic Impact. The Board of Agriculture and Consumer Services (Board) is amending the language of the regulation for clarity and accuracy. For example, the current regulation reads:

If the Virginia Department of Agriculture and Consumer Services issues two written notices of intent to suspend a person's permit for failure to correct the same deficiency within any 12-month period, the Virginia Department of Agriculture and Consumer Services may issue and enforce a written notice of intent to summarily suspend the person's permit at anytime within six months after the date the written notice of intent to summarily suspend is issued, to summarily suspend the person's permit if the same violation exist on any inspection during the six month period specified in the written notice of intent to summarily suspend.

The amended regulation reads:

If the Virginia Department of Agriculture and Consumer Services issues two written notices of intent to suspend a person's permit for failure to correct the same deficiency within any 12-month period, the Virginia Department of Agriculture and Consumer Services may issue and enforce a third written notice of intent to summarily suspend the person's permit at anytime within six months from the date of the third written notice if the same deficiency is found to exist on any inspection during the six months specified in the third written notice.

As another example, amendments to another section of the regulation clarify the use of "conferences" and "hearings" in order to maintain consistency and make the regulation easier to read and understand. As a third example, the amended regulation includes citations of the Code of Virginia so that the regulated community can see the legislation that prompted the regulation as well as understand certain specific requirements that are outlined in the Code of Virginia, but not repeated in the text of the regulation.

These regulatory amendments do not change anything of substance and will not affect the regulated community of Virginia. Therefore, there are neither costs nor benefits to these amendments.

Businesses and Entities Affected. The regulation affects any person or business who operates a dairy farm producing raw milk for manufacturing purposes or who manufactures, processes, packages, and sells any manufactured dairy product (butter, cheese, powdered milk, and condensed milk). The Virginia Department of Agriculture and Consumer Services estimates that there are sixteen small businesses affected by the regulation.

Localities Particularly Affected. The proposed amendments do not disproportionately affect specific localities in the Commonwealth.

Projected Impact on Employment. The proposed amendments are not anticipated to have any impact on employment.

Effects on the Use and Value of Private Property. The proposed amendments are not anticipated to have any effect on the use and value of private property.

Small Businesses: Costs and Other Effects. The proposed amendments do not add cost or otherwise affect small businesses.

Small Businesses: Alternative Method that Minimizes Adverse Impact. The proposed amendments do not add cost or otherwise affect small businesses.

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

Legal Mandate. The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with §2.2-4007.04 of the Administrative Process Act and Executive Order Number 36 (06). Section 2.2-4007.04 requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. Further, if the proposed regulation has adverse effect on small businesses, §2.2-4007.04 requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The agency concurs with the analysis of the Department of Planning and Budget.

Summary:

The amendments (i) clarify language in 2VAC5-531-50 concerning official notices issued to permit holders who violate the same requirement twice within a 12-month period and (ii) clarify language in 2VAC5-531-140 relating to informal fact-finding conferences and formal hearings by using the same terminology throughout the section and providing citations to specific sections of the Code of Virginia.

2VAC5-531-50. Permits.

A. No person may produce, provide, sell, offer for sale, or store in the Commonwealth of Virginia, or bring, send, or receive into the Commonwealth of Virginia, any milk for manufacturing purposes unless the person possesses a permit from the Virginia Department of Agriculture and Consumer Services.

B. No person may produce, process, manufacture, handle, package, reprocess, repack, rework, offer for sale or sell any manufactured dairy product in the Commonwealth of Virginia unless the person possesses a permit from the Virginia Department of Agriculture and Consumer Services. The requirement for a permit shall not apply to (i) any person's establishment where a manufactured dairy product is

served or sold at retail, so long as the manufactured dairy product is not produced, manufactured, reprocessed or reworked at the establishment; (ii) any person who distributes and does not process manufactured dairy product; or (iii) any person producing manufactured dairy product outside the Commonwealth of Virginia.

C. The Virginia Department of Agriculture and Consumer Services may cancel, suspend, or revoke the permit of any person, or may deny to any person a permit if:

1. The permit holder fails to engage daily in the business for which the permit is issued;
2. The permit holder does not daily produce, provide, manufacture, sell, offer for sale, or store in the Commonwealth of Virginia milk for manufacturing purposes or dairy product;
3. The permit holder fails to provide at no cost to the Virginia Department of Agriculture and Consumer Services samples of milk for manufacturing purposes or dairy product in the person's possession for testing by the Virginia Department of Agriculture and Consumer Services;
4. The permit holder fails to provide on a daily basis milk for manufacturing purposes or dairy product in the person's possession for sampling and testing by the Virginia Department of Agriculture and Consumer Services;
5. The permit holder fails to comply with any requirement of this chapter, or of §§3.1-420 through 3.1-424, §§3.1-530.1 through 3.1-530.10 or §§3.1-531.1 through 3.1-545.1 of the Code of Virginia;
6. A public health hazard exists that affects the permit holder's milk for manufacturing purposes or dairy product;
7. The permit holder or any agent of the permit holder has obstructed or interfered with the Virginia Department of Agriculture and Consumer Services in the performance of its duties;
8. The permit holder or any agent of the permit holder knowingly supplies false or misleading information to the Virginia Department of Agriculture and Consumer Services: (i) in the permit holder's application for a permit; (ii) concerning the identity of the person or persons who will control the facility that is the subject of the permit; (iii) concerning the amount of milk for manufacturing purposes or dairy product which the permit holder produces, provides, manufactures, sells, offers for sale, or stores in the Commonwealth of Virginia, or brings, sends, or receives into the Commonwealth of Virginia and the distribution of the permit holder's milk for manufacturing purposes or dairy product; (iv) concerning any investigation conducted by the Virginia Department of Agriculture and Consumer Services; or (v) concerning the

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location of any part of the permit holder's operation that is subject to a permit;

9. The permit holder engages in fraudulent activity regarding: (i) the amount of milk for manufacturing purposes or dairy product the person offers to sell or sells; or (ii) the collection of samples of the person's milk for manufacturing purposes or dairy product used to determine compliance with any provision of this chapter or as a basis for payment for milk for manufacturing purposes or dairy product.

10. Three of the most recent five bacteria counts, somatic cell counts, or cooling temperature determinations conducted on the permit holder's raw milk for manufacturing purposes exceed the standards specified in this chapter;

11. Three of the most recent five bacteria counts, coliform determinations, or cooling temperature determinations conducted on the permit holder's milk for manufacturing purposes or dairy product exceed the standards specified in this chapter;

12. Two of the most recent cryoscope tests conducted on the permit holder's milk for manufacturing purposes exceed the standards specified in this chapter and the most recent violative sample occurred within two years after the next most recent violative sample;

13. The most recent drug residue test on the permit holder's milk for manufacturing purposes or dairy product violates the standard specified in this chapter;

14. The most recent phosphatase test on the permit holder's dairy product violates the standard specified in this chapter;

15. The most recent chemical residue test or pesticide residue test on the permit holder's milk for manufacturing purposes or dairy product exceeds the actionable level, tolerance level, or safe level for any chemical residue or pesticide residue specified in 40 CFR Parts 180, 185, or 186 and 21 CFR Parts 70, 71, 73, 74, 80, 82, 130, 131, 133, 170, 172, 173, 174, 175, 176, 177, 178, 189, 556, 564, 570, 573, 589. In the event that no actionable level, tolerance level, or safe level for a chemical residue or pesticides residue has been established in 40 CFR Parts 180, 185, or 186 and 21 CFR Parts 70, 71, 73, 74, 80, 82, 130, 131, 133, 170, 172, 173, 174, 175, 176, 177, 178, 189, 556, 564, 570, 573, 589, the tolerance level shall be deemed to be zero;

16. The permit holder fails to correct any deficiency that the Virginia Department of Agriculture and Consumer Services has cited in a written notice of intent to suspend the person's permit, as a violation of this chapter;

17. The permit holder's raw milk for manufacturing purposes is warmer than 50°F two hours after the

completion of the first milking or the permit holder's raw milk for manufacturing purposes is warmer than 50°F during or after any subsequent milking;

18. The dairy farm permit holder's raw milk for manufacturing purposes is older than 76 hours;

19. The permit holder's equipment is covered or partially covered by an accumulation of milk solids, milk fat, or other residue;

20. The permit holder sells or offers for sale milk for manufacturing purposes or dairy product which violates any requirement of this chapter;

21. The permit holder's permit is suspended three times within a 12-month period for violation of the bacteria, coliform, cooling temperature, somatic cell, cryoscope, drug residue, maximum length of time for milk storage on the farm, phosphatase, chemical residue, pesticide residue standards, or other requirements specified in this chapter;

22. The authority in another state responsible for issuing permits has denied, suspended, or revoked the permit of the person in that state for any act or omission that would violate this chapter or the statutes under which this chapter was adopted, had the act or omission occurred in the Commonwealth of Virginia;

23. The Virginia Department of Agriculture and Consumer Services has previously revoked the person's permit to produce, provide, sell, offer for sale, or store in the Commonwealth of Virginia, or bring, send, or receive into the Commonwealth of Virginia, any milk for manufacturing purposes;

24. The Virginia Department of Agriculture and Consumer Services has previously revoked the person's permit to produce, process, manufacture, handle, package, reprocess, repack, or rework, and offer for sale or sell any manufactured dairy product in the Commonwealth of Virginia;

25. The most recent coliform count on the permit holder's cheese violates the standard specified in this chapter; and

26. The most recent *Staphylococcus aureus* count on the permit holder's cheese violates the standard specified in this chapter.

D. The Virginia Department of Agriculture and Consumer Services may summarily suspend a permit for violation of any of the following subdivisions of subsection C of this section: 6, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 25, or 26.

E. The Virginia Department of Agriculture and Consumer Services may suspend from sale any dairy product in violation of the requirements of this chapter processed by any dairy plant permit holder in lieu of suspending the dairy plant permit holder's permit.

F. If the Virginia Department of Agriculture and Consumer Services suspends a permit holder's permit more than three times within any 12-month period, the permit holder's permit shall not be reinstated for a period of three days on the fourth suspension within any 12-month period and six days on the fifth suspension within any 12-month period with three days being added to the required suspension period for each additional suspension thereafter.

G. If the Virginia Department of Agriculture and Consumer Services issues two written notices of intent to suspend a person's permit for failure to correct the same deficiency within any 12-month period, the Virginia Department of Agriculture and Consumer Services may issue and enforce a third written notice of intent to summarily suspend the person's permit at anytime within six months ~~after from~~ the date of the third written notice of intent to summarily suspend ~~is issued, to summarily suspend the person's permit if the same violation deficiency is found to exist on any inspection during the six month period~~ months specified in the third written notice of intent to summarily suspend.

H. No permit holder may transfer any permit to another person or another location and no permit holder who has had their permit revoked by the Virginia Department of Agriculture and Consumer Services shall be eligible to hold a permit to produce milk for manufacturing purposes or a permit to operate a dairy plant at any time after the permit holder's permit is revoked.

I. Inspection of dairy farms and dairy plants.

1. No person who operates a dairy farm or dairy plant within the Commonwealth of Virginia may hold a permit until the dairy farm or dairy plant has been inspected and approved by the Virginia Department of Agriculture and Consumer Services;

2. Pasteurization equipment may be inspected and tested by any person who has demonstrated the knowledge, skills, and abilities to perform pasteurization inspections and been approved by the Virginia Department of Agriculture and Consumer Services to conduct inspections of vat pasteurizers or high temperature short time pasteurizers or both vat pasteurizers and high temperature short time pasteurizers. The Virginia Department of Agriculture and Consumer Services shall issue to all persons approved to inspect pasteurization equipment a letter of certification which shall expire 12 months from the date of issue unless renewed. The Virginia Department of Agriculture and Consumer Services may suspend the certification of any person who has been approved to inspect pasteurization equipment if the person fails to conduct the inspections and tests in accordance with the department's established policy and procedures for inspection of pasteurization equipment.

J. The examination of milk and dairy products.

1. The Virginia Department of Agriculture and Consumer Services shall collect during any consecutive six months at least four samples of raw milk for manufacturing purposes from each dairy farm that holds a permit, collected in at least four different months, except when three months show a month containing two sampling dates separated by at least 20 days. In the event the milk from a permitted dairy farm is picked up and delivered to a dairy plant which is located outside the Commonwealth of Virginia more than three times in any calendar month, the permit holder's milk marketing cooperative, broker, or person purchasing the permit holder's milk, shall be responsible to ensure the appropriate number of samples and tests are performed in Interstate Milk Shipper approved laboratories and to supply the following information for each permit holder's milk samples to the Virginia Department of Agriculture and Consumer Services at no cost:

- a. The name of the producer;
- b. The patron number of the producer;
- c. The name of the sampling operator;
- d. The name of the person who collected the sample;
- e. The location where the sample was received;
- f. The date the sample was received;
- g. The date, time, and temperature of the sample at time of collection;
- h. The name of the test performed for each test result;
- i. The reported laboratory result for each test performed; and
- j. The name and address of the laboratory performing the testing.

2. The Virginia Department of Agriculture and Consumer Services shall collect samples of raw milk for manufacturing purposes for testing and analysis from each dairy farm holding a permit as it deems necessary.

3. The Virginia Department of Agriculture and Consumer Services shall collect samples of processed dairy products and ingredients for testing and analysis from each dairy plant holding a permit as it deems necessary.

K. Each permit holder operating a dairy plant shall develop a recall plan that when implemented will effectively carry out his responsibility to protect the public health and well-being from milk and dairy products that present a risk of illness, injury, gross deception, or are otherwise defective. Each permit holder operating a dairy plant shall submit his recall plan for approval to the Virginia Department of Agriculture and Consumer Services by May 27, 2005, and prior to the issuance of any dairy plant permit thereafter. The Virginia Department of Agriculture and Consumer Services shall

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review and approve the recall plan or require the recall plan to be modified by the permit holder operating a dairy plant. Each approved recall plan shall be reviewed annually and whenever new products are introduced by the permit holder operating a dairy plant. Each permit holder operating a dairy plant shall modify his recall plan based on his review and forward the revised plan to the Virginia Department of Agriculture and Consumer Services for approval within 60 days after the completion of any review that requires the recall plan to be modified. Each recall plan shall include provisions to provide the following information to the Virginia Department of Agriculture and Consumer Services:

1. Identity of the product involved;
2. Reason for the recall and the date and circumstances under which the product deficiency or possible deficiency was discovered;
3. Evaluation of the risk associated with the deficiency or possible deficiency;
4. Total amount of identified products produced and the time span of the production;
5. Total amount of identified products estimated to be in distribution channels;
6. Distribution information, including the number and identity of each person dairy products are sold to;
7. Draft copy of the permit holder's proposed recall communication;
8. Proposed strategy for conducting the recall; and
9. Name and telephone number of the permit holder's representative who should be contacted concerning the recall.

L. Each permit holder operating a dairy plant shall promptly notify each of its affected direct accounts about the recall and shall prepare the recall communication to:

1. Identify clearly the product, size, lot number(s), code(s) or serial number(s) and any other descriptive information to enable accurate and immediate identification of the product;
2. Explain concisely the reason for the recall and the hazard involved, if any;
3. Provide specific instructions on what should be done with respect to the recalled product;
4. Provide a ready means for the recipient of the communication to report to the recalling firm whether it has any of the product;
5. State that further distribution or use of any remaining product should cease immediately; and

6. Where appropriate, state that the direct account should in turn notify its customers who received the product about the recall.

M. Each permit holder operating a dairy plant shall provide to the Virginia Department of Agriculture and Consumer Services recall status reports as requested by the Virginia Department of Agriculture and Consumer Services until the recall is terminated. Each permit holder operating a dairy plant shall include in each recall status report the following information:

1. Number of consignees notified of the recall, and date and method of notification;
2. Number of consignees responding to the recall communication and quantity of products on hand at the time it was received;
3. Number and identity of consignees that did not respond to the recall communication;
4. Number of products returned or corrected by each consignee contacted and the quantity of products accounted for;
5. Number and results of effectiveness checks that were made; and
6. Estimated time frames for completion of the recall.

N. Each permit holder operating a dairy plant shall implement his recall plan within eight hours after receipt of written notification to do so by the Virginia Department of Agriculture and Consumer Services. In the event that the permit holder operating a dairy plant fails to implement his recall plan within eight hours after being notified to do so by the Virginia Department of Agriculture and Consumer Services, the department may prepare and issue the recall communication.

O. Drug residue monitoring and farm surveillance.

1. Each permit holder operating a dairy plant shall:
 - a. Test all milk that the plant receives for residues of beta lactam drugs prior to processing any of the milk. Each permit holder shall test each bulk milk shipment using a sample collected from each tank truck after its arrival at the plant and prior to any further commingling. Each permit holder shall test each compartment from tank trucks with more than one compartment separately. Each permit holder shall test milk in cans using a sample formed separately at the receiving plant for each can milk producer included in the delivery, and the milk sample shall be representative of all milk received from each producer. Each permit holder operating a dairy plant which is classified as a producer/processor shall test for residues of beta lactam drugs in all milk that the dairy plant produces or receives for processing according to the

requirements for sampling and testing bulk milk shipments and milk in cans stated in this subdivision;

b. Test each shipment of milk received for processing by screening test methods which have been Association of Official Analytical Chemists-(AOAC)-reviewed and Food and Drug Administration-(FDA)-accepted. In the event there are no AOAC reviewed and FDA accepted screening test methods for cow's milk, goat's milk, sheep's milk, water buffalo's milk, or milk from other mammals, the permit holder shall test for residues of beta lactam drugs with a screening test kit approved by the Virginia Department of Agriculture and Consumer Services. In lieu of any test specified in subdivision 1 b of this subsection a permit holder may use AOAC first-action and AOAC final-action tests methods. Nothing in subdivision 1 b of this subsection shall be deemed to include individual raw milk samples collected from each dairy farm included in any shipment of bulk tank raw milk for processing if the shipment of bulk tank raw milk for processing tests negative for animal drug residues;

c. Implement a random-sampling program when the commissioner of the FDA determines that a potential problem exists with animal drug residues or other contaminants in the milk supply. Each permit holder operating a dairy plant shall analyze the samples for the contaminant by a method determined by FDA to be effective in determining compliance with actionable levels or established tolerances. Each permit holder operating a dairy plant shall continue the random-sampling program until such time that the commissioner of the FDA is reasonably assured that the problem has been corrected. The sampling program shall represent and include during any consecutive six months, at least four samples collected in at least four separate months.

d. Retain each sample found to be positive for drug residues for a period of 120 hours after the sample test result is positive for drug residues for the use of the Virginia Department of Agriculture and Consumer Services unless directed otherwise by a representative of the Virginia Department of Agriculture and Consumer Services;

e. Abstain from selling or offering for sale any dairy product processed from milk received before results of drug screening tests are available and from milk which later tests positive for drug residues. All the permit holder's milk commingled with any milk which tests positive for drug residues shall be deemed adulterated. Each permit holder operating a dairy plant shall report to the Virginia Department of Agriculture and Consumer Services instances of adulteration within one hour after testing reveals the milk is adulterated with animal drug residues;

f. Record the results of tests on samples of raw milk and retain such records for a period of 12 months, report records of all results of tests on samples of raw milk to the Virginia Department of Agriculture and Consumer Services by the fifteenth day of each month for the preceding month, and maintain and make available to the Virginia Department of Agriculture and Consumer Services for inspection and review at the permitted facility records of results of tests on samples of raw milk. Each record of results of tests on samples of raw milk required by this subdivision shall include:

(1) The analyst's signature, date, time, and place where the test was performed;

(2) The registration identification of each pickup tanker of bulk raw milk or raw milk sampled;

(3) The test method used;

(4) The Interstate Milk Shipper Bulk Tank Unit identification number for each Grade A milk supply included on each pickup tanker of bulk raw milk tested if the milk is Grade A; and

(5) A statement whether the test results were positive or negative. If the results were positive, the permit holder shall also record:

(a) The identity of each producer contributing to the load from which the positive sample of raw milk was taken;

(b) The name of the person notified at the Virginia Department of Agriculture and Consumer Services of the positive test results;

(c) The date and time of day the person at the Virginia Department of Agriculture and Consumer Services was notified of the positive test results; and

(d) The method of notification of the Virginia Department of Agriculture and Consumer Services;

g. Immediately notify the Virginia Department of Agriculture and Consumer Services of any shipment of milk for processing when the shipment of milk is found to be positive for drug residues;

h. Test each producer sample of milk to determine the farm of origin, represented by each sample of milk which tests positive for drug residues, and immediately report to the Virginia Department of Agriculture and Consumer Services the result of each producer sample representing the raw milk for manufacturing purposes found to be positive for drug residues;

i. Provide by facsimile machine to the Virginia Department of Agriculture and Consumer Services copies of load manifests, producer weight tickets, laboratory worksheets where the results of laboratory tests are originally recorded, and records from electronic

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readers documenting the results for samples tested for all positive loads; and

j. Immediately discontinue receiving shipments of raw milk from the permit holder whose milk tests positive for drug residues until subsequent tests approved by the Virginia Department of Agriculture and Consumer Services are no longer positive for drug residues;

2. Each permit holder whose milk tests positive for drug residues shall dispose of such milk in a manner that removes it from the human food chain or in any manner approved by the Food and Drug Administration; and

3. Each permit holder operating a dairy plant that receives any milk that could require load confirmation or producer traceback as a result of a positive animal drug residue on a load of milk delivered at the plant shall provide to the Virginia Department of Agriculture and Consumer Services results of animal drug-residue tests from an officially designated laboratory. Each officially designated laboratory shall be listed in the IMS List—Sanitation Compliance and Enforcement Ratings of Interstate Milk Shippers as an approved milk laboratory certified to test load and producer samples. All laboratory results from officially designated laboratories shall be reported to the Virginia Department of Agriculture and Consumer Services within six hours of the initial presumptive positive result at the plant. Existing dairy plants holding permits on January 26, 2005, shall have until July 26, 2005, to comply with the requirement of this section.

P. Each officially designated laboratory shall comply with the requirements for certification and listing contained in the Evaluation of Milk Laboratories, 1995 revision.

Q. Each permit holder who operates a dairy plant and each person who distributes dairy products shall furnish the Virginia Department of Agriculture and Consumer Services upon request:

1. A statement of the quantities of milk and dairy products purchased or sold by the dairy plant or distributor; and

2. A list of all sources from which the dairy plant or distributor received any milk or dairy product.

R. No person holding a permit to produce milk for manufacturing purposes may operate a dairy farm that receives on the dairy farm raw or untreated sewage or septage from any source.

S. No person holding a permit to produce milk for manufacturing purposes shall feed their lactating cows, goats, sheep, water buffalo, or other mammals any unprocessed poultry litter or other unprocessed body discharges from any animal.

T. No person holding a permit to produce milk for manufacturing purposes may place or hold in his milk storage

tank any milk except that milk that was obtained from cows, goats, sheep, water buffalo, or other mammals milked at the permit holder's dairy farm; any milk that did not enter the milk storage tank through the milking and milk-handling equipment on the permit holder's dairy farm during the milking of the permit holder's cows, goats, sheep, water buffalo or other mammals; any milk that has been held without refrigeration; or any milk that has been exposed to chemical or physical contamination.

U. No person holding a permit to produce milk for manufacturing purposes may provide their milking cows, goats, sheep, water buffalo, or other mammals any feed separately or in combination that contains an aflatoxin residue greater than 20 parts per billion.

V. No person holding a permit to produce milk for manufacturing purposes may sell or offer for sale any milk for manufacturing purposes if it contains an aflatoxin residue equal to or greater than 0.50 parts per billion.

W. No person may hold a permit to produce milk for manufacturing purposes if any part of their facilities, equipment, storage, or processing area (except toilet rooms), requiring inspection is accessed through any room used for domestic purposes or part of any room used for domestic purposes. Toilet rooms used for domestic purposes shall be approved as complying with the requirements of this chapter only if (i) the toilet room is located within 300 feet of the milking barn, milking parlor, or milk room and (ii) all labor utilized in the milkroom, milking parlor or milking barn, and animal housing areas is provided by members of the permit holder's immediate family.

X. No person may hold a permit to produce, process, manufacture, handle, package, reprocess, repack, and offer for sale or sell any manufactured dairy product in the Commonwealth of Virginia if any part of his facilities, equipment, storage, or processing area (except toilet rooms), requiring inspection is accessed through any room used for domestic purposes or part of any room used for domestic purposes. Toilet rooms used for domestic purposes shall be approved as complying with the requirements of this chapter only if (i) the toilet room is located within 300 feet of the processing facilities and (ii) all labor utilized in the processing facilities is provided by members of the permit holder's immediate family.

Y. Each person who holds a permit to produce milk for manufacturing purposes or a permit to operate a dairy plant and who freezes and stores any milk for use in the production of any dairy product shall:

1. Cool each day's morning milking to 40°F or cooler, without freezing, within two hours after milking;

2. Abstain from freezing each day's morning milking until completion of the same day's evening milking;

3. Freeze the milk from each milking or each day separately, in single-use, food-grade, plastic bags or other suitable food grade disposable containers;
4. Identify each single-use, food-grade, plastic bag or other suitable food-grade disposable container containing any frozen milk with the date it was produced, the number of milkings, the number of containers in the lot, the permit number of the dairy farm or dairy plant, and the name of the person who packaged and froze the milk;
5. Cool and store all frozen containers of milk at a temperature of 0°F or below until ready for use;
6. Thaw each container of frozen milk prior to use in a refrigerator adjusted to a maximum temperature of 40°F or thaw each container of frozen milk within two hours using a cool water bath;
7. Abstain from re-using any single-use, food grade, plastic bag or other suitable food-grade disposable container; and
8. Protect from contamination the frozen milk in each single-use, food-grade, plastic bag or other suitable food-grade disposable container during the thawing process.

2VAC5-531-140. Interpretation and enforcement.

A. This chapter is based on the USDA Milk for Manufacturing Purposes and its Production and Processing-Recommended Requirements, effective November 12, 1996. Except as otherwise provided in this chapter, the provisions of this chapter shall be interpreted in a manner consistent with interpretations accorded the USDA Milk for Manufacturing Purposes and its Production and Processing-Recommended Requirements, effective November 12, 1996.

B. The administrative procedures used to conduct case decisions under this chapter shall conform to the provisions of the Virginia Administrative Process Act (§2.2-4000 et seq. of the Code of Virginia).

C. The Virginia Department of Agriculture and Consumer Services shall comply with the following administrative procedures when summarily suspending a permit as specified in 2VAC5-531-50 D:

1. The Virginia Department of Agriculture and Consumer Services shall serve upon the permit holder a written notice of suspension. The written notice of suspension shall specify the violations in question and inform the permit holder of the right to appear before the Virginia Department of Agriculture and Consumer Services in person, by counsel, or by other qualified representative at a an informal fact-finding conference pursuant to §2.2-4019 of the Code of Virginia for the informal presentation of factual data, arguments, and proof to appeal this determination of violation;

2. Upon receipt of written application from any person whose permit has been summarily suspended (within 30 days after the effective date of the summary suspension), the Virginia Department of Agriculture and Consumer Services shall within seven days after the date of receipt of a written application from any person whose permit has been summarily suspended, proceed to hold an informal fact-finding conference pursuant to §2.2-4019 of the Code of Virginia to ascertain the facts of the violations in question, and upon evidence presented at the informal fact-finding conference, shall affirm, modify, or rescind the summary suspension;

3. The Virginia Department of Agriculture and Consumer Services shall, unless the parties consent, ascertain the fact basis for their decisions of cases through ~~informal-conference proceedings~~ informal fact-finding conferences pursuant to §2.2-4019 of the Code of Virginia. Such conference proceedings include the rights of parties to the case to have reasonable notice thereof, to appear in person or by counsel or other qualified representative before the Virginia Department of Agriculture and Consumer Services for the informal presentation of factual data, argument, or proof in connection with any case, to have notice of any contrary fact basis or information in the possession of the department which can be relied upon in making an adverse decision, to receive a prompt decision of any application for license, benefit, or renewal thereof, and to be informed, briefly and generally in writing, of the factual or procedural basis for an adverse decision in any case;

4. No person whose permit has been summarily suspended may be granted an informal fact-finding conference by the Virginia Department of Agriculture and Consumer Services unless the Virginia Department of Agriculture and Consumer Services receives the person's written application within 30 days after the effective date of the summary suspension;

5. From any adverse decision of an informal fact-finding conference, the permit holder may request a formal hearing under §2.2-4020 of the Code of Virginia by writing the Program Manager of the Office of Dairy and Foods within 30 days stating the request and providing the Virginia Department of Agriculture and Consumer Services with a statement of the issues in dispute. If the request for a formal ~~conference~~ hearing is denied, the Virginia Department of Agriculture and Consumer Services shall notify the permit holder in writing and further may affirm or modify the decision of the informal fact-finding conference; and

6. If a formal ~~fact-finding conference~~ hearing is denied, the Virginia Department of Agriculture and Consumer Services shall notify the permit holder of the right to file an appeal in the circuit court.

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DOCUMENTS INCORPORATED BY REFERENCE

Official Methods of Analysis of AOAC International, 17th Edition, Revision 1 (2002), Association of Analytical Chemists International.

3-A Sanitary Standards, 3-A Accepted Practices & E-3-A Sanitary Standards, effective as of November 20, 2001, ~~International Association of Food Protection~~ 3-A Sanitary Standards, Incorporated.

Standard Methods for the Examination of Dairy Products, 16th Edition, 1992, American Public Health Association.

Evaluation of Milk Laboratories, 1995 Revision, U.S. Department of Health and Human Services, Public Health Service, Food and Drug Administration.

Beta lactam Test Methods for Use Under Appendix N and Section 6 of the Pasteurized Milk Ordinance (PMO), M-a-85 (Revision #9), December 21, 2001, Food and Drug Administration.

Drug Residue Test Methods for Confirmation of Presumptive Positive Results and Initial Producer Trace Back, M-I-96-10 (Revision #4), December 21, 2001, Food and Drug Administration.

IMS List - Sanitation Compliance and Enforcement Ratings of Interstate Milk Shippers, July 1, 2002, Food and Drug Administration.

Bovine Tuberculosis Eradication - Uniform Methods and Rules, Effective January 22, 1999, U.S. Department of Agriculture, Animal and Plant Health Inspection Service.

Brucellosis Eradication - Uniform Methods and Rules, Effective February 1, 1998, U.S. Department of Agriculture, Animal and Plant Health Inspection Service.

VA.R. Doc. No. R08-1074; Filed March 25, 2008, 11:32 a.m.

STATE MILK COMMISSION

Final Regulation

REGISTRAR'S NOTICE: The State Milk Commission is exempt from the Administrative Process Act in accordance with §2.2-4002 A 7 of the Code of Virginia, which exempts the Milk Commission in promulgating regulations regarding (i) producers' license and base; (ii) classification and allocation of milk, computation sales and shrinkage; and (iii) class prices for producers' milk, time and method of payment, butterfat testing and differential; and in accordance with §2.2-4006 A 1 of the Code of Virginia, which excludes agency orders or regulations fixing rates or prices.

Title of Regulation: **2VAC15-20. Regulations for the Control and Supervision of Virginia's Milk Industry (amending 2VAC15-20-81).**

Statutory Authority: §§3.1-430 and 3.1-437 of the Code of Virginia.

Effective Date: April 14, 2008.

Agency Contact: Rodney L. Phillips, Administrator, Department of Agriculture and Consumer Services, Oliver Hill Building, 102 Governor Street, Room 205, Richmond, VA 23218, telephone (804) 786-2013, FAX (804) 786-3779, or email rodney.phillips@vdacs.virginia.gov.

Summary:

The amendment allows for an additional premium to be charged on Virginia Class I pounds for organic milk.

2VAC15-20-81. Class prices for producer's milk, time and method of payment, and butterfat testing.

A. CWT Class prices.

1. Class I

	July through February	March through June
Eastern Virginia Market	\$8.46/cwt.	\$8.26/cwt.
Southwest Virginia Market	\$7.96/cwt.	\$7.76/cwt.
Western Virginia Market	\$8.16/cwt.	\$7.96/cwt.

The above established Class I prices shall be adjusted automatically in accordance with the following procedure, provided:

(1) a. The Eastern Market Class I price shall not exceed the average prevailing Class I price of Metropolitan Washington, D.C., and Raleigh, North Carolina, by more than \$0.80 per hundredweight nor be less than \$0.30 per hundredweight above the average prevailing Class I price of Metropolitan Washington, D.C., and Raleigh, North Carolina;

b. The Southwest Market Class I price shall not exceed the average prevailing Class I price of Bristol, Virginia, and Charleston, West Virginia, by more than \$0.60 per hundredweight nor be less than \$0.30 per hundredweight above the average prevailing Class I price of Bristol, Virginia, and Charleston, West Virginia; and

c. The Western Market Class I price shall not exceed the average prevailing Class I price of Metropolitan Washington, D.C., and Winston Salem, North Carolina, by more than \$0.60 per hundredweight nor be less than \$0.30 per hundredweight above the average prevailing

Class I price of Metropolitan Washington, D.C., and Winston Salem, North Carolina.		147.3 - 149.3	+460
		149.4 - 151.4	+480
(2) Class I prices shall be increased by an amount determined by multiplying the number of two-point brackets that the average bi-monthly composite index exceeds 101.0 by \$0.20; and		151.5 - 153.5	+500
		153.6 - 155.6	+520
		155.7 - 157.7	+540
(3) Class I prices shall be decreased by an amount determined by multiplying the number of two-point brackets that the average bi-monthly composite index descends below 99.0 by \$0.20.		157.8 - 159.8	+560
		159.9 - 161.9	+580
		162.0 - 164.0	+600
(4) The average bi-monthly composite index brackets shall be in accordance with the following schedule:		164.1 - 166.1	+620
		166.2 - 168.2	+640
		168.3 - 170.3	+660
Average Bi-monthly Composite Index Brackets (Nos. through Nos.) Continued	Amount of Adjustment (Cents) Continued	170.4 - 172.4	+680
96.9 - 98.9	- 20	172.5 - 174.5	+700
99.0 - 101.0	- 0	174.6 - 176.6	+720
101.1 - 103.1	+ 20	176.7 - 178.7	+740
103.2 - 105.2	+ 40	178.8 - 180.8	+760
105.3 - 107.3	+ 60	180.9 - 182.9	+780
107.4 - 109.4	+ 80	183.0 - 185.0	+800
109.5 - 111.5	+100	185.1 - 187.1	+820
111.6 - 113.6	+120	187.2 - 189.2	+840
113.7 - 115.7	+140	189.3 - 191.3	+860
115.8 - 117.8	+160	191.4 - 193.4	+880
117.9 - 119.9	+180	193.5 - 195.5	+900
120.0 - 122.0	+200	195.6 - 197.6	+920
122.1 - 124.1	+220	197.7 - 199.7	+940
124.2 - 126.2	+240	199.8 - 201.8	+960
126.3 - 128.3	+260	201.9 - 203.9	+980
128.4 - 130.4	+280	204.0 - 206.0	+1000
130.5 - 132.5	+300	206.1 - 208.1	+1020
132.6 - 134.6	+320	208.2 - 210.2	+1040
134.7 - 136.7	+340	210.3 - 212.3	+1060
136.8 - 138.8	+360	212.4 - 214.4	+1080
138.9 - 140.9	+380	214.5 - 216.5	+1100
141.0 - 143.0	+400	216.6 - 218.6	+1120
143.1 - 145.1	+420	Continued	Continued
145.2 - 147.2	+440		

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(5) A monthly composite index shall be determined by dividing the sum of the index numbers of the six factors shown in subsections (a x 1), (b x 1), (c x 1), (d x 1), (e x 1), (f x 2) of this subparagraph by seven. The latest available published monthly data for any of the above six factors shall be used in determining the monthly index number.

a. The U.S. Index of prices paid, taxes, and farm wage rates, as published in "Agricultural Prices" by the U.S.D.A.

b. The U.S. Index of prices received as published in "Agricultural Prices" by the U.S.D.A.

c. The average price per ton paid by Virginia farmers for 16% dairy feed, as published in "Agricultural Prices" by the U.S.D.A.

d. The average cost of the market basket for Richmond-Norfolk-Virginia Beach-Portsmouth, as published in "The Market Basket and Retail Food Prices" by the Virginia Department of Labor and Industry.

e. The average weekly earnings of workers in Virginia manufacturing industries, as published in "Trends in Employment Hours and Earnings Virginia and Statistical Metropolitan Areas" by the Virginia Department of Labor and Industry.

f. An average of the prevailing Class I prices in Raleigh, North Carolina; Metropolitan Washington, D.C.; Winston Salem, North Carolina; Bristol, Virginia; and Charleston, West Virginia.

(6) The six-month average, November 1973 through April 1974, shall equal 100 for each of the above factors for the purpose of determining the monthly index number for each factor.

(7) The current month's Class I price adjustment, if any, shall be determined by a bi-monthly composite index which shall be a simple average of the monthly composite indices of the second and third preceding months.

(8) On or before the 23rd day of each month, the agency shall determine the Class I butterfat, skim and net prices for the following month and announce same to all licensed processing general distributors and on the same date the agency will announce the Class II skim, butterfat and net prices.

Effective May 1, 1995, the following modifications to the indexes will be utilized in determining the monthly composite index used in calculating the Class I price for Virginia State Milk Commission marketing areas pursuant to subdivisions A 1 (1) through (7) of this section:

The U.S. Index of prices paid, taxes, and farm wage rates as published in "Agricultural Prices" by the U.S.D.A.

will be determined by using the monthly movement of the reweighted and reconstructed prices paid index (PPITW) as published by the U.S.D.A. The monthly movement of the new prices paid index (PPITW) will be applied each month to the preceding month's revised index of prices paid, taxes, and farm wage rates using December 1994 as the base month.

The U.S. Index of prices received as published in "Agricultural Prices" by the U.S.D.A. will be determined by using the monthly movement of the reweighted and reconstructed prices received index as published by the U.S.D.A. The monthly movement of the new prices received index will be applied each month to the preceding month's revised index of prices received using December 1994 as the base month.

The average price per ton paid by all Virginia farmers for 16% dairy feed as published in "Agricultural Prices" by the U.S.D.A. will be determined by using the monthly movement of the index of prices paid, production items, complete feeds as published by the U.S.D.A. The monthly movement of this index will be applied each month to the preceding month's index of 16% dairy feed, Appalachian using April 1995 as the base month.

The authoritative publisher of the Market Basket for Richmond-Norfolk-Virginia Beach-Portsmouth will be the Virginia Department of Agriculture and Consumer Services. The resultant index numbers derived from the above calculations will be utilized as specified in the cited regulation.

2. Class I-A. The price used in computing each distributor's obligation for producer milk (of 3.5% butterfat) allocated to Class I-A shall be the Class II skim, butterfat, and net prices.

3. Class II. The price per cwt. for all markets shall be the monthly Class II price announced by the market administrator of appropriate marketing area.

4. The total value of base deliveries made in accordance with 2VAC15-20-50 B 2 shall be discounted in accordance with the following procedure to reflect the cost savings of transporting, storing and handling of producer milk on a uniform daily basis:

a. Subtract from each cooperative association's total pounds of base deliveries allocated to Class I sales for each delivery period an amount equal to twice the sum of the differences between the pounds of assigned daily base and the pounds of daily base deliveries which are less than the pounds of assigned daily base for each day during the delivery period.

b. The net hundredweight (not less than zero) resulting from the above procedure multiplied by \$0.11 will be the

amount of discount for base deliveries during the delivery period.

~~5. Producers or their agents shall not sell milk or offer milk for sale at prices other than those established. No milk shall be sold or offered for sale by producers or their agents at prices other than those established except milk that is certified by USDA as organic. Milk certified as organic by USDA may have premiums negotiated at a higher price than that announced by the commission.~~

B. Butterfat testing. Butterfat testing shall be conducted in accordance with the following procedure:

1. General distributors shall determine the average butterfat content of all assigned producer milk delivered by each producer who is not a member of a cooperative association, as defined in 2VAC15-20-10, by four or more tests made at approximately equal intervals during each delivery period.

2. All assigned producer milk accompanied by a bill of lading that is delivered by a cooperative association to a licensed distributor and is accepted by the distributor shall be paid for by the distributor at a rate that is determined by the butterfat test specified on the bill of lading accompanying the load of milk.

3. The butterfat content of all assigned cooperative association milk delivered by methods other than specified in subdivision 2 of this subsection, shall be determined in accordance with procedures specified by the agency if mutual agreement between the cooperative association and the distributor cannot be reached as to the butterfat content of such deliveries.

4. All sampling and testing shall be conducted by persons licensed by the Virginia Department of Agriculture and Consumer Services. These tests shall be made by the Babcock Test, or other tests approved by that department, and shall, as directed by the approving authority, be subject to check tests made by a licensed tester.

C. Time of payment.

1. On or before the 23rd day of a delivery period, general distributors shall make a partial payment to producers or cooperative associations of producers for base deliveries received during the first 15 days of the delivery period. The partial payment shall be not less than an amount determined by multiplying the previous month's Class II skim, butterfat or net price for 3.5% milk by the hundredweight of base deliveries for the first 15 days of the delivery period; provided full and final payment for the preceding delivery period was made in accordance with subdivision 2 of this subsection, otherwise the partial payment shall be not less than an amount determined by multiplying the current Class I skim, butterfat and net

prices for 3.5% milk by the hundredweight of base deliveries for the first 15 days of the delivery period.

2. On or before the 16th day following the close of a delivery period, state regulated general distributors shall make full and final payment to producers or cooperative associations of producers for deliveries received during such delivery period pursuant to this chapter. Fully federally regulated general distributors shall make full and final payment to producers or cooperative associations of producers for deliveries received during such delivery period pursuant to the applicable provisions of the order in which they are pooled. Payment shall be made so that it is received by the dates applicable to state order and federal order plants.

3. Certified or registered mail may be required for all U.S. Postal Service deliveries of producer payments made by general distributors pursuant to subdivisions 1 and 2 of this subsection when directed in writing by the agency.

4. The approving authority may, after a hearing, require individual general distributors to make settlement with producers or cooperative associations of producers for deliveries at intervals other than provided in subdivisions 1 and 2 of this subsection.

5. All licensed producers or association of producers supplying base deliveries to processing general distributors located in Norfolk, Portsmouth, Hampton, Newport News or Chesapeake shall be allocated \$0.10 per hundredweight from the total monthly Eastern Market Class I producer payments. This allocation shall be made prorata in accordance with the monthly base deliveries to the processing general distributors located in the aforementioned cities.

6. Before the 15th day of each month, the agency shall determine the required monthly equalization payments and give written notice to all affected parties of the amounts payable. The monthly equalization payments shall be made to the Milk Commission Equalization Fund no later than the 25th day of the month subsequent to the end of each delivery period. On or before the last day of each month, the agency shall disburse all funds (less a balance necessary to pay all bank charges) paid in during the current month in accordance with subdivision 5 of this subsection.

D. Redistribution of producer losses. When the approving authority is satisfied that when one or more licensed distributors is unable, due to bankruptcy or receivership, to fulfill the financial obligation to producers and/or cooperative associations of producers for base deliveries, the approving authority may authorize the establishment of a temporary producer redistribution fund to reallocate a distributor's deficient financial obligation.

1. When it is determined that an obligation for base milk deliveries cannot be satisfied, the distributor(s), producer(s) or cooperative associations of producers involved shall notify the approving authority within five working days of a voluntary filing or adjudication of bankruptcy or receivership, or within five working days of August 1, 1991, for licensed distributors currently in bankruptcy or receivership. This notification shall be in writing accompanied by copies of pertinent court documents.

2. The producer funded redistribution of losses of an unfulfilled obligation of base deliveries shall be limited to an amount not to exceed the unsecured value of base deliveries calculated in accordance with this chapter.

3. A producer funded redistribution rate shall be established which will be the lesser of the actual dollar loss under subdivision 2 of this subsection or the dollars generated by a rate not in excess of 0.10/cwt., levied on producer's and/or cooperative associations of producers' monthly Class I allocated base deliveries for a period not to exceed 12 months for each bankruptcy. Each distributor shall remit to the agency no later than the 15th of each month the amount collected in accordance with this subdivision applicable to the prior month's delivery period at the rate established by the approving authority.

4. The agency shall disburse all redistribution funds, net of applicable bank charges, collected each month for the redistribution fund by the last day of the month. Funds will be disbursed prorata in relationship to the loss incurred by producers and/or cooperative associations of producers, less applicable bank charges.

5. Producers or cooperative associations of producers shall assign to the agency that portion of their loss claim which pertains to the value of redistributed funds paid on Virginia base deliveries by the agency in order to participate in the producer redistribution fund.

6. Any overpayment or recovery of loss claims assigned to the agency by producers or cooperative associations of producers to the producer redistribution fund shall be disbursed to producers or cooperative associations of producers on a prorata basis of payments made to the fund.

V.A.R. Doc. No. R08-1175; Filed March 26, 2008, 9:05 a.m.

TITLE 4. CONSERVATION AND NATURAL RESOURCES

MARINE RESOURCES COMMISSION

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: **4VAC20-752. Pertaining to Blue Crab Sanctuaries (amending 4VAC20-752-30).**

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

Effective Date: April 1, 2008.

Agency Contact: Jane Warren, 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 betty.warren@mrc.virginia.gov.

Summary

This amendment establishes May 1 through September 15 as the time period when it shall be unlawful for any person to either conduct commercial or recreational crabbing within Area 1 of the Virginia Blue Crab Sanctuary; or to take, harvest or possess crabs for commercial purposes from Area 2 of the Virginia Blue Crab Sanctuary.

4VAC20-752-30. Harvest restrictions.

A. It shall be unlawful for any person to dredge for crabs within the Hampton Roads Blue Crab Sanctuary at any time.

B. It shall be unlawful for any person to conduct commercial or recreational crabbing within Area 1 of the Virginia Blue Crab Sanctuary from ~~June~~ May 1 through September 15.

C. It shall be unlawful for any person to take, harvest or possess crabs for commercial purposes from Area 2 from ~~June~~ May 1 through September 15.

V.A.R. Doc. No. R08-1243; Filed March 27, 2008, 4:31 p.m.

TITLE 11. GAMING

VIRGINIA RACING COMMISSION

Final Regulation

REGISTRAR'S NOTICE: The Virginia Racing Commission is exempt from the Administrative Process Act pursuant to subdivision B 21 of §2.2-4002 of the Code of Virginia when promulgating regulations relating to the Virginia Breeders Fund created pursuant to §59.1-372.

Title of Regulation: 11VAC10-130. Virginia Breeders Fund (amending 11VAC10-130-60).

Statutory Authority: §59.1-369 of the Code of Virginia.

Effective Date: April 14, 2008.

Agency Contact: David S. Lermond, Jr., Regulatory Coordinator, Virginia Racing Commission, 10700 Horsemen's Lane, New Kent, VA 23024, telephone 804-966-7404, FAX 804-966-7418, or email david.lermond@vrc.virginia.gov.

Summary:

The amendment increases the maximum amount of an owners' award on any single race run in Virginia from \$10,000 to \$25,000. This action is being taken to account for the increase in the percentage of the owners' awards from 40% to 100% of normal purse distribution for horses finishing in positions first through sixth at races run in Virginia in the year 2008.

11VAC10-130-60. Fund distribution; allocation of funds.

The funds generated by pari-mutuel wagering on Thoroughbred horse races for the Virginia Breeders Fund shall be allocated on the following schedule or as the commission deems appropriate in order to promote, sustain, and grow a native industry:

1. 35% shall be set aside for payment to the breeders of Virginia-bred Thoroughbred horses that win races at a race meeting designated by the commission;
2. 15% shall be set aside for payment to owners or lessees of registered Virginia stallions that sire Virginia-bred Thoroughbred horses that win races at race meetings designated by the commission; and
3. 50% shall be paid to supplement purses as determined by the commission under the following provisions:
 - a. An award may be paid to the owner or owners of a Virginia-bred Thoroughbred horse each time the horse earns purse money in a nonrestricted race at race meetings licensed by the commission or wins races at race meetings designated by the commission;

b. The maximum amount payable for breeder or stallion owner awards to a Virginia-bred Thoroughbred horse for any single race shall be \$25,000;

c. The maximum amount payable for an owner award to a Virginia-bred Thoroughbred horse for any single race run in Virginia shall be ~~\$10,000~~ \$25,000, and the maximum amount payable for an owner award for any single race in any other jurisdiction shall be \$5,000; and

d. Purses shall be paid for races restricted to Virginia-bred Thoroughbred horses.

VA.R. Doc. No. R08-1225; Filed March 25, 2008, 3:19 p.m.

VIRGINIA RACING COMMISSION

Final Regulation

REGISTRAR'S NOTICE: The Virginia Racing Commission is claiming an exemption from the Administrative Process Act pursuant to §2.2-4002 B 23 of the Code of Virginia, which exempts agency action relating to the administration of medication or other substances foreign to the natural horse.

Title of Regulation: 11VAC10-180. Medication (amending 11VAC10-180-10, 11VAC10-180-60, 11VAC10-180-70, 11VAC10-180-80, 11VAC10-180-85, 11VAC10-180-110; adding 11VAC10-180-25, 11VAC10-180-35, 11VAC10-180-75, 11VAC10-180-120, repealing 11VAC10-180-20).

Statutory Authority: §59.1-369 of the Code of Virginia.

Effective Date: April 14, 2008.

Agency Contact: David S. Lermond, Jr., Regulatory Coordinator, Virginia Racing Commission, 10700 Horsemen's Lane, New Kent, VA 23024, telephone 804-966-7404, FAX 804-966-7418, or email david.lermond@vrc.virginia.gov.

Summary:

The amendments prohibit the use of anabolic or androgenic steroids, or both, and other like substances, except for boldenone, stanozolol, nandrolone, and testosterone below certain threshold levels individually but not in combination. These amendments are consistent with the Model Rules of Racing published by the Association of Racing Commissioners International.

11VAC10-180-10. Definitions.

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

"Bleeder" means a horse that has been diagnosed as suffering from exercise-induced pulmonary hemorrhage based on external or endoscopic examination by the commission veterinarian or a practicing veterinarian who is a

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permit holder in the Commonwealth of Virginia or any other jurisdiction.

"Bleeder list" means a tabulation of all bleeders to be maintained by the stewards.

"Commission" means the Virginia Racing Commission.

"Controlled substance" means a drug, substance or immediate precursor in Schedules I through VI of the Virginia Drug Control Act (§54.1-3400 et seq. of the Code of Virginia) or any substance included in the five classification schedules of the U.S. Uniform Controlled Substances Act (21 USC §301 et seq.).

"Furosemide list" means a tabulation of horses permitted to use the medication of furosemide on race day by declaration to the stewards, in addition to horses on the bleeder list.

"Injectable substance" means a liquid or solid substance that may require the addition of a liquid via a needle and syringe to change it from a solid into a liquid, contained in a vial that can be accessed and administered only via a needle and syringe.

"Licensed veterinarian" means a veterinarian who holds a valid license to practice veterinary medicine and surgery under the applicable laws of the jurisdiction in which such person's practice is principally conducted.

"Milkshaking" or "bicarbonate loading" means administering a bicarbonate or other alkalinizing substance, ~~administered~~ to a horse that elevates the horse's bicarbonate total carbon dioxide level or pH level above those existing naturally in the untreated horse at normal physiological concentrations as determined by the commission, regardless of the means of administration.

"Permitted race day substances" means only substances approved by the commission that are administered solely for the benefit and welfare of the horse, nonperformance altering, of no danger to riders/drivers, and unlikely to interfere with the detection of prohibited substances.

"Prescription substance" means any substance that is administered or dispensed by or on the order of a licensed veterinarian for the purpose of medical treatment of an animal patient when a bona fide doctor-patient relationship has been established.

"Primary laboratory" means a facility designated by the commission for the testing of test samples.

"Prohibited substance" means any drug, medication or chemical foreign to the natural horse, whether natural or synthetic, or a metabolite or analog thereof, the use of which is not expressly permitted by the regulations of the commission.

"Race day" means the 24-hour period before post-time for the race in which the horse is entered to start.

"Reference laboratory" means a facility designated by the commission for the testing of split samples.

"Substance" means any drug, medication or chemical foreign to the natural horse or human being, whether natural or synthetic, or a metabolite or analog thereof.

"Test sample" means any sample of blood, urine, saliva or tissue obtained from a horse or person for the purpose of laboratory testing for the presence of substances.

"Tubing" means the administration to a horse of any substance via a naso-gastric tube.

11VAC10-180-20. Generally. (Repealed.)

~~A. Prohibited substance. No trainer shall allow a horse to appear in a race, including qualifying races or official timed workouts, when the horse contains in its system any prohibited substance, as determined by testing of blood, saliva or urine, or any other reasonable means.~~

~~B. Race day prohibitions. No person shall administer any substance to a horse on race day other than those substances expressly permitted by the commission. Substances permitted by the commission shall be administered solely for the benefit and welfare of the horse, nonperformance altering, of no danger to riders/drivers, and unlikely to interfere with the detection of prohibited substances.~~

~~C. Veterinarian treatment reports. Practicing veterinarians at the horse racing facility shall submit daily treatment reports at a time and in a manner prescribed by the commission veterinarian. The report shall contain the veterinarian's name, the name of the trainer of the horse, the name of the horse, all medications administered to the horse, diagnostic and therapeutic procedures performed, and the time and date of the administration or treatment.~~

~~1. Trainers of horses not stabled at the horse racing facility shall be responsible for submitting retroactive treatment reports to the commission veterinarian for any horse programmed to race. At a time prescribed by the commission veterinarian, the trainer shall submit to the commission veterinarian a retroactive treatment report for the seven previous days for any horse programmed to race. Reports may be electronically submitted or hand delivered to the commission veterinarian's office.~~

~~2. If a treatment report has not been received by the commission veterinarian prior to the start of a horse's race, the stewards, in their discretion, may exclude the introduction of such a treatment report into any subsequent hearing.~~

~~D. Tubing of horses prohibited. The tubing or dosing of any horse for any reason on race day is prohibited, unless administered for medical emergency purposes by a licensed veterinarian in which case the horse shall be scratched. The practice of administration of any substance, via a tube or dose~~

syringe, into a horse's stomach on race day is considered a violation of this chapter.

1. Using or possessing the ingredients or the paraphernalia associated with forced feeding to a horse of any alkalinizing agent with or without a concentrated form of carbohydrate, or administering any substance by tubing or dose syringe on race day shall be considered a violation of this chapter.

2. Under the provisions of this subsection endoscopic examination shall not be considered a violation of this chapter.

E. Possession of needles prohibited. No person, except a veterinarian holding a valid veterinarian's permit or an assistant under his immediate supervision or a person possessing documentary evidence of a valid medical prescription, shall have in his possession within the enclosure any hypodermic syringe or needle or any instrument capable of being used for the injection of any substance.

F. Possession of injectables prohibited. No person, except a veterinarian holding a valid veterinarian's permit or an assistant under his immediate supervision, shall have in his possession within the enclosure any injectable substance.

G. Prescription substances for animal use. No person, except a veterinarian holding a valid veterinarian's permit or an assistant under his immediate supervision, shall have in his possession within the enclosure of a horse racing facility any prescription substance for animal use unless:

1. The person actually possesses, within the enclosure of the horse racing facility, documentary evidence that a prescription has been issued to him for the substance by a licensed veterinarian;
2. The prescription substance is labelled with a dosage for the horse or horses to be treated with the prescription substance; and
3. The horse or horses named in the prescription are then under the care and supervision of the permit holder and are then stabled within the enclosure of the horse racing facility.

H. Possession of substances. No veterinarian or permit holder shall, without good cause, possess or administer any substance to a horse stabled within the enclosure:

1. That has not been approved by the U.S. Food and Drug Administration (FDA) for any use (human or animal), or the U.S. Department of Agriculture's Center for Veterinary Biologics; or
2. That is on the U.S. Drug Enforcement Agency's Schedule I or Schedule II of controlled substances as prepared by the Attorney General of the United States pursuant to 21 USC §§811 and 812.

I. Human use of needles and substances. Notwithstanding these regulations, a permit holder or veterinarian may possess within the enclosure of a horse racing facility a substance for use on his person, providing the permit holder or veterinarian possesses documentary evidence that a valid medical prescription has been issued to the permit holder or veterinarian.

Notwithstanding these regulations, a permit holder or veterinarian may possess within the enclosure of a horse racing facility a hypodermic syringe and needle for the purpose of administering to himself a substance, provided that the permit holder has documentary evidence that the substance can only be administered by injection and that the substance to be administered by injection has been prescribed for him.

J. Erythropoietin, Darbepoietin, Oxyglobin, Hemopure, and any analogous substances. The possession or administration of Erythropoietin (Epogen), Darbepoietin, Oxyglobin, Hemopure, or any analogous substance that increases oxygen-carrying capacity of the blood is prohibited. Furthermore, should the analysis of a test sample detect the presence of antibodies of Erythropoietin or Darbepoietin or any analogous substance in the horse's blood that indicates a history of use of these substances, the horse shall be prohibited from racing and placed on the veterinarian's list until the horse tests negative for the presence of such antibodies.

K. Extracorporeal shockwave therapy or radial pulse wave therapy. The use of an extracorporeal shockwave therapy device or radial pulse wave therapy device is prohibited unless:

1. The therapy device is registered with the commission veterinarian;
2. The therapy device is used by a veterinarian who is a permit holder; and
3. Each use of the therapy device is reported to the commission veterinarian on the treatment report.

In no case shall a shockwave therapy device or radial pulse wave therapy device be used on a racehorse fewer than 10 days before the horse is to race.

L. Notwithstanding any other provision in this chapter, no substance of any kind may be administered to a horse within three hours of the scheduled post time for the race in which the horse is entered. To ensure uniform supervision and conformity to this regulation, the trainer shall have each horse programmed to race stabled in its assigned stall within the enclosure of the horse race facility no later than four hours prior to post time for the respective race.

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11VAC10-180-25. Veterinary practices.

A. Veterinarians under authority of commission veterinarian. Veterinarians holding valid veterinarian permits issued by the commission and practicing at any location under the jurisdiction of the commission are under the authority of the commission veterinarian and the stewards. The commission veterinarian shall recommend to the stewards the discipline that may be imposed upon a veterinarian who violates these regulations.

B. Treatment restrictions.

1. Except as otherwise provided in the regulations, no person other than a licensed veterinarian holding a valid permit issued by the commission may administer a prescription or controlled medication, drug, chemical or other substance to a horse at any location under the jurisdiction of the commission.

2. No person, except a veterinarian holding a valid veterinarian's permit or an assistant under his immediate supervision, shall have in his possession within the enclosure any hypodermic syringe or needle or any instrument capable of being used for the injection of any substance.

3. No person, except a veterinarian holding a valid veterinarian's permit or an assistant under his immediate supervision, shall have in his possession within the enclosure any injectable substance.

4. Notwithstanding these regulations, a veterinarian or other permit holder may possess within the enclosure of a horse racing facility a hypodermic syringe and needle for the purpose of administering to himself a substance, provided that the permit holder has documentary evidence that the substance can only be administered by injection and that the substance to be administered by injection has been prescribed for him.

5. Unless granted approval by the commission veterinarian, veterinarians shall not have contact with an entered horse on race day except for the administration of race-day medications expressly permitted by the regulations.

C. Veterinarian treatment reports.

1. Practicing veterinarians must maintain complete records of all treatments, including date, time and proper identification of each horse. The record shall contain the name of the trainer, the name of the horse, all medications and dosages administered, and all diagnostic and therapeutic procedures performed on the horse.

2. At the request of the commission veterinarian or stewards, practicing veterinarians shall produce within 24 hours the billing and/or treatment records or other information for any horse treated by the veterinarian.

11VAC10-180-35. Prohibited practices.

A. No trainer shall allow a horse to appear in a race, qualifying race or official timed workout, when the horse contains in its system any prohibited substance, as determined by testing of blood, saliva or urine, or any other reasonable means.

B. No person shall administer any substance to a horse on race day other than those substances expressly permitted by the commission. Substances permitted by the commission shall be administered solely for the benefit and welfare of the horse, nonperformance altering, of no danger to riders/drivers, and unlikely to interfere with the detection of prohibited substances.

C. No veterinarian or permit holder shall, without good cause, possess or administer any substance to a horse stabled within the enclosure or at any facility under the jurisdiction of the commission:

1. That has not been approved by the U.S. Food and Drug Administration (FDA) for any use (human or animal), or the U.S. Department of Agriculture's Center for Veterinary Biologics;

2. That is on the U.S. Drug Enforcement Agency's Schedule I or Schedule II of controlled substances as prepared by the Attorney General of the United States pursuant to 21 USC §811 and 812;

3. That its use may endanger the health and welfare of the horse or endanger the safety of the rider or driver, or its use may adversely affect the integrity of racing; or

4. That does not have a recognized laboratory analytical method to detect and confirm its administration.

D. No person, except a veterinarian holding a valid veterinarian's permit or an assistant under his immediate supervision, shall have in his possession within the enclosure of a horse racing facility any prescription substance for animal use unless:

1. The person actually possesses, within the enclosure of the horse racing facility, documentary evidence that a prescription has been issued to him for the substance by a licensed veterinarian;

2. The prescription substance is labeled with a dosage for the horse or horses to be treated with the prescription substance; and

3. The horse or horses named in the prescription are then under the care and supervision of the permit holder and are then stabled within the enclosure of the horse racing facility.

E. The possession or administration of erythropoietin (Epogen), darbepoietin, oxyglobin, Hemopure, or any analogous substance that increases oxygen-carrying capacity

of the blood is prohibited. Furthermore, should the analysis of a test sample detect the presence of antibodies of erythropoietin or darbepoietin or any analogous substance in the horse's blood that indicates a history of use of these substances, the horse shall be prohibited from racing and placed on the veterinarian's list until the horse tests negative for the presence of such antibodies.

F. The use of androgenic and anabolic steroids is prohibited in racing horses, except for one of the approved products, boldenone, nandrolone, stanozolol and testosterone, as stipulated in 11VAC10-180-75.

G. The use of an extracorporeal shockwave therapy device or radial pulse wave therapy device is prohibited unless:

1. The therapy device is registered with the commission veterinarian;
2. The therapy device is used by a veterinarian who is a permit holder; and
3. Each use of the therapy device is reported to the commission veterinarian on the treatment report.

In no case shall a shockwave therapy device or radial pulse wave therapy device be used on a racehorse fewer than 10 days before the horse is to race.

H. Tubing of horses prohibited. The tubing or dosing of any horse for any reason on race day is prohibited, unless administered for medical emergency purposes by a licensed veterinarian in which case the horse shall be scratched. The practice of administration of any substance, via a tube or other method, into a horse's stomach on race day is considered a violation of this chapter.

1. Using or possessing the ingredients or the paraphernalia associated with forced feeding to a horse of any alkalinizing agent with or without a concentrated form of carbohydrate, or administering any substance by tubing or other method on race day shall be considered a violation of this chapter.

2. Under the provisions of this subsection, endoscopic examination shall not be considered a violation of this chapter.

I. Notwithstanding any other provision in this chapter, no substance of any kind may be administered to a horse within three hours of the scheduled post time for the race in which the horse is entered. To ensure uniform supervision and conformity to this regulation, the trainer shall have each horse programmed to race stabled in its assigned stall within the enclosure of the horse race facility no fewer than four hours prior to post time for the respective race.

11VAC10-180-60. Medications and prohibited substances.

A. Medications and prohibited substances are divided into three categories five classes. The categories classes are:

1. Category Class 1. Substances found in this category class have no generally accepted medical use in the racehorse and have a very high pharmacological potential for altering the performance of a racehorse. These substances should never be found in the horse's system through post-race testing or in the possession of any holder of a permit within the enclosure of a horse racing facility licensed by the commission. Such substances are potent stimulants of the nervous system including opiates, opium derivatives, synthetic opioids, psychoactive drugs, amphetamines and U.S. Drug Enforcement Agency (DEA) Scheduled I and II controlled substances, and substances that are products intended to alter consciousness or the psychic state of humans.

Also included in this category are some substances, such as injectable local anesthetics, that have legitimate uses in equine medicine, but should not be found in a racehorse through post race testing. The following groups of substances in this category are:

- a. Opiate partial agonists or agonist antagonists;
- b. Nonopiate psychotropic drugs, which may have stimulant, depressant, analgesic or neuroleptic effects;
- e. Miscellaneous substances that might have a stimulant effect on the central nervous system (CNS);
- d. Drugs with prominent CNS depressant action;
- e. Antidepressant and antipsychotic drugs, with or without prominent CNS stimulatory or depressant effects;
- f. Muscle blocking substances that have a direct neuromuscular blocking action;
- g. Local anesthetics that have a reasonable potential for use as nerve blocking agents (except procaine);
- h. Other biological substances or chemicals that may be used as nerve blocking agents; and
- i. Erythropoietin (Epogen), Darbepoietin, Oxyglobin, Hemopure, or other blood-doping agents.

The commission, through these regulations, specifically states it will have zero tolerance for any positive test involving Category 1 substances.

2. Category 2. Substances found in this category have an accepted therapeutic use in the horse, but have a potential to enhance performance, and their presence in the horse's system is prohibited on race day. The following groups of substances are in this category:

- a. Substances affecting the autonomic nervous system that do not have prominent CNS effects, but that do have prominent cardiovascular and respiratory system effects (bronchodilators are included in this category);

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~~b. Local anesthetics that have nerve blocking potential but also a high potential for producing urine residue levels from a method of use not related to the anesthetic effect of the substance (procaine);~~

~~e. Miscellaneous substances with mild sedative action, such as the sleep inducing antihistamines;~~

~~d. Primary vasodilating/hypotensive agents;~~

~~e. Potent diuretics affecting renal function and body fluid composition;~~

~~f. Nonopiate substances that have a mild central analgesic effect;~~

~~g. Substances affecting the autonomic nervous system that do not have prominent CNS, cardiovascular or respiratory effects:~~

~~(1) Substances used solely as topical vasoconstrictors or decongestants;~~

~~(2) Substances used as gastrointestinal antispasmodics;~~

~~(3) Substances used to void the urinary bladder; and~~

~~(4) Substances with a major effect on CNS vasculature or smooth muscle of visceral organs.~~

~~h. Antihistamines that do not have a significant CNS depressant effect (this does not include H1 blocking agents);~~

2. Class 2. Substances in this class have a high potential to affect the outcome of a race. Most are not generally accepted as therapeutic agents in the racehorse. Many are products intended to alter consciousness or the psychic state of humans, and have no approved or indicated use in the horse. Some, such as injectable local anesthetics, have legitimate uses in equine medicine, but should not be found in a racehorse through postrace testing. The following groups of substances are in this class:

a. Opiate partial agonists or agonist-antagonists;

b. Nonopiate psychotropic drugs, which may have stimulant, depressant, analgesic or neuroleptic effects;

c. Miscellaneous substances that might have a stimulant effect on the central nervous system (CNS);

d. Drugs with prominent CNS depressant action;

e. Antidepressant and antipsychotic drugs, with or without prominent CNS stimulatory or depressant effects;

f. Muscle-blocking substances that have a direct neuromuscular blocking action;

g. Local anesthetics that have a reasonable potential for use as nerve-blocking agents (except procaine);

h. Other biological substances and snake venoms or chemicals that may be used as nerve-blocking agents; and

i. Erythropoietin (Epogen), darbepoietin, oxyglobin, hemopure, or other blood-doping agents.

~~3. Category 3. Substances found in this category are therapeutic medications that are considered nonperformance enhancing, but may interfere with testing. The following groups of substances are in this category:~~

~~a. Mineral corticoid substances;~~

~~b. Skeletal muscle relaxants;~~

~~e. Anti-inflammatory substances that may reduce pains as a consequence of their anti-inflammatory actions, which include:~~

~~(1) Nonsteroidal anti-inflammatory drugs (NSAIDs);~~

~~(2) Corticosteroids (glucocorticoids); and~~

~~(3) Miscellaneous anti-inflammatory agents.~~

~~d. Anabolic or androgenic steroids, or both, and other like substances, except boldenone, stanozolol, nandrolone, and testosterone individually but not in combination (stacking or layering);~~

~~e. Less potent diuretics;~~

~~f. Cardiac glycosides and antiarrhythmics including:~~

~~(1) Cardiac glycosides;~~

~~(2) Antiarrhythmic agents (exclusive of lidocaine, brethium and propranolol); and~~

~~g. Topical anesthetics agents not available in injectable formulations;~~

~~h. Antidiarrheal agents; and~~

~~i. Miscellaneous substances including:~~

~~(1) Expectorants with little or no other pharmacologic action;~~

~~(2) Stomachics; and~~

~~(3) Mucolytic agents.~~

~~4. Newly developed substances not previously categorized. For the purposes of a stewards' determination if a chemical identification constitutes a positive finding, and for determining the subsequent disciplinary action, newly developed substances, not previously categorized, may be considered Category 1 substances, until a duly recognized scientific body or regulatory racing authority determines the substance should be categorized otherwise.~~

3. Class 3. Substances found in this class may or may not have an accepted therapeutic use in the horse, but have a potential to enhance performance, and their presence in the

horse's system is prohibited on race day. The following groups of substances are in this class:

a. Substances affecting the autonomic nervous system that do not have prominent CNS effects, but that do have prominent cardiovascular and respiratory system effects (bronchodilators are included in this category);

b. Local anesthetics that have nerve-blocking potential but also a high potential for producing urine residue levels from a method of use not related to the anesthetic effect of the substance (procaine);

c. Miscellaneous substances with mild sedative action, such as the sleep-inducing antihistamines;

d. Primary vasodilating/hypotensive agents;

e. Potent diuretics affecting renal function and body fluid composition; and

f. Anabolic and/or androgenic steroids and/or growth hormones not specifically permitted by the regulations of the Virginia Racing Commission for use in racing horses.

4. Class 4. Substances in this class are primarily therapeutic medications routinely used in racehorses. These may influence performance, but generally have a more limited ability to do so. The following groups of drugs are in this class:

a. Nonopiate substances that have a mild central analgesic effect;

b. Substances affecting the autonomic nervous system that do not have prominent CNS, cardiovascular or respiratory effects:

(1) Substances used solely as topical vasoconstrictors or decongestants;

(2) Substances used as gastrointestinal antispasmodics;

(3) Substances used to void the urinary bladder; and

(4) Substances with a major effect on CNS vasculature or smooth muscle of visceral organs.

(5) Antihistamines that do not have a significant CNS depressant effect (this does not include H1 blocking agents, which are listed in Class 5).

c. Mineral corticoid substances;

d. Skeletal muscle relaxants;

e. Anti-inflammatory substances that may reduce pains as a consequence of their anti-inflammatory actions, which include:

(1) Nonsteroidal anti-inflammatory drugs (NSAIDs);

(2) Corticosteroids (glucocorticoids); and

(3) Miscellaneous anti-inflammatory agents.

f. Boldenone, stanozolol, nandrolone, and testosterone, individually but not in combination, at levels stipulated in 11VAC10-180-75.

g. Less potent diuretics;

h. Cardiac glycosides and antiarrhythmics including:

(1) Cardiac glycosides;

(2) Anti-arrhythmic agents (exclusive of lidocaine, bretylium and propranolol); and

(3) Miscellaneous cardiotoxic drugs.

i. Topical anesthetics agents not available in injectable formulations;

j. Antidiarrheal agents; and

k. Miscellaneous substances including:

(1) Expectorants with little or no other pharmacologic action;

(2) Stomachics; and

(3) Mucolytic agents.

5. Class 5. Drugs in this class are therapeutic medications for which concentration limits have been established as well as certain miscellaneous agents. Included specifically are agents that have very localized action only, such as anti-ulcer drugs and certain anti-allergenic drugs. The anticoagulant drugs are also included.

~~B. Disciplinary actions. The stewards shall, absent mitigating circumstances specifically noted in their findings, impose the disciplinary action noted below upon any permit holders, which may include practicing veterinarians, for a positive test result for one of the three categories listed in subsection A of this section. The stewards also may refer the case to the commission for further disciplinary action. The penalties are:~~

~~1. For substances in Category 1—Revocation of permit and loss of purse;~~

~~2. For substances in Category 2—Fine of not less than 6.0% of the purse, not to exceed the maximum allowed by law, and loss of purse;~~

~~3. For substances in Category 3—Fine and suspension are discretionary, relating to the specific circumstances of the case and any mitigating circumstances; loss of purse shall be imposed.~~

~~4. For cimetidine, dicoumerol, griseofulvin, isoxsuprine, ranitidine, sulfa and tetramisole—first offense: \$500 fine; second offense: \$1,500 fine and loss of purse.~~

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~~5. For procaine, o desmethyl pyrilamine if found in urine only, first offense: \$500 fine; second offense: \$1,500 fine and loss of purse.~~

~~6. For procaine, o desmethyl pyrilamine if found in urine and blood, first offense: \$1,500 fine and loss of purse; second offense: after notification of first offense, \$2,500 fine and loss of purse.~~

~~7. For methylprednisolone first offense, if found in urine only: \$250 fine, or if found in urine and blood: \$1,000 fine and loss of purse; second offense: \$2,000 fine and loss of purse.~~

~~8. For nonsteroidal anti inflammatory substances first offense is a \$500 fine and loss of purse; second offense: \$1,000 fine and loss of purse; and third offense: \$2,500 fine and loss of purse.~~

~~9. For two or more nonsteroidal anti inflammatory substances, or a nonsteroidal anti inflammatory substance and a corticosteroid substance other than methylprednisolone: \$5,000 fine and loss of purse.~~

~~10. For anabolic or androgenic steroids, or both, and other like substances, other than boldenone, stanozolol, nandrolone, and testosterone first offense: \$1,000 fine and loss of purse; second offense: \$2,500 fine and loss of purse; third and subsequent offense: \$5,000 fine, loss of purse, and 15-day suspension for the trainer.~~

~~11. For any combination (stacking or layering) in any concentration of stanozolol, nandrolone, boldenone, or testosterone in a single horse first offense: \$500 fine; second offense: \$1,000 fine and loss of purse; third and subsequent offense: \$2,500 fine and loss of purse.~~

1. In issuing penalties against individuals found guilty of medication and drug violations a regulatory distinction shall be made between the detection of therapeutic medications used routinely to treat racehorses and those drugs that have no reason to be found at any concentration in the test sample on race day.

2. The stewards or the commission will use the Racing Medication and Testing Consortium's (RMTC) penalty category and schedule as a starting place in the penalty stage of the deliberations for a rule violation for any drug listed in the Association of Racing Commissioners International (RCI) Uniform Classification Guidelines for Foreign Substances, revised July 2007.

3. If a licensed veterinarian is administering or prescribing a drug not listed in the RCI Uniform Classification Guidelines for Foreign Substances or shown in the RMTC penalty guideline listing, the identity of the drug shall be forwarded to the commission veterinarian to be forwarded to the Racing Medication and Testing Consortium for classification.

4. Any drug or metabolite thereof found to be present in a pre- or postrace sample that is not classified in the most current RCI Uniform Classification Guidelines for Foreign Substances shall be assumed to be an RCI Class 1 Drug and the trainer and owner shall be subject to those penalties as set forth in schedule "A" unless satisfactorily demonstrated otherwise by the Racing Medication and Testing Consortium, with a penalty category assigned.

5. The penalty categories and their related schedules, if applicable, shall be on the following criteria:

a. Whether the drug is approved by the U.S. Food and Drug Administration for use in the horse;

b. Whether the drug is approved by the U.S. Food and Drug Administration for use in any species;

c. Whether the drug has any legitimate therapeutic application in the equine athlete;

d. Whether the drug was identified as "necessary" by the RMTC Veterinary Advisory Committee;

e. Whether legitimate, recognized therapeutic alternatives exist; and

f. The current RCI classification of the drug.

6. Except as may be expressly stipulated in the regulations elsewhere, the penalty categories "A," "B" and "C" and their related schedules for trainers and owners are as follows:

a. The recommended penalties for violations due to the presence of a substance carrying a category "A" penalty and for violations of 11VAC10-180-35 are:

(1) First offense for the trainer will be:

(a) Minimum one-year suspension absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum of a five-year suspension;

(b) Minimum fine of \$10,000 absent mitigating circumstances; and

(c) May be referred to the commission for any further action deemed necessary by the commission.

(2) Second lifetime offense in any jurisdiction for the trainer will be:

(a) Minimum five-year suspension absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum of license revocation with no reapplication for a five-year period;

(b) Minimum fine of \$10,000 absent mitigating circumstances; and

(c) May be referred to the commission for any further action deemed necessary by the commission.

(3) Third and any subsequent lifetime offense in any jurisdiction for the trainer will be:

(a) Minimum 10-year suspension absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum of license revocation with no reapplication for a five-year period;

(b) Minimum fine of \$10,000 absent mitigating circumstances; and

(c) May be referred to the commission for any further action deemed necessary by the commission.

(4) First offense for the owner will be:

(a) Disqualification and loss of purse; and

(b) Horse shall be placed on the veterinarian's list for 90 days and must pass a commission-approved examination before becoming eligible to be entered.

(5) Second lifetime offense in owner's stable in any jurisdiction will be:

(a) Disqualification, loss of purse and \$5,000 fine; and

(b) Horse shall be placed on the veterinarian's list for 120 days and must pass a commission-approved examination before becoming eligible to be entered.

(6) Third and any subsequent lifetime offense in the owner's stable in any jurisdiction will be:

(a) Disqualification, loss of purse, \$10,000 fine and 90 days suspension; and

(b) Horse shall be placed on the veterinarian's list for 180 days and must pass a commission-approved examination before becoming eligible to be entered.

b. The recommended penalties for violations due to the presence of a substance carrying a category "B" penalty, for the presence of more than one NSAID in a plasma or serum sample, and for violations of the established level for total carbon dioxide are:

(1) First offense for the trainer will be:

(a) Minimum 15-day suspension absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum of a 60-day suspension; and

(b) Minimum fine of \$2,500 absent mitigating circumstances. The presence of aggravating factors could be sued to impose a maximum fine of \$10,000.

(2) Second offense within a 365-day period in any jurisdiction for the trainer will be:

(a) Minimum 30-day suspension absent mitigating circumstances. The presence of aggravating factors could

be used to impose a maximum of a 180-day suspension; and

(b) Minimum fine of \$5,000 absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum fine of \$10,000.

(3) Third and any subsequent offense within a 365-day period in any jurisdiction for the trainer will be:

(a) Minimum 90-day suspension absent mitigating circumstances. The presence of aggravating factors could be used to impose up to a maximum of a two-year suspension;

(b) Minimum fine of \$10,000 absent mitigating circumstances; and

(c) May be referred to the commission for any further action deemed necessary by the commission.

(4) First offense for the owner will be:

(a) Disqualification and loss of purse; and

(b) Horse must pass a commission-approved examination before becoming eligible to be entered.

(5) Second offense in the owner's stable within a 365-day period in any jurisdiction will be:

(a) Disqualification and loss of purse; and

(b) Horse must pass a commission-approved examination before becoming eligible to be entered.

(6) Third and any subsequent offense in owner's stable within a 365-day period in any jurisdiction will be:

(a) Disqualification and loss of purse;

(b) Minimum fine of \$5,000 absent mitigating circumstances; and

(c) Horse shall be placed on the veterinarian's list for 45 days and must pass a commission-approved examination before becoming eligible to be entered.

c. The recommended penalties for violations due to the presence of a substance carrying a category "C" penalty are:

(1) First offense for the trainer will be:

(a) Disqualification and loss of purse; and

(b) Minimum fine of \$500 absent mitigating circumstances.

(2) Second offense for the trainer within a 365-day period in any jurisdiction will be:

(a) Disqualification and loss of purse;

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(b) Minimum fine of \$1,000 absent mitigating circumstances; and

(c) Minimum 15-day suspension absent mitigating circumstances.

(3) Third and any subsequent offense for the trainer within a 365-day period in any jurisdiction will be:

(a) Disqualification and loss of purse;

(b) Minimum fine of \$2,500 absent mitigating circumstances; and

(c) Minimum 30-day suspension absent mitigating circumstances.

(4) First offense for the owner will be:

(a) Disqualification and loss of purse;

(b) Horse must pass a commission-approved examination before becoming eligible to be entered.

(5) Second offense in owner's stable within a 365-day period in any jurisdiction will be:

(a) Disqualification and loss of purse;

(b) Horse shall be placed on the veterinarian's list for 45 days and must pass a commission-approved examination before becoming eligible to be entered.

(6) Third and any subsequent offense in owner's stable within a 365-day period in any jurisdiction will be:

(a) Disqualification and loss of purse;

(b) Minimum fine of \$5,000 absent mitigating circumstances; and

(c) Horse shall be placed on the veterinarian's list for 60 days and must pass a commission-approved examination before becoming eligible to be entered.

7. Any permit holder of the commission, including practicing veterinarians, found to be responsible for the improper or intentional administration of any drug resulting in a positive test may be subject to the same penalties set forth to the trainer.

8. Any veterinarian found to be involved in the administration of any drug carrying the penalty category of "A" shall be referred to the respective state licensing board of veterinary medicine for consideration of further disciplinary action and/or license revocation. This is in addition to any penalties issued by the stewards or the commission.

9. Any person who the stewards or the commission believe may have committed acts in violation of criminal statutes shall be referred to the appropriate law-enforcement agency. Administrative action taken by the stewards or the commission in no way prohibits a prosecution for criminal

acts committed, nor does a potential criminal prosecution stall administrative action by the stewards or the commission.

10. Pursuant to 11VAC10-60-70 E of the commission regulations, horses in the care of a trainer who is suspended for 10 days or more must be transferred to another trainer approved by the stewards. During the period of suspension the suspended trainer shall have no communication, oral or written, with the new trainer and shall not benefit financially from horses in his stable at the time of suspension.

11VAC10-180-70. Phenylbutazone, ~~flunixin~~ flunixin and other NSAIDs.

A. Generally. By this regulation, the Virginia Racing Commission specifically permits the use of either phenylbutazone or ~~flunixin~~ flunixin (but not concurrently) in racehorses in the quantities provided for in this chapter.

B. Quantitative testing. Any horse to which phenylbutazone or ~~flunixin~~ flunixin has been administered shall be subject to testing at the direction of the commission veterinarian to determine the quantitative levels of phenylbutazone and ~~flunixin~~ flunixin or the presence of other substances which may be present.

C. Disciplinary actions. The stewards shall take the following disciplinary actions for reports of quantitative testing by the primary testing laboratory for levels of phenylbutazone quantified at levels above 5.0 micrograms per milliliter of plasma or ~~flunixin~~ flunixin quantified at levels above 20 ng per milliliter of plasma in horses following races, qualifying races, and official timed workouts for the stewards or commission veterinarian:

1. The stewards shall impose the following for a post-race test quantifying phenylbutazone above 5.0 micrograms per milliliter of plasma or flunixin above 20 ng per milliliter of plasma:

(a) ~~a.~~ First offense: \$500 fine, disqualification and loss of purse;

(b) ~~b.~~ Second offense: \$1,500 fine, disqualification and loss of purse; and

(c) ~~c.~~ Third offense: \$2,500 fine, disqualification and loss of purse.

2. The stewards, in their discretion, may impose other more stringent disciplinary actions against trainers or other permit holders who violate the provisions under which phenylbutazone or flunixin is permitted by the commission.

11VAC10-180-75. Androgenic and anabolic steroids.

A. All androgenic and anabolic steroids are prohibited in racing horses, except as provided below.

B. Residues of the major metabolite of stanozolol, nandrolone, boldenone and testosterone at concentrations less than the thresholds indicated below are permitted in test samples collected from racing horses.

C. Concentrations of these substances identified in subsection B of this section shall not exceed the following total threshold concentrations (i.e., free drug or metabolite and drug or metabolite liberated from its conjugates):

1. Metabolite of stanozolol (16Beta-hydroxystanozolol) – 1 ng/ml in urine for all horses regardless of gender.

2. Boldenone – 15 ng/ml in urine in male horses other than geldings. No boldenone is permitted in geldings or female horses.

3. Nandrolone:

a. 1 ng/ml in urine in geldings, fillies, and mares.

b. 45 ng/ml in urine in male horses other than geldings.

4. Testosterone.

a. 20 ng/ml in urine in geldings.

b. 55 ng/ml in urine in fillies and mares.

c. Male horses other than geldings will not be tested.

D. The presence of more than one of the four substances identified in subsection B of this section at concentrations greater than the individual thresholds indicated in subsection C of this section is prohibited.

E. Test samples collected from male horses other than geldings must be so identified to the laboratory.

F. Any horse administered an androgenic or anabolic steroid to assist in the recovery from illness or injury may be placed on the veterinarian's list in order to monitor the concentration of the drug or metabolite in urine. After the concentration has fallen below the designated threshold, the horse is eligible to be removed from the list.

G. The stewards shall take disciplinary actions for reports of quantitative testing by the primary testing laboratory indicating the presence of one or more androgenic or anabolic steroid at concentrations above the individual thresholds indicated in subsection C of this section.

1. For the first violation of the regulation pertaining to androgenic and anabolic steroids regarding a particular horse, absent mitigating factors, the recommended penalties are:

a. Disqualification and loss of purse;

b. Fine up to \$1,000 at the stewards' discretion if aggravating factors are found; and

c. The horse shall be placed on the veterinarian's list until the concentration has fallen below the designated threshold level.

2. For the second violation of the regulation pertaining to androgenic and anabolic steroids in a 365-day period for the same horse, absent mitigating factors, the recommended penalties are:

a. Disqualification and loss of purse;

b. Fine of \$2,500, 90 days suspension; and

c. The horse shall be placed on the veterinarian's list until the concentration has fallen below the designated threshold level.

3. For the third violation of the regulation pertaining to androgenic and anabolic steroids in a 365-day period for the same horse, absent mitigating factors, the recommended penalties are:

a. Disqualification and loss of purse;

b. Revocation of permit; and

c. The horse shall be placed on the veterinarian's list until the concentration has fallen below the designated threshold level.

11VAC10-180-80. Permitted race day substances.

A. Generally. The following substances that have been determined to be solely for the benefit and welfare of the horse., nonperformance altering, of no danger to riders/drivers, and unlikely to interfere with the detection of prohibited substances, may be administered to a horse on race day are: Intravenous commercially available electrolyte solutions including calcium and magnesium, but not including bicarbonate, providing such administration is a minimum of three hours prior to the post time for that horse's race and administered under veterinary supervision within the limits of this chapter.

B. Bleeder medications. By this regulation, the Virginia Racing Commission specifically permits the use of bleeder medications in only those horses that:

1. Have been placed on the bleeders list by the stewards;

2. Have raced on furosemide in another jurisdiction and on the last previous start in a pari-mutuel race, as indicated by the past performance chart or by verification by the commission veterinarian from that racing jurisdiction, or both; or

3. Have been placed on the furosemide list by the stewards. A horse is eligible for inclusion on the furosemide list if the licensed trainer and a licensed veterinarian determine it is in the horse's best interest to race with furosemide, and the prescribed commission form is presented to the commission veterinarian prior to the close of entries for the

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horse's race. A horse placed on the furosemide list without demonstrating an episode of exercise-induced pulmonary hemorrhage is not restricted from racing for the usual recovery period described in 11VAC10-180-85 D. However, any future episode of exercise-induced pulmonary hemorrhage shall be considered a reoccurrence of bleeding for the purpose of determining restrictions from racing, as provided in this chapter.

a. A trainer or owner may discontinue the administration of furosemide to his racehorse only with the permission of the stewards. The request must be submitted in writing on forms prescribed by the commission and prior to entering the horse in a race.

b. A horse removed from the furosemide list may not be placed back on the furosemide list for a period of 60 calendar days unless the horse suffers an external bleeding incident witnessed by the commission veterinarian or his designee. In such case, the horse shall be placed on the bleeders list as though that bleeding incident was a reoccurrence of bleeding and subjected to a minimum 30-day or 90-day restriction for recovery as provided in this chapter.

C. Furosemide.

1. Procedures for usage. The use of furosemide shall be permitted by the commission only in horses eligible to receive bleeder medications and under the following circumstances:

a. Furosemide shall be administered intravenously within the enclosure of the horse race facility by a veterinarian who is a permit holder.

b. The furosemide dosage administered shall not exceed 10 ml (500 mg) and shall not be less than 3 ml (150 mg).

c. The veterinarian administering the furosemide shall deliver a furosemide treatment report to the commission no later than two hours prior to post time. The furosemide treatment report shall contain the following:

- (1) The trainer's name, date, horse's name, and horse's identification number;
- (2) The time furosemide was administered to the horse;
- (3) The dosage level administered for this race;
- (4) The barn and stall number; and
- (5) The signature of the practicing veterinarian, who is a permit holder.

2. Furosemide quantification. Furosemide levels must not exceed 100 nanograms per milliliter (ng/ml) of plasma. Furosemide must be present in the plasma or urine of any horse that has been designated in the program as being treated with furosemide.

D. Disciplinary actions.

1. For the first violation of the regulation pertaining to furosemide quantification (subdivision C 2 of this section), the stewards shall issue a written reprimand to the trainer and to the practicing veterinarian, if applicable.

2. For the second violation of the regulation pertaining to furosemide quantification (subdivision C 2 of this section), the stewards shall fine the trainer, practicing veterinarian or both an amount not to exceed \$500.

3. For the third violation of the regulation pertaining to furosemide quantification (subdivision C 2 of this section) within a ~~12-month~~ 365-day period, the stewards shall suspend or fine the trainer, practicing veterinarian, or both, not to exceed \$1,000 and 15 days.

4. The stewards, in their discretion, may impose other more stringent disciplinary actions against trainers or other permit holders who violate the provisions under which furosemide is permitted by the commission, regardless of whether or not the same horse is involved.

E. Adjunct bleeder medications. The Virginia Racing Commission permits the use of no more than one adjunct bleeder ~~medications only~~ medication in horses that receive furosemide as provided for in this chapter. Such medications, if administered to a horse, must be administered on race day no less than three hours before post time. Permissible adjunct bleeder medications and maximum dosages are:

1. Conjugated estrogens, not to exceed 25 milligrams.
2. Aminocaproic acid, not to exceed 2.5 grams.
3. Tranexamic acid, not to exceed 1 gram.
4. Carbazochrome, not to exceed 5 milliliters.

F. Program designation. The licensee shall be responsible for designating in the program those horses racing on furosemide. The designation shall also include those horses making their first start while racing on furosemide. In the event there is an error, the licensee shall be responsible for making an announcement to be made over the public address system and taking other means to correct the information published in the program.

G. Discontinue use of furosemide. A trainer or owner may discontinue the administration of furosemide to his horse only with the permission of the stewards and prior to entering the horse in a race.

11VAC10-180-85. Bleeders.

A. Examination of bleeders. A horse that is alleged to have bled in Virginia must be physically examined by the commission veterinarian or a practicing veterinarian who is a permit holder in order to confirm the horse's inclusion on the bleeder list. The veterinarian may conclude a horse is a bleeder under the following circumstances:

1. If the examination takes place immediately following the race or exercise and before the horse leaves the racing surface or test barn, a veterinarian may conclude the horse is a bleeder and an endoscopic examination is not required for inclusion on the bleeder list; or

2. If the examination takes place after the horse leaves the racing surface but within 90 minutes following the finish of a race or exercise in which the horse participated, a veterinarian shall require an endoscopic examination for inclusion on the bleeder list.

B. Confirmation of a bleeder. The commission veterinarian or practicing veterinarian who is a permit holder shall decide, based upon his experience and professional training the standard of care a reasonable veterinarian should exercise in similar circumstances, whether the horse suffers from exercise-induced pulmonary hemorrhage and should be placed on the bleeder list. The confirmation of a bleeder shall be certified in writing by the commission veterinarian or practicing veterinarian, and the horse shall be placed on the bleeder list. The confirmation of a bleeder shall be filed with the commission within three days of the confirmation. Upon request, a copy of the certification shall be provided to the owner of the horse or his agent.

C. Posting of bleeder list. The bleeder list shall be maintained by the stewards, with the assistance of the commission veterinarian, and shall be made available upon request. No horse shall be removed from the bleeder list without the approval of the stewards.

D. Recovery period. If it is determined that a horse has bled as determined by this chapter, the horse shall be placed on the bleeders list and may not be permitted to race for at least 10 days. If a horse is determined to have bled within 365 days of the first occurrence, or if the horse bleeds externally on the track or in the test barn while on furosemide, the horse may not race for the following periods of time:

1. 30 days after the first reoccurrence;
2. 90 days after the second reoccurrence; and
3. The horse shall be barred from racing forever at the race meetings licensed by the commission after the third reoccurrence.

For the purpose of counting the number of days a horse is not permitted to race in meetings licensed by the commission, the day the horse bled is the first day of the recovery period, and the horse shall be permitted to race in meetings licensed by the commission when the last day of the recovery period under this chapter expired.

E. Bleeders from other jurisdictions. The commission veterinarian may designate a horse as a bleeder from another jurisdiction based upon information received from that jurisdiction confirming that the horse is a bleeder and that the

requirements for inclusion on the bleeder list in Virginia have been satisfied.

11VAC10-180-110. Laboratory findings and reports.

A. Primary testing laboratory. The commission shall designate a primary testing laboratory for the analysis of test samples collected under the supervision of the commission veterinarian. The commission shall designate a chief racing chemist within the primary testing laboratory who shall have the authority to report his findings to the executive secretary of the commission, the stewards and the commission veterinarian.

B. Reference laboratories. The commission shall designate one or more laboratories, other than the primary testing laboratory, as reference laboratories. These laboratories will conduct confirmatory analysis of split samples. Any reference laboratory must be willing to accept split samples for confirmatory testing. Any reference laboratory shall send results to both the person requesting the testing and the commission.

C. Chief racing chemist's responsibilities. The chief racing chemist shall be responsible for safeguarding and analyzing the test samples delivered to the primary testing laboratory. It shall be the chief racing chemist's responsibility to maintain proper equipment, adequate staffing and acceptable procedures to thoroughly and accurately analyze test samples submitted to the primary testing laboratory.

D. Reporting procedures. The chief racing chemist shall submit to the executive secretary of the commission, the stewards and the commission veterinarian a written report as to each test sample analyzed, indicating by identification tag number whether the test sample was negative or there was a chemical identification.

E. Chemical identifications. If the chief racing chemist determines that there is present in the test sample a substance or metabolites of a substance foreign to the natural horse, except those specifically permitted by the regulations of the commission, he shall submit a report of chemical identification to the executive secretary of the commission, the stewards and the commission veterinarian. In a report of chemical identification, the chief racing chemist shall submit evidence acceptable in the scientific community and admissible in court in support of his determination.

F. Review of chemical identifications. Upon receipt of a report of a chemical identification from the chief racing chemist, the stewards shall conduct a review of the chemical identification, which shall include, but not be limited to, the chief racing chemist and the commission veterinarian. During the review, the following procedures shall apply:

1. All references to the report of a chemical identification shall be only by the identification tag number of the sample collected from the horse;

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2. The chief racing chemist shall submit his written report of the chemical identification and the evidence supporting his finding;

3. The commission veterinarian shall submit a written statement to the stewards including, but not limited to, the ~~category class~~ of the substance, the concentration level detected in the sample, if determined, and its probable effect on a racehorse;

4. The stewards may ask questions at any time and request further documentation as they deem necessary;

~~5. If the chemical identification involves a Category 1 or Category 2 substance, as specified by this regulation, then After receiving the appropriate information on the identified substance, the stewards shall determine that whether the chemical identification constitutes a violation of the regulations of the commission and whether it is should be deemed a positive test result. In doing so, the stewards shall consider, among other things, the concentration level reported, its likely effect on the horse, and whether environmental contamination may have contributed to the test result;~~

~~6. If the chemical identification and quantification involves a Category 3 substance, as specified by this regulation, then the stewards shall determine whether the chemical identification does or does not constitute a violation of the regulations of the commission and whether it should be deemed a positive test result;~~

~~7. 6.~~ In the event of a positive test result, the stewards shall notify the trainer of the horse of his right to send the split sample collected from the horse to one of the reference laboratories, designated by the commission, for confirmatory testing;

~~8. The 7.~~ If the trainer elects to send the split sample to a reference laboratory, the stewards shall take no disciplinary action against any permit holder until the results of confirmatory testing from the reference laboratory are received, and the findings shall be a part of the record of any subsequent hearing; and

~~9. 8.~~ The chief racing chemist's report of a chemical identification, the commission veterinarian's written statement, the results of confirmatory testing and any other documentation submitted to the stewards shall become part of the record of any subsequent proceedings.

G. Barred from racing. No horse from which a positive test sample was collected shall be permitted to race until the stewards have made a final determination in the matter. Such a horse shall not be immune from resulting disciplinary action by the stewards or the commission.

H. Frozen samples. Unconsumed portions of all test samples tested by the primary testing laboratory will be maintained in a frozen state until cleared by the chief racing chemist and

permission for their disposal is obtained from the Senior Commonwealth Steward.

I. Split samples. The commission veterinarian or his designee shall determine a minimum test sample requirement for the primary testing laboratory. If the test sample collected is less than the minimum requirement, then the entire test sample shall be sent to the primary laboratory.

If the sample collected is greater than the minimum sample requirement but less than twice that amount, the portion of the test sample that is greater than the minimum test sample requirement shall be secured as the split sample.

If the test sample collected is greater than twice the minimum test sample requirement, a portion of the sample approximately equal to the test sample shipped to the primary testing laboratory shall be secured as the split sample.

J. Storage of split samples. Split samples shall be stored in secured location inside a locked freezer in accordance with the following procedures:

1. Split samples shall be secured in the test barn in the same manner as the portion of the test sample acquired for shipment to the primary laboratory until such time as test samples are packed and secured for shipment to the primary laboratory.

2. Upon ~~shipment~~ packing of the test samples for shipment to the primary laboratory, the split samples shall be transferred to the locked freezer by the commission veterinarian who shall be responsible for securing possession of the keys.

3. The freezer for storage of split samples shall be opened only for depositing or removing split samples, for inventory, or for checking the condition of split samples.

4. Whenever the freezer used for storage of split samples is opened, it shall be attended by the commission veterinarian or his designee and a representative of the horsemen if the respective horsemen's association has provided a representative. In the case that the split samples from a race must be secured in the freezer and no horsemen's representative is present, the commission veterinarian or his designee shall be in attendance.

5. A log shall be maintained each time the freezer used for storage of split samples is opened to specify each person in attendance, the purpose for opening the freezer, identification of split samples deposited or removed, the date and time the freezer was opened, and the time the freezer was locked.

6. Any evidence of a malfunction of the freezer used for storage of split samples or evidence that split samples are not in a frozen condition shall be documented in the log and immediately reported to the stewards.

K. Shipment of split samples. The trainer or owner of the horse shall have 48 hours from receipt of notice of a positive test result to request that the split sample be shipped to one of the reference laboratories designated by the commission and the split sample shall be shipped to the requested reference laboratory. The cost of shipment and additional testing shall be paid by the permit holder requesting the testing of the split sample.

L. Chain of custody form. The commission veterinarian, or his designee, shall be responsible for the completion of a chain of custody verification form that shall provide a place for recording the following information:

1. Date and time the split sample is removed from the freezer;
2. The test sample number;
3. The address of the reference laboratory;
4. The name and address where the split sample package is to be taken for shipment to the reference laboratory;
5. Verification of retrieval of the split sample from the freezer;
6. Verification that each specific step of the split sample packaging procedure is in accordance with the recommended procedure;
7. Verification of the address of the reference laboratory on the split sample package;
8. Verification of the condition of the split sample package immediately prior to the transfer of custody to the carrier for shipment to the reference laboratory; and
9. The date and time custody of the split sample package was transferred to the carrier. The commission veterinarian, or his designee, shall witness, attest and sign the form, and a copy of the form shall be supplied to the trainer or owner.

In the event that the trainer or owner of the horse, or his designee, is not present, the commission veterinarian may not remove the split sample from the freezer or ship the split sample to a reference laboratory unless the trainer or owner has declined in writing his option to witness the removal, packaging and shipping procedure.

M. Packaging the split sample. The following procedures shall apply to the packaging of the split sample:

1. The split sample shall be removed from the freezer by the commission veterinarian or his designee; the trainer or owner, or his designee, may be present.
2. The trainer or owner, or his designee, may witness the packaging of the split sample by the commission veterinarian or his designee, in accordance with the instructions supplied by the reference laboratory.

3. The exterior of the package shall be secured and identified with initialed tape, evidence tape or other means to prevent tampering with the package.

4. The trainer or owner, or his designee, may accompany the commission veterinarian or his designee while delivering the package containing the split sample to the location where custody is transferred to the delivery carrier for shipment to the reference laboratory.

5. The trainer or owner, or his designee, may inspect the package containing the split sample immediately prior to transfer to the delivery carrier to verify that the package is intact and has not been tampered with.

6. The trainer or owner, or his designee, if witnessing the procedures, shall sign the chain of custody verification form.

DOCUMENTS INCORPORATED BY REFERENCE

Racing Medication and Testing Consortium, Penalty Guidelines, undated.

Uniform Classification Guidelines for Foreign Substances and Recommended Penalties and Model Rule, revised July 2007, Association of Racing Commissioners International, Inc.

VA.R. Doc. No. R08-1202; Filed March 25, 2008, 3:20 p.m.



TITLE 16. LABOR AND EMPLOYMENT

SAFETY AND HEALTH CODES BOARD

Final Regulation

REGISTRAR'S NOTICE: The following regulation is exempt from the Administrative Process Act in accordance with §2.2-4006 A 4 c of the Code of Virginia, which excludes regulations that are necessary to meet the requirements of federal law or regulations, provided such regulations do not differ materially from those required by federal law or regulation. The Safety and Health Codes Board will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: 16VAC25-90. Federal Identical General Industry Standards (adding 16VAC25-90-1910.6, 16VAC25-90-1910.68, 16VAC25-90-1910.94, 16VAC25-90-1910.103, 16VAC25-90-1910.107, 16VAC25-90-1910.110, 16VAC25-90-1910.111, 16VAC25-90-1910.144, 16VAC25-90-1910.243, 16VAC25-90-1910.251, 16VAC25-90-1910.253, 16VAC25-90-1910.261).

Statutory Authority: §40.1-22 of the Code of Virginia.

Effective Date: June 1, 2008.

Regulations

Agency Contact: John J. Crisanti, Policy and Planning Manager, Department of Labor and Industry, Powers-Taylor Building, 13 South Thirteenth Street, Richmond, VA 23219, telephone 804-786-4300, FAX 804-786-8418, TTY 804-786-2376, or email john.crisanti@doli.virginia.gov.

Summary:

This direct final rule is a continuation of federal OSHA's ongoing effort to update references to consensus and industry standards used throughout its rules. The direct final rule and the accompanying Notice of Proposed Rule Making (NPRM) (72 FR 71091) address welding definitions; abrasive wheel specification; floor and wall openings, railings, and toeboards; marking of portable compressed gas cylinders; and spray finishing.

Specifically, in this direct final rule, federal OSHA amended subparagraph (c)(1)(iv) of its spray-finishing standard at 29 CFR 1910.107, which incorrectly refers to the requirements for powder-coating equipment in "paragraph (c)(1) of this section." The amendment at 29 CFR 1910.107(c)(1)(iv) will identify the correct provision for regulating powder-coating equipment.

Additionally, federal OSHA removed the reference to American Welding Society (AWS) standard A3.0-1969 (Terms and Definitions) in paragraph (c) of 29 CFR 1910.251 (Definitions). Federal OSHA determined that after over 35 years of experience with these terms, employers and employees performing welding, cutting, and brazing operations understand their meaning when applying the substantive requirements in 29 CFR 1910.252 through 1910.255.

Federal OSHA removed the reference to the ANSI standards in the following standards:

1910.68(b)(4) and (b)(8)(ii);

1910.94(b)(5)(i)(a) and replaced it with a cite to 1910.215, Tables O-1 and O-9;

1910.94(c)(5)(iii)(e);

1910.103(b)(1)(i)(c), 1910.110(b)(5)(iii) and 1910.111(e)(1) and replaced them with a cite to paragraph (b)(1)(ii) of 1910.253;

1910.144(a)(1)(ii);

1910.243(d)(1)(i) and replace it with a cite to the design requirements specified by 1910.243(d)(2); and

1910.261(c)(15)(ii), (e)(4), (g)(13)(i), (h)(1), (j)(4)(iii), (j)(5)(i), (k)(6), (k)(13)(i), and (k)(15) and replaced them with a cite to 1910.23.

In the following standards, federal OSHA removed the reference to the NFPA standard:

1910.94(c)(1)(ii);

1910.94(c)(3)(i);

1910.94(c)(3)(i)(a);

1910.94(c)(3)(iii);

1910.94(c)(3)(iii)(a); and

1910.94(c)(3)(5)(i)

Note on Incorporation by Reference:

Pursuant to §2.2-4103 of the Code of Virginia, 29 CFR Part 1910, General Industry Standards, is declared a document generally available to the public and appropriate for incorporation by reference. For this reason the document will not be printed in the Virginia Register of Regulations. A copy of the document is available for inspection at the Department of Labor and Industry, 13 South 13th Street, Richmond, Virginia 23219, and in the office of the Registrar of Regulations, General Assembly Building, 9th and Broad Streets, Richmond, Virginia 23219.

Statement of Final Agency Action:

On February 28, 2008, the Safety and Health Codes Board adopted federal OSHA's revised final rule for Updating OSHA Standards Based on National Consensus Standards, as published in 72 FR 71061 on December 14, 2007, with an effective date of June 1, 2008.

Federal Terms and State Equivalents:

When the regulations, as set forth in the direct final rule for Updating OSHA Standards Based on National Consensus Standards, are applied to the Commissioner of the Department of Labor and Industry or to Virginia employers, the following federal terms shall be considered to read as follows:

<u>Federal Terms</u>	<u>VOSH Equivalent</u>
29 CFR	VOSH Standard
Assistant Secretary	Commissioner of Labor and Industry
Agency	Department
March 13, 2008	June 1, 2008

VA.R. Doc. No. R08-1222; Filed March 19, 2008, 11:27 a.m.

Final Regulation

REGISTRAR'S NOTICE: The following regulations are exempt from the Administrative Process Act in accordance with §2.2-4006 A 4 c of the Code of Virginia, which excludes regulations that are necessary to meet the requirements of federal law or regulations, provided such regulations do not differ materially from those required by federal law or regulation. The Safety and Health Codes Board will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Titles of Regulations: **16VAC25-90. Federal Identical General Industry Standards (adding 16VAC25-90-1910.132).**

16VAC25-100. Federal Identical Shipyard Employment Standards (adding 16VAC25-100-1915.152).

16VAC25-120. Federal Identical Marine Terminals Standards (adding 16VAC25-120-1917.96).

16VAC25-130. Federal Identical Longshoring Standards for Hazard Communications (adding 16VAC25-130-1918.106).

16VAC25-175. Federal Identical Construction Industry Standards (adding 16VAC25-175-1926.95).

Statutory Authority: §40.1-22 of the Code of Virginia.

Effective Date: June 1, 2008.

Agency Contact: John J. Crisanti, Policy and Planning Manager, Department of Labor and Industry, Powers-Taylor Building, 13 South Thirteenth Street, Richmond, VA 23219, telephone 804-786-4300, FAX 804-786-8418, TTY 804-786-2376, or email john.crisanti@doli.virginia.gov.

Summary:

Many federal OSHA health, safety, maritime, and construction standards require employers to provide their employees with protective equipment, including personal protective equipment (PPE), when such equipment is necessary to protect employees from job-related injuries, illnesses, and fatalities.

The provisions in federal OSHA standards that require PPE generally state that the employer is to provide such PPE. However, some of these provisions do not specify that the employer is to provide such PPE at no cost to the employee. This standard does not require employers to pay for items that are not PPE, nor provide PPE where none has before been required. Instead, the standard merely stipulates that the employer must pay for required PPE, except in the limited cases specified in the standard.

This final rule also clarifies federal OSHA's intent regarding employee-owned PPE and replacement PPE.

Employers must also pay for any replacement PPE, except in cases where the employee loses or intentionally damages his equipment.

The final rule also states that an employer is only required to pay for the PPE of its own employees, not independent contractors working in the employer's facilities. "Host employers" and general contractors are not responsible for the payment of PPE for subcontractors employees. However, employers utilizing and controlling the work of workers from temporary help services are responsible for providing PPE at no cost to the worker, but are free to negotiate arrangements with the temporary worker agency.

Note on Incorporation by Reference:

Pursuant to §2.2-4103 of the Code of Virginia, 29 CFR Part 1910, General Industry Standards; 29 CFR Part 1915, Shipyard Employment Standards; 29 CFR Part 1917, Marine Terminals Standards; 29 CFR Part 1918, Longshoring Standards for Hazard Communications; and 29 CFR Part 1926, Construction Industry Standards, are declared documents generally available to the public and appropriate for incorporation by reference. For this reason the documents will not be printed in the Virginia Register of Regulations. Copies of the documents are available for inspection at the Department of Labor and Industry, 13 South 13th Street, Richmond, Virginia 23219, and in the office of the Registrar of Regulations, General Assembly Building, 9th and Broad Streets, Richmond, Virginia 23219.

Statement of Final Agency Action:

On February 28, 2008, the Safety and Health Codes Board adopted federal OSHA's final rule for Employer Payment for Personal Protective Equipment (PPE), as published in 72 FR 64341 on November 15, 2007, with an effective date of June 1, 2008, and an implementation date of September 1, 2008.

Federal Terms and State Equivalents:

When the regulations, as set forth in the final rule for Employer Payment for Personal Protective Equipment (PPE), are applied to the Commissioner of the Department of Labor and Industry or to Virginia employers, the following federal terms shall be considered to read as follows:

<u>Federal Terms</u>	<u>VOSH Equivalent</u>
29 CFR	VOSH Standard
Assistant Secretary	Commissioner of Labor and Industry
Agency	Department
February 13, 2008	June 1, 2008
Implementation date: May 15, 2008	September 1, 2008

VA.R. Doc. No. R08-1223; Filed March 19, 2008, 11:28 a.m.

Regulations

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TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF LONG-TERM CARE ADMINISTRATORS

Final Regulation

REGISTRAR'S NOTICE: The following regulatory action is exempt from the Administrative Process Act in accordance with §2.2-4006 A 7 of the Code of Virginia, which excludes regulations of the regulatory boards served by the Department of Health Professions pursuant to Title 54.1 that are limited to reducing fees charged to regulants and applicants. The Board of Long-Term Care Administrators will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Titles of Regulations: 18VAC95-20. Regulations Governing the Practice of Nursing Home Administrators (amending 18VAC95-20-80).

18VAC95-30. Regulations Governing the Practice of Assisted Living Facility Administrators (amending 18VAC95-30-40).

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

Effective Date: May 14, 2008.

Agency Contact: Lisa Russell Hahn, Executive Director, Board of Long-Term Care Administrators, 9960 Mayland Drive, Suite 300, Richmond, VA 23233-1463, telephone 804-367-4424, FAX 804-527-4413, or email lisa.hahn@dhp.virginia.gov.

Summary:

The amendment reduces the costs for preceptorships as follows: the application fee is reduced from \$125 to \$50; the renewal fee is reduced from \$100 to \$50; the late renewal fee is reduced from \$35 to \$20; and the reinstatement fee is reduced from \$150 to \$95.

18VAC95-20-80. Required fees.

The applicant shall submit all fees below which apply:

- | | |
|---|-----------------------|
| 1. A.I.T. program application | \$185 |
| 2. Preceptor application | \$125 \$50 |
| 3. Licensure application | \$200 |
| 4. Verification of licensure requests from other states | \$25 |
| 5. Nursing home administrator license renewal | \$225 |

- | | |
|--|-----------------------|
| 6. Preceptor renewal | \$100 \$50 |
| 7. Penalty for nursing home administrator late renewal | \$65 |
| 8. Penalty for preceptor late renewal | \$35 \$20 |
| 9. Nursing home administrator reinstatement | \$315 |
| 10. Preceptor reinstatement | \$150 \$95 |
| 11. Duplicate license | \$15 |
| 12. Duplicate wall certificates | \$25 |

18VAC95-30-40. Required fees.

A. The applicant or licensee shall submit all fees below that apply:

- | | |
|--|-----------------------|
| 1. ALF AIT program application | \$185 |
| 2. Preceptor application | \$125 \$50 |
| 3. Licensure application | \$200 |
| 4. Verification of licensure requests from other states | \$25 |
| 5. Assisted living facility administrator license renewal | \$225 |
| 6. Preceptor renewal | \$100 \$50 |
| 7. Penalty for assisted living facility administrator late renewal | \$65 |
| 8. Penalty for preceptor late renewal | \$35 \$20 |
| 9. Assisted living facility administrator reinstatement | \$315 |
| 10. Preceptor reinstatement | \$150 \$95 |
| 11. Duplicate license | \$15 |
| 12. Duplicate wall certificates | \$25 |
| 13. Returned check | \$35 |

B. Fees shall not be refunded once submitted.

C. Examination fees are to be paid directly to the service contracted by the board to administer the examination.

VA.R. Doc. No. R08-1190; Filed March 18, 2008, 3:46 p.m.

BOARD OF PHARMACY

Final Regulation

REGISTRAR'S NOTICE: The Board of Pharmacy has claimed an exemption from the Administrative Process Act in accordance with §2.2-4006 A 4 a of the Code of Virginia, which excludes regulations that are necessary to conform to changes in Virginia statutory law or the appropriation act where no agency discretion is involved. The Board of Pharmacy will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: 18VAC110-20. Regulations Governing the Practice of Pharmacy (amending 18VAC110-20-530).

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

Effective Date: May 14, 2008.

Agency Contact: Elizabeth Scott Russell, RPh, Executive Director, Board of Pharmacy, 9960 Mayland Drive, Suite 300, Richmond, VA 23233-1463, telephone 804-367-4456, FAX 804-527-4472, or email scotti.russell@dhp.virginia.gov.

Summary:

The amendment changes the reference to Title 63.1 of the Code of Virginia to Title 63.2 pursuant to the recodification of the title in 2002.

Part XII

Pharmacy Services to Long-Term Care Facilities

18VAC110-20-530. Pharmacy's responsibilities to long-term care facilities.

The pharmacy serving a long-term care facility shall:

1. Receive a valid order prior to the dispensing of any drug.
2. Ensure that personnel administering the drugs are trained in using the dispensing system provided by the pharmacy.
3. Ensure that the drugs for each patient are kept and stored in the originally received containers and that the medication of one patient shall not be transferred to another patient.
4. Ensure that each cabinet, cart or other area utilized for the storage of drugs is locked and accessible only to authorized personnel.
5. Ensure that the storage area for patients drugs is well lighted, of sufficient size to permit storage without crowding, and is maintained at appropriate temperature.
6. Ensure that poison and drugs for "external use only" are kept in a cabinet and separate from other medications.

7. Provide for the disposition of discontinued drugs under the following conditions:

a. Discontinued drugs may be returned to the pharmacy for resale or transferred to another pharmacy for redispensing to the indigent if authorized by §54.1-3411.1 and 18VAC110-20-400, or destroyed by appropriate means in compliance with any applicable local, state, and federal laws and regulations.

b. Drug destruction at the pharmacy shall be witnessed by the PIC and by another pharmacy employee. The pharmacy may transfer the drugs for destruction to an entity appropriately licensed to accept returns for destruction. Drug destruction at the facility shall be witnessed by the director of nursing or, if there is no director, then by the facility administrator and by a pharmacist providing pharmacy services to the facility or by another employee authorized to administer medication.

c. A complete and accurate record of the drugs returned or destroyed or both shall be made. The original of the record of destruction shall be signed and dated by the persons witnessing the destruction and maintained at the long-term care facility for a period of two years. A copy of the destruction record shall be maintained at the provider pharmacy for a period of two years.

d. Long-term care facilities shall destroy discontinued or unused drugs or return them to the pharmacy without 30 days of the date the drug was discontinued.

8. Ensure that appropriate drug reference materials are available in the facility units.

9. Ensure that a monthly review of drug therapy by a pharmacist is conducted for each patient in long-term care facilities except those licensed under Title ~~63.1~~ 63.2 of the Code of Virginia. Such review shall be used to determine any irregularities, which may include but not be limited to drug therapy, drug interactions, drug administration or transcription errors. The pharmacist shall sign and date the notation of the review. All significant irregularities shall be brought to the attention of the attending practitioner or other party having authority to correct the potential problem.

VA.R. Doc. No. R08-1215; Filed March 18, 2008, 3:46 p.m.



Regulations

TITLE 24. TRANSPORTATION AND MOTOR VEHICLES

COMMONWEALTH TRANSPORTATION BOARD

Proposed Regulation

REGISTRAR'S NOTICE: Chapter 382 of the 2007 Acts of Assembly exempts the Commonwealth Transportation Board from the Administrative Process Act (§2.2-4000 et seq.) for the purpose of promulgating the initial regulations establishing secondary street acceptance requirements. The exemption does not apply to subsequent regulations or amendments thereto promulgated by the board.

Title of Regulation: **24VAC30-92. Secondary Street Acceptance Requirements (adding 24VAC30-92-10 through 24VAC30-92-160).**

Statutory Authority: §33.1-70.3 of the Code of Virginia.

Public Hearing Information:

April 30, 2008 - 4 p.m. - Rockingham County Administration Center, 20 E. Gay St., Harrisonburg, VA
May 7, 2008 - 4 p.m. - VDOT Bristol District Auditorium, 870 Bonham Road, Bristol, VA
May 14, 2008 - 5:30 p.m. - Northern Virginia Community College, Ernst Cultural Center Forum Area, 8333 Little River Turnpike Annandale, VA
May 21, 2008 - 4 p.m. - VDOT Central Office Auditorium, 1221 E. Broad St., Richmond, VA

Public Comments: Public comments may be submitted until June 30, 2008.

Agency Contact: Nicholas M. Donohue, Assistant Secretary of Transportation, Office of Secretary of Transportation, Patrick Henry Building, 1111 E. Broad St., 3rd Floor, Richmond, VA 23219, telephone (804) 786-8032, FAX (804) 786-6683, or email nicholas.donohue@drpt.virginia.gov.

Basis: The Office of the Attorney General has reviewed the proposed regulation and affirmed that the Commonwealth Transportation Board (board) has the authority to promulgate it, and that the exemption has been properly cited.

Chapter 382 of the 2007 Acts of Assembly added §33.1-70.3 to the Code of Virginia. The legislation requires the board to develop Secondary Street Acceptance Requirements, promulgated by regulation, to determine the conditions and standards that must be met before streets constructed by developers, localities, and entities other than the Virginia Department of Transportation (VDOT) will be accepted into the state secondary system for maintenance by VDOT. In accordance with Chapter 382 of the 2007 Acts, on March 20, 2008, the board directed VDOT to submit the proposed regulation to appear in the Virginia Register and on the

Virginia Regulatory Town Hall, to solicit further public comment.

No federal statutes pertain to the regulation. Title 33.1 of the Code of Virginia contains many statutory references to the secondary system and the authority to issue regulations. VDOT, the commissioner, and the board are granted "control, supervision, management, and jurisdiction" over the secondary system of state highways by §33.1-69. Furthermore, the board has general authority to make regulations concerning the use of the state highway system pursuant to §33.1-12. Section 33.1-229 gives the commissioner discretionary authority over the expenditure of state funds for the secondary system.

Purpose: Chapter 382 of the 2007 Acts of Assembly added §33.1-70.3 to the Code of Virginia. The legislation directs the Commonwealth Transportation Board to develop Secondary Street Acceptance Requirements, promulgated by regulation, to set forth the conditions and standards that streets constructed by developers, localities and entities other than VDOT must meet to be accepted into the secondary system of state highways for maintenance by VDOT.

The proposed draft regulation was developed in consultation with a VDOT internal technical committee established by the commissioner and an Implementation Advisory Committee established by the Secretary of Transportation. The Implementation Advisory Committee consisted of stakeholders from the development community, local governments, planning district commissions, environmental organizations and other stakeholders.

The proposed regulation was further revised based on input and feedback from the Virginia Chapter of the American Planning Association, developers, planning district commissions and the general public.

The purpose of this initiative is to ensure that streets accepted into the secondary system of state highways for perpetual public maintenance provide public benefit.

Substance: The proposed regulation contains several new substantive provisions incorporating the mandatory provisions of the enabling legislation (Chapter 382 of the 2007 Acts of Assembly).

Recognizing the diversity of the Commonwealth, the proposed regulation would establish three area types (compact, suburban and rural) with graduated requirements that streets must meet for acceptance into the secondary system of state highways. The area type boundaries would be based on long-term local, regional and federal planning boundaries. The proposed regulation provides flexibility to allow local governments to modify the proposed area types.

Streets may be accepted individually or as a group (network addition) into the secondary system of state highways. Streets would need to provide public service, connectivity and

pedestrian accommodations to be eligible for acceptance. The connectivity and pedestrian accommodation requirements vary based on the area type where the streets are located.

Pedestrian accommodations are required to be provided for streets or network additions to be eligible for acceptance. These requirements vary based on the nature and locale of the development.

Public Participation: Through this notice the board is soliciting comments on this regulatory proposal. In addition, the board welcomes comments on VDOT's Subdivision Street Design Guide and Road Design Manual.

Status, background and other supporting information will continue be available throughout this regulatory process online at <http://www.vdot.virginia.gov/projects/ssar/>. Anyone wishing to submit written comments may do so by email at ssacomment@vdot.virginia.gov.

Comments may also be submitted via regular US mail at:

SSAR Public Comment
c/o VDOT Policy Office
1401 East Broad Street
Richmond, Virginia 23219

All comments must include the name and address of the commenter. In order to be considered during this comment period, comments must be received by 5 p.m. Eastern time on June 30, 2008.

Dates, times, and locations of public hearings are listed at the beginning of this proposed action and will be posted on VDOT's website at <http://www.vdot.virginia.gov/projects/ssar/>. Both oral and written comments may be submitted at those times.

Though this regulatory action is exempt from the Administrative Process Act, Chapter 382 of the 2007 Acts of Assembly requires that the board solicit and consider public comment in the development of this regulation. To this end, the board published a notice of intended regulatory action on June 11, 2007, to solicit public comment, with particular and specific emphasis on (i) how to accomplish the specific mandatory provisions as established by §33.1-70.3 B of the Code of Virginia, (ii) other concepts or requirements that should be addressed in the new regulation, (iii) issues or concepts in the current Subdivision Street Requirements (24VAC30-91) that should be modified or eliminated in the new requirements, (iv) comment on approaches to the mandatory provisions and other issues in the other regulatory documents listed above, and (v) comment on other best practices and approaches from other jurisdictions.

Summary:

This regulation sets forth the requirements applicable to all streets in the Commonwealth that are designated to become part of the secondary system of state highways,

including procedures for approval and criteria used to consider the acceptance of new streets for maintenance as part of the secondary system. (Note: This regulation does not apply to the counties of Arlington or Henrico, which maintain their own roads, but the pavement and right-of-way widths may apply in the independent cities or towns with populations greater than 3,500 pursuant to §33.1-41.1 of the Code of Virginia.)

Chapter 382 of the 2007 Acts of Assembly requires that the Commonwealth Transportation Board include several provisions in the regulation. These mandatory provisions are as follows:

- 1. Requirements to ensure the connectivity of road and pedestrian networks with the existing and future transportation network;*
- 2. Provisions to minimize stormwater runoff and impervious surface area; and*
- 3. Provisions for performance bonding of new secondary streets and associated cost recovery fees.*

CHAPTER 92

SECONDARY STREET ACCEPTANCE REQUIREMENTS

24VAC30-92-10. Definitions.

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

"Abandonment" in all its forms means the legislative action reserved for and granted to the local governing body to extinguish the public's right to a roadway under the jurisdiction of the Virginia Department of Transportation pursuant to §§33.1-151 and 33.1-155 of the Code of Virginia.

"Accessible route" means a continuous unobstructed, stable, firm and slip-resistant path connecting all accessible elements of a facility (which may include parking access aisles, curb ramps, crosswalks at vehicular ways, walks, ramps and lifts) that can be approached, entered and used by persons with disabilities. An accessible route shall, to the maximum extent feasible, coincide with the route for the general public.

"ADT" means average daily traffic count (see "projected traffic").

"Alley" means a narrow roadway segment used by motor vehicles for access to the rear side of commercial or residential land use, or access to auxiliary land uses and that is located within a dedicated public way.

"Clear zone" means the total border area of a roadway including, if any, parking lanes or shared use path that is sufficiently wide for an errant vehicle to avoid a serious accident. (See the Road Design Manual and the Subdivision Street Design Guide (see 24VAC30-92-160.)

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"Commissioner" means the chief executive officer of the Virginia Department of Transportation or his designee.

"Complete development (land)" means the utilization of the available areas in a manner as to realize its highest density for the best potential use based on zoning, pending rezoning, the adopted comprehensive plan of the governing body, or the customary use of similar parcels of land.

"Complete development (streets)" means the development of a subdivision street in full compliance with all applicable provisions of these regulations to the necessary standards of design, construction, and public benefit requirements for the effective and efficient accommodation of all modes of transportation generated by the complete development of the land, both internal and external to the development.

"Connectivity index" means the number of links divided by the number of nodes. Only links and nodes within a network addition shall be used to calculate a network addition's connectivity index.

"Cul-de-sac" means a street with only one outlet and having an appropriate turnaround for a safe and convenient reverse traffic movement.

"Dam" means an embankment or structure intended or used to impound, retain, or store water, either as a permanent pond or as a temporary storage facility.

"Department" or "VDOT" means the Virginia Department of Transportation.

"Design speed" means a speed selected for purposes of design and correlation of those features of a street such as curvature, super elevation, and sight distance, upon which the safe operation of vehicles is dependent.

"Developer" means an individual, corporation, or registered partnership engaged in the subdivision of land.

"Director of the Asset Management Division" means the department employee, his successor or his designee, responsible for overseeing all programs administered by the Asset Management Division, including these requirements and the final acceptance of streets as part of the secondary system of state highways maintained by the department.

"Discontinuance," in all its forms, means the legislative act of the Commonwealth Transportation Board, pursuant to §33.1-150 of the Code of Virginia, that determines that a road no longer serves public convenience warranting its maintenance with funds at the disposal of the department.

"District administrator" means the department employee assigned the overall supervision of the departmental operations in one of the Commonwealth's nine construction districts.

"District administrator's designee" means the department employee or employees designated by the district

administrator to oversee the implementation of this regulation.

"Drainage Manual" means the department's Drainage Manual (see 24VAC30-92-160).

" Dwelling unit" means a structure or part of a structure containing sleeping, kitchen, and bathroom facilities that is suitable for occupancy as a home or residence by one or more persons.

"Easement" means a grant of a right to use property of an owner for specific, limited use or purpose.

"External link" means a link within a network addition that connects with the existing public street network.

"Functional classification" means the assigned classification of a roadway based on the roadway's intended purpose of providing priority to through traffic movement and access to adjoining property as determined by the department, based on the federal system of classifying groups of roadways according to the character of service they are intended to provide.

"Governing body" means the board of supervisors of the county, but may also mean the local governing body of a town or city, if appropriate, in the application of these requirements.

"Intersection" means the juncture of two or more streets at which point there are three or more links.

"Land Use Permit Manual" means the department's Land Use Permit Manual (see 24VAC30-92-160).

"Level of service" means a qualitative measure describing operational conditions within a vehicular traffic stream, and their perception by motorists and passengers. For the purposes of these requirements, the applicable provisions of the Highway Capacity Manual (see 24VAC30-92-160) shall serve as the basis for determining "levels of service."

"Level terrain" means that condition where highway sight distances, as governed by both horizontal and vertical restrictions, are generally long or could be made so without construction difficulty or major expense.

"Link" means (i) a segment of roadway, alley or rear lane that is between two nodes or (ii) a stub out or connection to an existing stub out.

"Locally controlled grade separation structure" means a grade separation structure that does not qualify for maintenance by the department but was established within the right-of-way of a street intended for state maintenance.

"Local official" means the representative of the governing body appointed to serve as its agent in matters relating to subdivisions.

"Multiuse trail" means a facility designed and constructed for the purpose of providing bicycle and pedestrian transportation that is within a dedicated public way and is anticipated to be maintained by an entity other than the department.

"Network addition" means a group of interconnected links and nodes shown in a plan of development.

"Node" means an intersection of three or more links, or the terminus of a link, such as a cul-de-sac or other dead end. The terminus of a stub out shall not constitute a node for the purposes of this chapter. The intersection of a street with only a stub out, and the intersection of a street with only a connection with an existing stub out shall not constitute a node for the purposes of this chapter, unless such stub out provides service to lots within the development.

"Parking bay" means an off-street area for parking two or more vehicles that provides access to a public street.

"Parking lane" means an area, generally seven or eight feet in width, adjacent to and parallel with the travel lane of a roadway that is used for parking vehicles.

"Pavement Design Guide" means the Pavement Design Guide for Subdivision and Secondary Roads in Virginia (see 24VAC30-92-160).

"Phased development (streets)" means the method outlined in 24VAC30-92-80 (phased development of subdivision streets) whereby the acceptance of certain subdivision streets into the secondary system of state highways may be considered before being completely developed in accordance with all applicable requirements (e.g., two lanes of a four-lane facility are considered for acceptance in advance of lanes three and four being finished).

"Plan of development" means any site plat, subdivision plat, preliminary subdivision plat, conceptual subdivision sketch or other engineered or surveyed drawings depicting proposed development of land and street layout, including plans included with rezoning proposals.

"Plans" means the standard drawings, including profile and roadway typical section, that show the location, character, dimensions and details for the proposed construction of the street.

"Planting strip" means a section of land between the curb face and the pedestrian accommodation or shared use path.

"Plat" means the schematic representation of the land divided or to be divided.

"Projected traffic" means the number of vehicles, normally expressed in average daily traffic (ADT), forecast to travel over the segment of the street involved.

"Public street" means a street dedicated to public use and available to the public's unrestricted use without regard to the

jurisdictional authority responsible for its operation and maintenance.

"Requirements" means the design, construction, public benefit, and related administrative considerations herein prescribed for the acceptance of a subdivision street for maintenance by the department as part of the secondary system of state highways.

"Right-of-way" means the land, property, or interest therein, usually in a strip, acquired for or devoted to a public street designated to become part of the secondary system of state highways.

"Roadway" means the portion of the road or street within the limits of construction and all structures, ditches, channels, etc., necessary for the correct drainage thereof.

"Secondary system of state highways" means those public roads, streets, bridges, etc., established by a local governing body pursuant to §33.1-229 of the Code of Virginia and subsequently accepted by the department for supervision and maintenance under the provisions of Articles 6 (§33.1-67 et seq.) and 11 (§33.1-150 et seq.) of Chapter 1 of Title 33.1 of the Code of Virginia.

"Shared use path" means a facility that is designed and constructed according to the Road Design Manual (see 24VAC30-92-160), for the purpose of providing bicycle and pedestrian transportation.

"Specifications" means the department's Road and Bridge Specifications (see 24VAC30-92-160), including related supplemental specifications and special provisions.

"Smoothed urbanized area boundary" means the modified area boundary of census urbanized area as determined by the latest U.S. decennial census and modified by appropriate state, regional and local government officials, and approved by the Federal Highway Administration.

"Smoothed urban cluster boundary" means the modified area boundary of a census urban cluster as determined by the latest U.S. decennial census and modified by appropriate state, regional and local government officials, and approved by the Federal Highway Administration.

"Standards" means the applicable drawings and related criteria contained in the department's Road and Bridge Standards (see 24VAC30-92-160).

"Stub out" means a transportation facility (i) whose right-of-way terminates at a parcel abutting the development, (ii) that consists of a short segment that is intended to serve current and future development by providing continuity and connectivity of the public street network, (iii) that based on the spacing between the stub out and other streets or stub outs, and the current terrain there is a reasonable expectation that connection with a future street is possible, and (iv) that is constructed to at least the end of the radius of the intersection

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with the adjoining street and the right-of-way is graded and dedicated to the property line.

"Subdivision" means the division of a lot, tract, or parcel into two or more lots, plats, sites, or other divisions of land for the purpose, whether immediate or future, of sale or of building development. Any resubdivision of a previously subdivided tract or parcel of land shall also be interpreted as a "subdivision." The division of a lot or parcel permitted by §15.2-2244 of the Code of Virginia will not be considered a "subdivision" under this definition, provided no new road or street is thereby established. However, any further division of such parcels shall be considered a "subdivision."

"Street" means any street segment that is created as part of a plan of development, other subdivision of land, or is constructed by or at the direction of the local governing body and is a public way for purposes of vehicular traffic, including the entire area within the right-of-way.

"Subdivision Street Design Guide" means Appendix B of the Road Design Manual (see 24VAC30-92-160).

"Swale" means a broad depression within which stormwater may drain during inclement weather, but that does not have a defined bed or banks.

"Traveled way" means the portion of the secondary street designated for the movement of vehicles, exclusive of shoulders, parking areas, turn lanes, etc.

"Tree well" means an opening on a sidewalk, generally abutting the curb, where a tree may be planted.

"VPD" means vehicles per day.

"VPH" means vehicles per hour.

"Watercourse" means a definite channel with bed and banks within which water flows, either continuously or in season.

24VAC30-92-20. Applicability, effective date, and transition.

A. Applicability. This regulation is intended to govern secondary street development and the criteria for acceptance of these streets by the department for subsequent maintenance. The Road Design Manual and the Subdivision Street Design Guide (see 24VAC30-92-160) offers guidance on the design and construction features of secondary street development and set out design parameters deemed appropriate for most land development scenarios. However, the business of land development is fluid and the department, in consultation with the local official, is prepared to consider innovative transportation approaches associated with land development proposals that are consistent with the design and connectivity requirements of this chapter and the Subdivision Street Design Guide (see 24VAC30-92-160). However, when not specifically addressed in one of those documents, the relevant requirements of the Road Design Manual (see 24VAC30-92-160), standards, specifications, Pavement

Design Guide (see 24VAC30-92-160) and associated instructions shall govern.

These requirements apply to all streets designated to be maintained by the department as part of the secondary system of state highways. The department's review and approval shall apply only to streets proposed for addition to the secondary system of state highways maintained by the department. Any plans submitted for review that contain only streets proposed for maintenance by entities other than the department may be reviewed for general guidance at the discretion of the district administrator but will not be officially approved. However, any such review shall not represent the department's commitment to accept such streets for maintenance irrespective of the quality of the construction of the street or streets.

Any streets proposed to be privately maintained shall have a notation on the plat and impacted deeds that clearly indicates that as a prerequisite for the streets' future acceptance, the streets must be improved to the department's prevailing requirements for acceptance at no cost to the department. All notations made on plats or similar instruments pursuant to this section shall be in accordance with §33.1-72.2 of the Code of Virginia.

B. Vesting and grandfathering.

1. Streets where the street layout has been proffered pursuant to §15.2-2297, 15.2-2298, or 15.2-2303 of the Code of Virginia prior to [the effective date of this regulation] shall be considered for acceptance in accordance with the applicable former requirements, provided the requirements of §15.2-2307 of the Code of Virginia have been met. This subdivision shall not apply to any streets where the proffered layout may be adjusted, without requiring a significant affirmative governmental act to modify such proffered conditions, to meet the requirements of this chapter. However, such streets may be considered for acceptance under requirements of this chapter at the discretion of the developer.

2. Streets that are part of a recorded plat or final site plan valid pursuant to §15.2-2261 of the Code of Virginia and approved in accordance with §§15.2-2286 and 15.2-2241 through 15.2-2245 of the Code of Virginia prior to [the effective date of this regulation] shall be considered for acceptance in accordance with the applicable former requirements. However, such streets may be considered for acceptance under requirements of this chapter at the discretion of the developer.

3. Streets that are part of a preliminary subdivision plat valid pursuant to §15.2-2260 of the Code of Virginia approved in accordance with §§15.2-2286 and 15.2-2241 through 15.2-2245 of the Code of Virginia prior to [the effective date of this regulation] shall be considered for acceptance in accordance with the applicable former

requirements for a period of up to five years, provided the requirements of §15.2-2260 of the Code of Virginia have been met. However, such streets may be considered for acceptance under requirements of this chapter at the discretion of the developer.

4. Streets that are part of a street construction plan approved by the department prior to [the effective date of this regulation] shall be considered for acceptance in accordance with the applicable former requirements. However, such streets may be considered for acceptance under requirements of this chapter at the discretion of the developer.

5. When the local governing body takes an action that modifies the applicable area types within such locality, the following shall apply.

a. Streets where the layout was proffered pursuant to §15.2-2297, 15.2-2298, or 15.2-2303 of the Code of Virginia prior to the modification of the applicable area type shall be considered for acceptance in accordance with the requirements of the former area type for a period of up to 10 years, provided the requirements of §15.2-2307 of the Code of Virginia have been met. However, such streets may be considered for acceptance under requirements of this chapter at the discretion of the developer.

b. Streets that are part of recorded plat or final site plan pursuant to §15.2-2261 of the Code of Virginia approved prior to the modification of the applicable area type shall be considered for acceptance in accordance with the requirements of the former area type for a period of up to five years. However, such streets may be considered for acceptance under requirements of this chapter at the discretion of the developer.

c. Streets that are part of preliminary subdivision plat pursuant to §15.2-2260 of the Code of Virginia approved prior to the modification of the applicable area type shall be considered for acceptance in accordance with the requirements of the former area type for a period of up to five years. However, such streets may be considered for acceptance under requirements of this chapter at the discretion of the developer.

d. Streets that are part of a street construction plan approved by the department prior to the modification of the applicable area type shall be considered for acceptance in accordance with the requirements of the former area type for a period of up to five years. However, such streets may be considered for acceptance under requirements of this chapter at the discretion of the developer.

C. Effective date. All streets proposed for acceptance by the department after [Month XX, 200X,] shall be considered for

acceptance in accordance with these provisions, except as may be waived by the commissioner pursuant to this chapter.

D. Transition. Prior to [Month ZZ, 200Z,] the department will allow the design of streets developed in accordance with either the former requirements or these requirements. Any street design initially submitted to the department for consideration after [Month YY, 200Y,] however, shall be in accordance with these requirements.

24VAC30-92-30. Local subdivision ordinances.

Exemptions or variances in local ordinances. Any requirements of ordinances adopted by the governing body that are not in conflict with these provisions shall become the department's requirements in that locality and govern. The department does not recognize any provision of an ordinance adopted by the governing body that exempts the development of streets from these requirements. Consequently, any street proposed for addition to the secondary system of state highways maintained by the department shall comply with applicable requirements as herein provided or the local ordinance, when such provisions are not in conflict with this chapter.

24VAC30-92-40. Continuity of public street system.

The continuity of a publicly maintained street system is a prerequisite to the addition of any street or network addition into the secondary system of state highways.

A street or network addition may only be accepted into the secondary system of state highways for state maintenance if it is the continuation of the network of public streets whose maintenance has been officially accepted by the department or, if appropriate, a city, town or county, and such street or network addition meets the requirements of this chapter.

24VAC30-92-50. Area type thresholds.

A. The local governing body or metropolitan planning organization shall provide the department with a copy of any duly adopted ordinance or resolution that modifies the area type designations within such locality based on the thresholds in this section as well as maps that show the affected areas as soon as practicable. Modifications to the area type designations based on any ordinance or resolution duly adopted between January 1 and June 30 of any year by a locality or metropolitan planning organization shall become effective on July 1 of that year. Modifications to the area type designations based on any ordinance or resolution duly adopted between July 1 and December 31 of any year shall become effective on January 1 of the next year.

B. Area type thresholds. There are three area types established for secondary streets in the Commonwealth. Within each area type, streets must meet the applicable design and public benefit requirements to be eligible for acceptance into the secondary system of state highways. For the purposes

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of this chapter the following area types shall determine the design and public benefit requirements that apply to streets and network additions.

1. Compact Area Type. The Compact Area Type shall apply when any part of a network addition meets one or more of the following criteria:

a. Located within a locally designated urban development area pursuant to §15.2-2223.1 of the Code of Virginia, or within an area designated by an adopted local comprehensive plan pursuant to §15.2-2223 of the Code of Virginia as a village, town or other growth area;

b. Located within a smoothed urbanized area boundary;

c. Located within an area designated by the local government, by ordinance or by the adopted local comprehensive plan pursuant to §15.2-2223 of the Code of Virginia, to be subject to the Compact Area Type requirements of this chapter;

d. Located within a locally designated transfer of development rights receiving area pursuant to §15.2-2316.1 of the Code of Virginia; or

e. Located within a smoothed urban cluster boundary.

2. Suburban Area Type. The Suburban Area Type shall apply when any part of a network addition meets one or more of the following criteria and does not meet any of the Compact Area Type criteria:

a. Located outside a smoothed urbanized area boundary but within an official Metropolitan Planning Organization Study Area;

b. Located within a two-mile radius of a locally designated urban development area pursuant to §15.2-2223.1 of the Code of Virginia;

c. Located within a two-mile radius of a smoothed urban cluster boundary;

d. Located within a locally designated cluster development pursuant to §15.2-2286.1 of the Code of Virginia; or

e. Located within an area not subject to the Compact Area Type criteria that is designated by the local government, by ordinance or by the adopted local comprehensive plan, to be subject to the Suburban Area Type requirements of this chapter.

3. Rural Area Type. The Rural Area Type shall apply in all other areas of the Commonwealth.

4. Exceptions to the area type thresholds. Streets located within an area subject to the suburban criteria may be considered for acceptance into the secondary system of state highways under the Compact Area Type standards. Streets located within an area subject to the Rural Area

Type criteria may be considered for acceptance into the secondary system of state highways under the Compact Area Type or Suburban Area Type standards.

The commissioner, based upon a resolution from the local governing body, for good cause shown may determine that an area type for a specific area within the local jurisdiction should be modified to a different area type or that any of the requirements of 24VAC30-92-60 and 24VAC30-92-90 should be modified to the requirements of a different area type. The commissioner shall consider and review the permissible parcel sizes and uses to ensure that the area is indeed being regulated in such manner that necessitates a change in area type. Any such modification shall cease to apply if the zoning of the area is modified.

24VAC30-92-60. Public benefit requirements.

A. Public benefit. A street or network addition may only be accepted by the department for maintenance as part of the secondary system of state highways if it provides sufficient public benefit to justify perpetual public maintenance as defined by this chapter. A street shall be considered to provide sufficient public benefit if it meets or exceeds the public service, pedestrian accommodation, and connectivity requirements of the applicable area type of this chapter.

B. Public service requirements. In the event the governing body requests the addition of a street or network addition before it meets these public service provisions, the district administrator will review each request on an individual case basis and determine if the acceptance of a street prior to normal service requirements is justified, provided the street or network addition meets all other applicable requirements including the connectivity requirements of this chapter. However, prior to deferring acceptance based solely on service requirements, the district administrator shall confer with the Director of the Asset Management Division. At the request of the local governing body, subject to approval by the district administrator, the public service requirements may be reduced for individual streets serving state or local economic development projects.

1. Individual streets. For the purpose of these requirements without regard to applicable area type, public service may include, but is not necessarily limited to, streets meeting one or more of the following situations:

a. Serves three or more occupied units of varied proprietorship with a unit being a single-family residence, owner-occupied apartment, owner-occupied residence in a qualifying manufactured home park, a stand-alone business, or single business entity occupying an individual building, or other similar facility. However, streets providing service in settings similar to an apartment building setting will only be considered for acceptance if the street is well defined and the district administrator's designee determines that it is not a travel

way through a parking lot. Also, streets serving manufactured home parks may only be considered when the land occupied by the manufactured home is in fee simple ownership by the residents of such manufactured home.

b. Constitutes a connecting link between other streets that qualify from the point of public service.

c. Such street is a stub out.

d. Serves as access to schools, churches, public sanitary landfills, transfer stations, public recreational facilities, or similar facilities open to public use.

e. Serves at least 100 vehicles per day generated by an office building, industrial site, or other similar nonresidential land use in advance of the occupancy of three or more such units of varied proprietorship. Any addition under this provision shall be limited to the segment of a street that serves this minimum projected traffic and has been developed in compliance with these requirements.

f. Constitutes a part of the network of streets envisioned in the transportation plan or element of a locality's comprehensive plan that, at the time of acceptance, serves an active traffic volume of at least 100 vehicles per day.

2. Apartment and retail shopping complexes. A through street that serves a shopping center or rental apartment building may be considered for maintenance as part of the secondary system of state highways if it is deemed by the department to provide a public service and provided it is well defined and the district administrator's designee determines that it is not a travel way through a parking lot. However, internal streets in these complexes do not normally qualify for addition to the system because their operation and maintenance are considered to be a responsibility of the owner, who stands to profit, rather than the tenant or customer.

a. However, a street that serves as the principal access to rental apartment buildings may be considered to provide public service if unrestricted public use is permitted and maintenance continuity is practical.

b. Entrance streets and the internal traffic circulation systems of shopping centers and apartment complexes qualify only if more than three property owners are served and the street is separated from the parking areas.

3. Network additions. A network addition shall be considered to provide service if (i) 70% of the lots served by the network are developed, including construction of the principal structure to serve the designated land use of such lots and (ii) 70% of the links with more than five lots

with frontage along such links have at least three occupied lots of varied ownership.

4. Special exceptions. There may be other sets of circumstances that could constitute public service. Consequently, any request for clarification regarding unclear situations should be made in writing to the district administrator's designee. The district administrator's designee should then consult the Director of the Asset Management Division for resolution.

C. Connectivity requirements. All street segments in a development as shown in a plan of development shall be considered for acceptance into the secondary system of state highways as one network addition. However, streets with a functional classification of collector and above may be eligible for acceptance as individual streets.

Streets originally constructed as part of development that would have been considered for acceptance into the secondary system of state highways as a network addition, which have not been considered for acceptance into the secondary system of state highways, may only be considered for acceptance as a network addition. However, streets with a functional classification of collector and above may be eligible for acceptance as individual streets.

If the right-of-way for a stub out or stub outs maintained by the department adjoins the property of a development with a network addition or individual street proposed for acceptance into the secondary system of state highways, such network addition or individual street must connect to such stub out or stub outs to be eligible for acceptance into the secondary system of state highways. In instances where the existing stub out or stub outs are not constructed to the property line, the developer of the adjoining property shall be responsible for constructing the missing portion of such stub out or stub outs.

Nothing in this chapter shall be construed as to prohibit stub outs from providing service to lots within a development. In such instances the developer shall post a sign provided by the department that indicates that such stub out is a site for a future roadway connection.

For the purposes of calculating the connectivity index of network additions, external links and stub outs of roadway (i) with a federal functional classification of collector or above or (ii) identified on the local transportation plan as a roadway with a functional classification of collector or above shall count as two links. In all instances, the department must concur with the functional classification.

The connectivity requirements of this chapter shall not apply to the following: a frontage road or reverse frontage road as defined in the Access Management Regulations: Principal Arterials (see 24VAC30-72), streets petitioned for acceptance into the secondary system of state highways through the rural addition program pursuant to §§33.1-72.1 and 33.1-72.2 of

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the Code of Virginia, or streets constructed or approved pursuant to §§33.1-221 and 33.1-223 of the Code of Virginia.

1. Compact standard. The streets within a network addition may be accepted into the secondary system of state highways if the network addition meets the following requirements:

a. The streets are designed and constructed in compliance with the compact design standards pursuant to this chapter, the Road Design Manual, and the Subdivision Street Design Guide (see 24VAC30-92-160);

b. The overall connectivity index of the network addition is 1.6 or higher;

c. The block layout and other features of the development are designed in such a fashion as to provide reasonably direct pedestrian movement throughout the development and to adjoining property; and

d. The network addition contains at least one external connection and contains an additional external connection and provides a stub out for every 50 links or fraction thereof. A network addition may provide an additional external connection or connections in lieu of the required stub out or stub outs.

2. Suburban standard. The streets within a network addition may be accepted into the secondary system of state highways if the network addition meets the following requirements:

a. The streets are designed and constructed in compliance with the suburban design standards pursuant to this chapter, the Road Design Manual, and the Subdivision Street Design Guide (see 24VAC 30-92-160);

b. The overall connectivity index of the network addition is 1.4 or higher;

c. The block layout and other features of the development are designed in such a fashion as to provide reasonably direct pedestrian movement throughout the development and to adjoining property; and

d. The network addition contains at least one external connection and contains an additional external connection and provides a stub out for every 50 links or fraction thereof. A network addition may provide an additional external connection instead of the required stub out.

3. Rural standard. The streets within a network addition may be accepted into the secondary system of state highways if the network addition meets the following requirements:

a. The streets are designed and constructed in compliance with the rural design standards pursuant to this chapter,

the Road Design Manual, and the Subdivision Street Design Guide (see 24VAC30-92-160); and

b. The network addition contains at least one external connection as well as an additional external connection and provides a stub out for every 50 links or fraction thereof. A network addition may provide an additional external connection instead of the required stub out.

4. Individual street standard. Individual streets may only be accepted into the secondary system of state highways if such streets provide continuity and connectivity with the existing highway network. Streets that are not part of a network addition shall be accepted into the secondary system of state highways upon petition by the local governing body as long as they meet the requirements of the applicable design standard and both termini of the street are intersections with a roadway or roadways that are part of the existing publicly maintained highway network, subject to the connectivity exceptions of subdivision 5 of this subsection. Streets considered for individual acceptance generally should be (i) streets that provide a connection between two existing publicly maintained streets, (ii) streets with a functional classification as collector or higher, (iii) a frontage road or reverse frontage road pursuant to VDOT's Access Management Regulations: Principal Arterials (see 24VAC30-72), (iv) streets petitioned for acceptance into the secondary system of state highways through the Rural Addition Program pursuant to §§33.1-72.1 and 33.1-72.2 of the Code of Virginia, or (v) streets constructed or approved pursuant to §§33.1-221 and 33.1-223 of the Code of Virginia.

5. Connectivity exceptions. The developer shall submit any request for connectivity exceptions to the district administrator's designee with a copy to the local official. The district administrator's designee shall respond within 45 days of receipt of a request.

a. If the locality's comprehensive plan designates adjoining parcels to the proposed development for a land use that is determined by the local official to be incompatible with the land use of the proposed development the district administrator's designee may, at the request of the local official, reduce the external connectivity requirements. If the external connectivity requirements are reduced due to incompatible land use, such network additions shall provide stub out or stub outs, as determined by the district administrator's designee based on the size of the development, to allow the external connectivity requirements to be met in the event that the comprehensive plan changes the designation of adjacent parcels to land use that is not incompatible. In no instance shall any commercial or residential land use be considered incompatible land use with any proposed commercial or residential development.

b. The connectivity requirements of this chapter may be reduced by the district administrator's designee in certain circumstances where physical impedance such as terrain or a limited access highway effectively precludes meeting the applicable connectivity requirements.

c. The external connectivity requirements of this chapter may be reduced by the district administrator's designee in his sole determination, if adjacent existing development effectively precludes meeting the external connectivity requirements. In such instances the network addition shall provide a stub out or stub outs, as determined by the district administrator's designee based on the size of the development, to allow for future connectivity.

d. The connectivity requirements of this chapter may be reduced by the district administrator's designee in his sole determination, if the parcel shape is such that it effectively precludes meeting the external connectivity requirements. The district administrator's designee shall not make such a determination unless the developer presents evidence of reasonable efforts to acquire necessary easements or property to provide external connections to meet the external connectivity requirements. In such instances the network addition shall contain a stub out or stub outs, as determined by the district administrator's designee based on the size of the development, to allow for future connectivity.

6. In instances where a conflict exists between this chapter and the Access Management Regulations: Principal Arterials (see 24VAC30-72), the following shall apply.

a. For streets with a functional classification of collector where external connections necessary to meet the external connectivity requirements of this chapter cannot be accommodated within the applicable spacing standards, such standards shall be modified by the district administrator to allow for such connection. Such external connection or connections shall be required to meet intersection sight distance standards specified in the Road Design Manual (see 24VAC30-92-160).

b. For streets with a functional classification of minor arterial where external connections necessary to meet the connectivity requirements of this chapter cannot be accommodated within the applicable spacing standards the district administrator shall, in consultation with the developer and the local official, either modify the applicable spacing standards to allow for such connection or connections, or reduce the external connectivity requirements of this chapter. Such external connection shall be required to meet intersection sight distance as specified in the Road Design Manual (see 24VAC30-92-160).

c. For streets with a functional classification of principal arterial where external connections necessary to meet the external connectivity requirements of this chapter cannot be accommodated within the applicable spacing standards such external connectivity requirements shall be reduced.

24VAC30-92-70. Administrative procedure.

A. Conceptual sketch. A preliminary plan of the development that shows sufficient information for the department to review and concur with the proposed functional classification for each street in the development shall be provided to the district administrator's designee by the local official prior to preparing detailed construction plans for review. Any preliminary or conceptual plat, plan or sketch that conforms to the locality's zoning requirements or subdivision ordinance is acceptable if the information required by this subsection is shown. The department will not consider any requirements of a locality's subdivision ordinance that are in conflict with the requirements of this chapter. The submittal should include:

1. The general location and configuration, including the terminus, of each street, and the traffic volume anticipated when the land served is fully developed in accordance with the land uses anticipated.

2. The location and area of each type of permitted land use within the development.

3. The location of any proposed transportation facility including any public transportation facilities as well as bicycle and pedestrian accommodations within the development's boundaries included in the comprehensive plan of the governing body.

4. The proposed functional classification for each street in the development.

5. The connectivity index of the network addition as proposed, if applicable.

6. The location of stub outs on adjoining property, if applicable, and the location of any proposed stub outs within the network addition.

7. Other available information pertinent to the intended development, including but not limited to any proposed phased development of streets pursuant to 24VAC30-92-80.

The district administrator's designee will review the layout and functional classification of streets shown in the concept plan and notify the local official in writing, as well as the developer, if applicable, of his concurrence or recommendations and whether or not the streets in the proposed network addition meet the connectivity and other requirements of this chapter. This approval or concurrence will be valid as long as the basic concept for the development,

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including the general street layout and design, as submitted for review, remains unchanged. If the street layout is modified so that the network addition no longer meets the connectivity requirements of this chapter, this approval or concurrence is void and the conceptual plan, plat or sketch must be reviewed again to obtain the department's approval or concurrence. As part of his review, the district administrator's designee shall review the provision of collector and other higher order streets and if necessary make recommendations for the provision of such streets to address the traffic generated by the development.

B. Plan submission. Plats or plans, or both, together with other pertinent data as herein prescribed, shall be submitted to the local official in accordance with the practices of the local government and to the district administrator's designee for all proposed developments whose streets are intended to be added to the secondary system of state highways maintained by the department. The district administrator's designee may, subject to the availability of staff and upon the request of the local official, cooperate in the review of proposed developments to be developed to these standards but not initially intended for addition to the secondary system of state highways maintained by the department. The department may recover the costs for this service in accordance with 24VAC30-92-140.

C. Plan review. Upon receipt of the plats or plans, or both, the district administrator's designee will arrange for the appropriate review to determine compliance with the requirements of this chapter and other applicable VDOT requirements. The general procedure for this review is described in 24VAC30-92-150.

D. Plan approval. The district administrator's designee will advise the appropriate local official and the developer, if applicable, as to the results of the review.

1. If the street development proposed by the plats or plans, or both, is determined to be in compliance with these requirements, the district administrator's designee will provide written confirmation of this finding. This action signifies the district administrator's designee's approval of the street layout and design shown on the plats or plans, as submitted. Any subsequent revision, additions, or deletions thereto shall require specific written approval of the district administrator's designee for each such change.

2. If a revision of the submitted plats or plans is determined necessary, the district administrator's designee will list the required changes in a written response to the local official and the developer, if applicable. Upon completion of the specified revisions, the plats or plans will be resubmitted for review and approval by the district administrator's designee as prescribed in 24VAC30-92-150.

The department's approval of a street construction plan shall constitute its commitment to accept the street or network

addition depicted thereon when all applicable provisions of these requirements are satisfied and the streets have been constructed according to the approved construction plan and supporting specifications. However, during the department's or other approved inspection of construction as specified by this chapter, if a situation is discovered that was not addressed on the approved plan that could, in the opinion of the district administrator's designee, adversely affect public safety or the integrity of either the roadway or the adjacent property, acceptance of the street or network addition shall be deferred until the situation is corrected.

The department's approval of a street construction plan shall expire after a period of five years if construction has not commenced, in which case the subdivision street construction plan shall be resubmitted for subsequent review and approval. This shall not affect the adequacy of the approved concept plan as depicted on a recorded final plat, as provided for under §15.2-2241 of the Code of Virginia.

Network additions will only be accepted when the entire network addition has been constructed, except in such instances where the constructed portion meets the applicable public benefit requirements of this chapter.

E. Street acceptance. Upon the satisfactory completion of construction of the street or streets in a network addition, the department will advise the local governing body regarding the street or network addition's readiness for acceptance and the local governing body, in consultation with the district administrator's designee, will initiate its acceptance into the secondary system of state highways maintained by the department provided:

1. The developer dedicates the prescribed right-of-way to public use.
2. The street or streets in the network addition has been constructed in accordance with the applicable specifications, standards and the plats or plans approved by the department.
3. The street or streets in a network addition provides sufficient public benefit as prescribed in 24VAC30-92-60 and meets the requirements of this chapter.
4. The street or streets in the network addition has been properly maintained since its completion.
5. The developer furnishes the surety and fees in accordance with 24VAC30-92-140.
6. The governing body has executed all agreements prescribed by these requirements, unless specifically waived on an individual case basis by the Director of the Asset Management Division.
7. The governing body, by proper resolution, requests the department to accept the street or streets in the network addition for maintenance as part of the secondary system

of state highways under its jurisdiction. The resolution shall include the governing body's guarantee of an unrestricted and unencumbered right-of-way as dedicated, plus any necessary easements for fills, drainage, or sight distance.

Upon the department's determination that the requested street or network addition is in compliance with the applicable provisions of these requirements, the governing body will be officially advised of the street or network addition's acceptance into the secondary system of state highways and the effective date of such action. This notification serves as the district administrator's designee's authority to begin maintenance thereon.

24VAC30-92-80. Phased development of streets.

A. Policy. Certain streets that require four or more travel lanes to accommodate the projected traffic may be accepted by the department for maintenance after completion of the first two lanes to an acceptable, initial phase of construction, upon the request of the governing body. It is recognized that there is a distinction between those streets that benefit the regional transportation network and those that primarily serve the development of land and local traffic, and, therefore, the criteria for phased construction for each situation differs as described in subsection B of this section.

However, in all cases, the right-of-way required for the road at its complete stage of construction shall be dedicated and accepted as part of the initial street acceptance. In addition, the initial phase of construction shall be designed and constructed to facilitate construction of the remaining phase in a manner that will avoid the need to reconstruct the initial two lanes.

Consideration for the acceptance of any street under the provisions of this section shall be limited to the phased development of only the street's roadway. All other applicable requirements, e.g., public benefit, drainage easements, and administrative procedures, shall apply.

B. Criteria.

1. For streets included in the transportation plan of the locality's comprehensive plan that serve diverse areas of the region or locally, no special agreement or acknowledgement is needed as a prerequisite to acceptance, provided:

a. The street is part of a transportation corridor that was formally adopted as a part of the locality's comprehensive transportation plan prior to the local governing body's approval of the plat or plan for the development of the adjacent land.

b. The transportation corridor is a major thoroughfare planned primarily to move through traffic.

c. When fully developed the street must satisfy the department's functional classification criteria as a major collector or higher.

d. The street has a projected traffic volume of 8,000 vehicles per day or less for a period of 10 years following the date of the acceptance for maintenance by the department.

2. For all other streets, the local governing body's resolution requesting acceptance of the initial two-lane section must include provisions that acknowledge:

a. The local governing body agrees that all costs incurred in the street's complete construction, including right-of-way, engineering, utility adjustment, etc., shall be provided from funds other than those derived from state revenue sources administered by the department, except as may be expressly authorized by the department.

b. The local governing body agrees that it is its responsibility to ensure that the roadway is completed as needed to accommodate the traffic. However, the locality also acknowledges that a determination that the street needs to be completed to its ultimate section will be made by the district administrator's designee or his designee once it is determined that the first two lanes will not sustain an acceptable level of service for the functional classification of the roadway in accordance with the Highway Capacity Manual (see 24VAC30-92-160).

C. Procedures.

1. Plats or plans, or both, for the street's complete development, in accordance with all applicable provisions of these requirements, shall be submitted for approval.

2. The plats or plans shall also delineate the street's initial development as proposed pursuant to this section. In no case shall this design provide less than one-half of the roadway typical section required by the applicable requirements for the street's complete development.

3. Unless waived by the district administrator's designee, a capacity analysis shall be submitted to document that an acceptable level of service will be maintained for the intended duration of the initial phase of development. In determining an acceptable level of service, the beneficial effect of the proposed street on the overall transportation network will be considered.

4. A determination will be made by the department in consultation with the locality as to whether the street can be approved for phased development and as to which criterion in subsection B of this section applies.

5. Upon the district administrator's designee's determination that the proposal is in compliance with the

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applicable provisions of this section, the plans may be approved accordingly.

6. Upon completion of the street's initial phase in accordance with approved plans, its compliance with all other applicable provisions of this section, and the inclusion of the appropriate language in the resolution, the street may be accepted for maintenance by the department as part of the secondary system of state highways.

24VAC30-92-90. Connections to or work within streets maintained by the department.

A. Connections to streets maintained by the department. A land use permit issued by the department is required for new connections of any kind to existing streets maintained by the department. Due to the wide variation in prevailing conditions, each location shall be evaluated individually to determine exact requirements. Therefore, it is incumbent upon the developer or his designee to apply for a land use permit at the appropriate time to ensure the desired completion of the development. Such application shall be made to the district administrator's designee and shall be consistent with the approved plats or plans for the subdivision or the document reviewed for the connection of a street that is to remain privately maintained. In no instance where the proposed connection to the existing streets maintained by the department involves a stub out shall a land use permit be unreasonably withheld.

B. Relocations, adjustments, and improvement of streets maintained by the department. All work performed within the existing right-of-way of streets maintained by the department, including pavement widening, the addition of turn lanes, realignments and relocations of existing streets, shall be coordinated with and approved by the department as follows:

1. All such work shall be accomplished pursuant to a land use permit issued by the department after the required right-of-way has been dedicated to public use or as otherwise required by the department.

2. All work, including the relocation, adjustment, and improvement of existing streets under VDOT jurisdiction shall be subject to the department's direction rather than these requirements. Such work should include overlaying and restriping the old and new portions of the roadway as may be required by the district administrator's designee.

3. The relocation of streets maintained by the department shall only be accomplished with the consent of the local governing body.

4. Traffic, both vehicular and pedestrian, should be maintained on streets under the department's jurisdiction until the new portion has been accepted by the department for maintenance unless the department authorizes a closure of the road to traffic.

5. No street or roadway maintained by the department and actively used by the public shall be abandoned or vacated unless a new street serving the same citizens has been constructed and accepted for maintenance by the department.

6. Streets previously discontinued exist as public ways under the jurisdiction of the local governing body and should be abandoned or vacated prior to the development of land within the public way.

24VAC30-92-100. Discretionary authority.

The department's district administrator's designees are authorized considerable discretionary authority regarding the design of subdivision streets functionally classified as "local." The department's district administrators are authorized considerable discretion regarding the design of secondary streets functionally classified as "collector" or above. The commissioner is authorized discretionary authority regarding the safety features, structural integrity, or traffic capacities prescribed by these requirements.

24VAC30-92-110. Appeal to district administrator.

The district administrator is authorized to consider and render a ruling on unresolved differences of opinion between the developer and the district administrator's designee that pertain to the interpretation and application of these requirements.

To obtain this review, the developer shall provide the district administrator, the district administrator's designee and the local official a written request for such action, describing any unresolved issue. After reviewing all pertinent information, the district administrator will advise the developer in writing regarding the decision of the appeal, and provide a copy of the decision to the local official and the district administrator's designee. All correspondence requesting an appeal should include copies of all prior correspondence with the local official and department representatives regarding the issue or issues.

The developer may request a meeting with the district administrator concerning the appeal, and the district administrator shall respond within 10 business days and provide to the developer a date, time, and location for such meeting. After reviewing all pertinent information, the district administrator shall advise the developer in writing regarding the decision on the appeal, and provide a copy of the decision to the district administrator's designee and the local official.

The district administrator shall advise the developer of the decision on the unresolved differences of opinion within 45 days.

24VAC30-92-120. Design and agreement requirements.

A. General requirements. Most criteria addressing the design of new streets can be found in the Road Design Manual and

the Subdivision Street Design Guide (see 24VAC30-92-160). However, the following provisions are provided for guidance, particularly in regard to features that require agreements or formal acknowledgements of the governing body before VDOT's acceptance of the street or streets within a development.

When an agreement is required between the local governing body and the department as a prerequisite to the acceptance of a street, nothing in these requirements shall preclude the local governing body from entering into separate agreements with other entities to fulfill its responsibilities. However, if the provisions are intended to ensure the safety of the public using the street, the department reserves the right to approve the involvement of the other party or parties.

All streets functionally classified as local shall have a design speed equal to the posted speed limit, except for streets functionally classified as local with a projected traffic volume of 400 vehicles per day or less, which may have a design speed less than the posted speed limit.

The department, locality and developer shall take measures to minimize the impacts of through traffic on streets functionally classified as local and accepted into the secondary system of state highways under these regulations. Such measures shall include street designs that manage motor vehicle speed to match local context.

B. Geometric requirements. Geometric requirements for new streets are established in the Road Design Manual and the Subdivision Street Design Guide (see 24VAC30-92-160). Sufficient off-street parking must be provided by the local governing body in accordance with this chapter if streets in a proposed network addition are constructed in accordance with design requirements for streets with off-street parking.

C. Turn lanes. Left or right turn lanes shall be provided at intersections when the department determines that projected turning movements warrant their installation. These facilities shall be designed in accordance with the Road Design Manual and the Subdivision Street Design Guide (see 24VAC30-92-160) and, if necessary, additional right-of-way shall be provided to accommodate these facilities.

D. Pavement structure.

1. Pavement design. The pavement structure for new streets shall be in accordance with the Pavement Design Guide (see 24VAC30-92-160), including any prescribed underdrains. Prior to construction of the pavement sub-base and finish courses, the district administrator's designee shall approve the proposed pavement design.

2. Special pavement surfaces. The district administrator's designee may approve special pavement surfaces, such as the use of stamped pavement. However, if the pavement design is a type not addressed by the Pavement Design Guide (see 24VAC30-92-160), an agreement shall be

provided by the governing body that addresses the future maintenance of such pavement.

3. Pavement additions to existing streets. When an existing VDOT-maintained roadway is to be widened to accommodate additional lanes or the addition of turn lanes, the necessary pavement design shall be obtained from the district administrator's designee and the entire surface of the roadway (old and new portions) may be required to be overlaid and restriped if required by the district administrator's designee. The district administrator's designee shall not require the entire surface of the roadway to be overlaid and restriped when the only pavement addition to the existing roadway was for bicycle lanes unless extenuating circumstances require that the entire surface of the roadway be overlaid and restriped.

E. Parking.

1. Perpendicular and angle parking along streets is normally prohibited. However, perpendicular and angle parking along streets may be considered if the features along the street cause the street to readily appear to be a street rather than a travel way through a parking lot.

Street design that anticipates limited or no on-street parking shall be approved when sufficient off-street parking is provided in accordance with this chapter. Street design that anticipates the restriction of on-street parking on one side of the street shall be approved when sufficient off-street parking is provided for buildings on the side of the street where it is anticipated parking will be restricted.

2. For streets designed without on-street parking, a minimum of two off-street parking spaces per dwelling unit shall be provided in proximity of the unit that they are intended to serve. Such spaces, which may be provided in a parking bay or garage facilities, shall be provided outside of the street's right-of-way. The district administrator's designee may approve lesser parking requirements for individual developments or classes of developments when evidence is presented to support such an approval such as proximity to transit service and type of development. Entrances to parking bays and garage facilities shall be designed in accordance with the appropriate provisions of the Land Use Permit Manual (24VAC30-150) and the Access Management Regulations: Principal Arterials (24VAC30-72).

3. In instances where the local governing body has determined, through adoption of a parking ordinance or other similar ordinance, that lesser parking requirements are sufficient for certain classes of development, such lesser requirements shall govern.

4. The department shall not prohibit roadway design that allows for the provision of on-street parking on any roadway with a functional classification of collector or

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local where the posted speed limit is 35 miles per hour or less and that is located within a compact or suburban area type.

F. Cul-de-sacs and turnarounds. An adequate turnaround facility shall be provided at the end of each cul-de-sac to permit the safe and convenient maneuvering by service vehicles. Various configurations of turnarounds are illustrated in the Subdivision Street Design Guide (see 24VAC30-92-160); however, alternative configurations may be approved by the district administrator's designee. Additional right-of-way shall be provided as required by the design of the turnaround. Normally, any nontraveled way areas within the turnaround, such as an island, shall be included in the dedicated right-of-way of the facility unless the department and the locality are able to reach an agreement for the maintenance of such nontraveled way areas. Nothing in this chapter shall prohibit the provision of stormwater management facilities in the nontraveled way areas of a cul-de-sac, provided the requirements of subsection L of this section are met.

For circular turnarounds, a well-defined, identifiable street segment, equal to the normal lot width along the intersected street that serves the cul-de-sac, or 50 feet, whichever is greater, shall extend from the intersected street to the turning area.

G. Curb and gutter. For the purpose of these requirements, the use of curb and gutter is an acceptable roadway design, rather than a requisite. However, when used, curb and gutter shall be designed in accordance with the Road Design Manual and the Subdivision Street Design Guide (see 24VAC30-92-160) and only one curb and gutter design may be used along the length of a street.

1. Driveway entrance requirements. Without regard to the curb design used, the curb shall incorporate a driveway entrance apron, as illustrated in the Subdivision Street Design Guide (see 24VAC30-92-160), to provide a smooth transition from the gutter invert or roadway surface onto the driveway.

2. Curb ramps. All streets that incorporate accessible routes for pedestrian use shall, without regard to the curb design used, include curb ramps at intersections for use by persons with disabilities and shall incorporate other applicable provisions of the Americans with Disabilities Act (42 USC §12101 et seq.).

H. Private entrances. All private entrances shall be designed and constructed in accordance with the Subdivision Street Design Guide (see 24VAC30-92-160).

I. Pedestrian, bicycle, and shared use path facilities. The Commonwealth Transportation Board's "Policy for Integrating Bicycle and Pedestrian Accommodations" emphasizes accommodating pedestrian and bicycle traffic. Any street proposed for VDOT acceptance shall

accommodate pedestrian and bicycle traffic in accordance with the Commonwealth Transportation Board's policy and this chapter. Pedestrian and bicycle facilities should be included in the initial construction of the street, prior to VDOT acceptance. These facilities are eligible for VDOT acceptance based on the criteria of this section.

1. Compliant facilities. Pedestrian and bicycle facilities, including shared use paths as defined under §46.2-100 of the Code of Virginia, shall be accepted as part of the street or network addition, unless otherwise requested by the governing body, provided they are located fully within the dedicated right-of-way of the street and they are constructed in accordance with applicable criteria and standards of the department.

a. Sidewalk criteria. Sidewalks shall be constructed in accordance with the Subdivision Street Design Guide (see 24VAC30-92-160).

b. Bicycle facility criteria. Bicycle facilities contiguous with the street shall be in accordance with the department's design and construction criteria set forth in the Road Design Manual (see 24VAC30-92-160).

c. Shared use path criteria. Shared use paths shall be constructed in accordance with the Road Design Manual (see 24VAC30-92-160) and closely follow the vertical alignment of the roadway without meandering on and off the right-of-way.

2. Noncompliant sidewalk, bicycle, and shared use paths. Noncompliant sidewalk, bicycle and shared use paths that fail to meet requirements of the department's standards for construction, alignment, or placement within the dedicated right of the street shall be deemed to be noncompliant and not qualify for maintenance unless a design waiver or exemption is granted by the department. However, such facilities may co-exist within the dedicated right-of-way of the street under a land use permit issued by the district administrator's designee to the local governing body responsible for having established the facility through its subdivision process or other development process.

Such permits will clearly specify the responsibility for maintenance of the facility and related activities to the extent the facility occupies the street's right-of-way. The permit applicant should be an entity that has perpetual maintenance capability. Noncompliant sidewalks and shared use paths may be constructed of stabilizer convenient to the applicant.

J. Bridge, drainage, and other grade separation structures. Bridges, drainage, and other grade separation structures shall be designed and constructed in accordance with all applicable department criteria and standards. The district administrator's designee may require special review of the plans and construction inspection.

The department will accept grade separation structures as part of new streets, provided the structure is a drainage structure or is intended to separate the movement of registered motor vehicles. In addition, the department will accept grade separation structures intended to separate pedestrians or bicyclists or any combination thereof from traffic using the roadway, provided:

1. The structure is available for unrestricted public use;
2. The structure is accessible to pedestrian accommodations situated along the street; and
3. The projected traffic volume of the street is not less than 4,000 vpd or, if the structure otherwise serves as part of the principal pedestrian access to a school, a peak hour traffic volume of 450 vph is projected.

In all other instances, the grade separation structure shall be deemed to be a locally controlled grade separation structure within the right-of-way of the street, in which case the street will only be accepted as part of the secondary system of state highways maintained by the department after the local governing body and the department have executed an agreement acceptable to the department that (i) acknowledges the department has no responsibility or liability due to the presence of the structure and (ii) assures the burden and costs of inspection, maintenance, and future improvements to the structure are provided from sources other than those administered by the department.

In all cases, whether the structure is accepted as an integral part of the roadway for maintenance by the department or it remains a locally controlled structure, the responsibility for lighting, safety, and security of those using such facilities shall remain a responsibility of local government.

K. Dams. The department will only consider accepting streets for maintenance that occupy dams when all of the following provisions are satisfied. For the purpose of this section, a roadway will be considered to occupy a dam if any part of the fill for the roadway and the fill for the dam overlap or if the area between the two embankments is filled in so that the downstream face of the dam is obscured or if a closed drainage facility from a dam extends under a roadway fill.

1. Agreements with the governing body. Except as exempt under subdivision 6 of this subsection, the governing body acknowledges by formal agreement the department's liability is limited to the maintenance of the roadway and that the department has no responsibility or liability due to the presence of the dam, the maintenance of which shall remain the responsibility of an owner, other than the department, as established by §33.1-76 of the Code of Virginia.
2. Design review. An engineer licensed to practice in the Commonwealth of Virginia shall certify that the hydraulic and structural design of any dam, as described below, is in

accordance with current national and state engineering practice and that all pertinent provisions of the Subdivision Street Design Guide (see 24VAC30-92-160) have been considered. Prior to approval of the roadway construction plans, the hydraulic and structural design of a proposed dam shall be reviewed by the department and meet the department's satisfaction if:

- a. A roadway is considered to occupy a dam; or
- b. A roadway is located below but sufficiently close to the dam that a catastrophic breach could endanger the roadway or the safety of those using the roadway.

3. Right-of-way requirements. The right-of-way of roads considered to occupy dams shall be recorded either as an easement for public road purposes or as a dedication specifically to the governing body. Right-of-way dedicated in the name of the Commonwealth or any of its agencies is not acceptable if it includes a dam, and roads through such right-of-way will not be accepted as a part of the secondary system of state highways maintained by the department.

4. Supplemental, alternative access. To be considered for VDOT maintenance, roadways that occupy a dam must be supplemented by an appropriate alternative roadway facility for public ingress or egress having suitable provisions that ensure perpetual maintenance.

5. Permits. All applicable federal and state permits associated with dams shall be secured and filed with the locality prior to VDOT's acceptance of any street that occupies a dam.

6. Dams exempt from agreements. The acceptance of roadways that occupy dams shall be exempt from the requirements for an agreement with the governing body, as required by subdivision 1 of this subsection, if all of the following is satisfied:

- a. The dam is used to create a stormwater detention or retention facility;
- b. The maximum depth of the water retained by the impoundment at its 100-year storm flood elevation is not greater than four feet; and
- c. The surface area of the impoundment at full flood is not greater than two acres and is beyond the right-of-way dedicated to public use.

L. Roadway drainage.

1. Policy and procedures. All drainage facilities shall be designed in accordance with the department's Drainage Manual (see 24VAC30-92-160) and supplemental directives or the Subdivision Street Design Guide (see 24VAC30-92-160). All drainage computations supporting a proposed drainage design shall be submitted to the

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department for review as part of the documents necessary for the approval of a construction plan.

2. Stormwater management. Whereas the department considers matters regarding stormwater management associated with the construction of new streets to be under the authority of the local governing body, decisions regarding stormwater management in the construction of streets are deferred to the locality. However, stormwater management, including the construction of detention or retention facilities, or both, is recognized as an available design alternative. Where the developer is required by regulations promulgated by an agency or governmental subdivision other than the department or the developer chooses to use stormwater management facilities in the design of a subdivision or other development, the governing body shall, by formal agreement, and as a prerequisite for the transfer of jurisdiction over the street to the department, acknowledge that the department is not responsible for the operation, maintenance, or liability of the stormwater management facility or facilities associated with the subdivision or the development. However, in the event the governing body has executed a comprehensive, localitywide agreement with the department addressing these matters, a specific agreement addressing stormwater management controls in the subdivision or development will not be required as a condition for street acceptance.

Stormwater management controls for VDOT projects are to be designed in accordance with the approved VDOT Erosion and Sediment Control and Stormwater Management Program Standards and Specifications, as annually approved by the Department of Conservation and Recreation (see 24VAC30-92-160), the Virginia Erosion and Sediment Control Regulations, 4VAC50-30, and the Virginia Stormwater Management Program (VSMP) Permit Regulations (4VAC50-60). While these controls may be necessary whenever a street maintained by the department is widened or relocated, the department does not require them in the development of new streets because such activity is regulated by the local governments. However, developers and counties may find these controls useful in managing land development activity.

Generally devices and treatments intended to mitigate the impact of stormwater shall be placed off of the right-of-way and shall be designed to prevent the backup of water against the roadbed. However, such devices and treatments may be placed within the right-of-way if the department and the local governing body have executed an agreement that (i) acknowledges the department has no responsibility or liability due to the presence of the devices or treatments, or both; (ii) assures the burden and costs of inspection, maintenance, and future improvements to the devices or treatments, or both, are provided from sources other than those administered by the department; (iii) a professional engineer licensed by the Commonwealth certifies the

construction of the facility to plans reviewed by the department; and (iv) a concept of the facility is included in the department's Drainage Manual, the Department of Conservation and Recreation's Stormwater Handbook, or supplemental directives (see 24VAC30-92-160).

Where development activity results in increased runoff to the extent that adjustment of an outfall facility is required, such adjustment shall be at the developer's expense and shall be contained within an appropriate easement.

3. Drainage easements.

a. An acceptable easement shall be provided from all drainage outfalls to a natural watercourse, as opposed to a swale.

b. The department normally accepts and maintains only that portion of a drainage system that falls within the limits of the dedicated right-of-way for a street. The department's responsibility to enter drainage easements outside of the dedicated right-of-way shall be limited to undertaking corrective measures to alleviate problems that may adversely affect the safe operation or integrity of the roadway.

c. In the event drainage to a natural watercourse is not accomplished or is interrupted, an acceptable agreement from the governing body may be considered as an alternative to providing an easement to a natural watercourse, provided the agreement acknowledges that the department is neither responsible nor liable for drainage from the roadway.

M. Other design considerations.

1. Guardrail. Guardrail shall be used when required by the district administrator's designee, consistent with the Road Design Manual (see 24VAC30-92-160). For placement considerations, see the Subdivision Street Design Guide (see 24VAC30-92-160).

2. Landscaping and erosion control. All disturbed areas within the dedicated right-of-way and easements of any street shall be restored with vegetation compatible with the surrounding area. Where there is visual evidence of erosion or siltation, acceptance of the street as part of the secondary system of state highways maintained by the department will be postponed until appropriate protective measures, in accordance with VDOT's construction practices, are taken. Except as otherwise approved by the district administrator's designee, planting of trees or shrubs on the right-of-way shall be in accordance with the Subdivision Street Design Guide and the Road Design Manual (see 24VAC30-92-160).

3. Lighting. Roadway, security, or pedestrian lighting, when required by the governing body or desired by the developer, shall be installed in accordance with the Subdivision Street Design Guide and the Road Design

Manual (see 24VAC30-92-160). However, VDOT shall not be responsible for the maintenance or replacement of lighting fixtures or the provision of power for lighting.

4. Railroad crossings.

a. Short-arm gates with flashing signals, flashing signals alone, or other protective devices as deemed appropriate by the department shall be provided at any at-grade crossing of an active railroad by a street.

b. Crossings of railroad right-of-way are subject to the requirements of the railroad. Streets to be accepted by the department for maintenance as part of the secondary system of state highways that cross railroad right-of-way will only be considered if the protective measures outlined under this section have been fully installed and an agreement between the railroad, the developer, and the local governing body has been executed. Prior to execution, such agreements shall be presented to the department for consideration in consultation with the Department of Rail and Public Transportation.

5. Utilities. Local governments, the development community, and the utility community are encouraged to coordinate and consolidate their interests as part of the initial development plan.

a. Underground utilities. The department allows the placement of underground utilities within the dedicated right-of-way of streets, but normally restricts placement to areas outside of the travel lanes. However, if the governing body has established adequate requirements approved by the department for the design, location, and construction of underground utilities within the right-of-way of streets, including provisions that ensure that adequate testing and inspection is performed to minimize future settlement, those requirements shall become the department's requirements and govern unless those requirements conflict with a requirement of the department.

When location of the utilities outside of the pavement area is not practical, such installations:

(1) Are acceptable within the shoulders along the street or within the parking area.

(2) May be acceptable beneath the travel lanes of the street or alley when provisions are made to ensure adequate inspection and compaction tests and (i) longitudinal installations and manholes are located outside of the normal travel lanes, or (ii) longitudinal installations and manholes are placed in the center of a travel lane out of the wheel path.

However, manholes shall not be placed in sidewalk, multiuse trail, or shared use path facilities within five feet of curb ramps or within driveway entrances.

b. Open-cutting of hard-surfaced roadways. The department usually prohibits the open-cutting of hard-surfaced roads except in extenuating circumstances. Therefore, all underground utilities within the right-of-way, as determined necessary by good engineering practice to serve the complete development of adjacent properties, shall be installed during the street's initial construction and prior to the application of its final pavement surface course. This shall include extensions of all necessary cross-street connections or service lines to an appropriate location beyond the pavement and preferably the right-of-way line.

In the event it is necessary to open the street pavement to work on utilities after the surface has been placed, additional compaction tests and paving as necessary to restore the integrity and appearance of the roadway may be required at the discretion of the district administrator's designee.

c. Cross-street conduits. To facilitate the placement of future underground utilities, cross-street conduits are encouraged, with placement of such conduits occurring on each street at intersections.

d. Aboveground utilities. All aboveground utilities shall be installed behind the sidewalk or as close as possible to the limits of the street's right-of-way but shall not encroach on the sidewalk, the shared use path, or any clear zone.

To assure the unencumbered dedication of the right-of-way for street additions, easements or other interests within the platted right-of-way shall be quitclaimed of any prior rights therein. In exchange, a permit may be issued by the department for a utility to occupy the area involved. This permit will be processed by the district administrator's designee upon acceptance of the street into the secondary system of state highways maintained by the department. No inspection fee is required for permits so issued. However, the approval of the permit shall be contingent upon the utility's compliance with applicable provisions of the Land Use Permit Manual (see 24VAC30-150).

N. Pedestrian accommodations.

1. Compact area type. Sidewalks are required along both sides of the street. In no instance shall any sidewalk be constructed directly next to the street, unless the sidewalk is at least eight feet wide. In such instances tree wells shall be provided. In instances where it is necessary to retrofit streets with pedestrian accommodations to allow the streets to be accepted into the secondary system of state highways, the pedestrian accommodations less than eight feet wide may abut the curb or the edge of the street. Planting strips are required unless the sidewalk abuts the curb or the edge of the street. Planting strips should be at least three feet in width.

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2. Suburban area type. A network addition or street is determined to provide pedestrian accommodations if (i) sidewalks are provided along both sides of the street or (ii) a combination of sidewalks and multiuse trails or shared use paths that, as a system, provides reasonable access to all properties in the development is constructed and that provides connectivity of pedestrian accommodations that is equivalent to having sidewalks on both sides of the street. Such multiuse trails shall have trail stubs to allow for future connection with other multiuse trails both existing and proposed.

A network addition or street where all lot sizes are at least two acres is determined to provide pedestrian accommodations if (i) sidewalks are provided along one side of the street or (ii) one or more multiuse trails or shared use paths that, as a system, provide reasonable access to all properties in the development is constructed and that provide connectivity of pedestrian accommodations that is equivalent to having sidewalks on one side of the street. Such multiuse trails shall have trail stub outs to allow for future connection with other multiuse trails both existing and proposed.

Sidewalks or other pedestrian accommodation shall be provided along both sides of any street classified as collector or above. In no instance shall any sidewalk abut the curb or the edge of the street unless the sidewalk is at least eight feet wide. In such instances tree wells shall be provided.

An agreement for maintenance with the locality shall be provided to VDOT for any multiuse trail outside of the VDOT right-of-way. In instances where it is necessary to retrofit streets with pedestrian accommodations to allow the streets to be accepted into the secondary system of state highways, the pedestrian accommodations less than eight feet wide may abut the curb or the edge of the street.

The district administrator, in consultation with the local official, may modify the sidewalk, multiuse trail, or shared use path requirements when the developer proposes to provide alternative sidewalk, multiuse trail, shared use path, or other pedestrian accommodations that provide equivalent connectivity to those required by this section. Equivalent connectivity shall mean the alternative accommodations provide connectivity to properties within and outside the development similar to the connectivity that would have been provided by the sidewalk, multiuse trail, or shared use path requirements.

Where sidewalks are constructed, planting strips are required unless the sidewalk abuts the curb or the edge of the street. Planting strips should be at least three feet in width.

3. Rural Area Type. A network addition or street is determined to provide pedestrian accommodations and

connectivity if (i) sidewalks are provided along one side of the street or (ii) one or more multiuse trails or shared use paths that, as a system, provide reasonable access to all properties in the development is constructed and that provide connectivity of pedestrian accommodations that is equivalent to having sidewalks on one side of the street. Such multiuse trails shall have trail stub outs to allow for future connection with other multiuse trails both existing and proposed.

Streets with a projected ADT of 200 vehicles or less are exempted from the pedestrian accommodation requirements.

Sidewalks or other pedestrian accommodations shall be provided along both sides of any street classified as collector or above. In no instances shall any sidewalk abut the curb or the edge of the street unless the sidewalk is at least eight feet wide and tree wells are provided.

An agreement for maintenance with the locality shall be provided to VDOT for any multiuse trail outside of the VDOT right-of-way. In instances where it is necessary to retrofit streets with pedestrian accommodations to allow the streets to be accepted into the secondary system of state highways, the pedestrian accommodations less than eight feet wide may abut the curb or the edge of the street.

The district administrator, in consultation with the local official, may modify the required sidewalk or multiuse trail requirements when the developer proposes to provide alternative sidewalk, multiuse trail, shared use path, or other pedestrian accommodations that provide equivalent connectivity to those required by this section. Equivalent connectivity shall mean the alternative accommodations provide connectivity to properties within the development and outside the development similar to the connectivity that sidewalks would have provided.

Where sidewalks are constructed planting strips are required unless the sidewalk abuts the curb or the edge of the street. Planting strips shall be at least three feet in width.

24VAC30-92-130. Right-of-way width, spite strips, and encroachments.

A. Right-of-way width. A clear and unencumbered right-of-way shall be dedicated to public use for any street proposed for addition to the secondary system of state highways maintained by the department. However, in certain rare extenuating circumstances involving a party beyond the influence of the developer, an easement for transportation purposes may be approved by the district administrator's designee in lieu of dedicated right-of-way. In all other cases, any easement that might interfere with the public's unencumbered use of the street shall be quitclaimed in exchange for a land use permit as outlined in 24VAC30-92-120 M 5.

The width of right-of-way shall be as indicated in the Subdivision Street Design Guide and the Road Design Manual (see 24VAC30-92-160) and shall be sufficient to include all essential elements of the roadway intended to be maintained by the department, including pedestrian, multiuse trail, bicycle, or shared use path facilities and clear zone. However, supplemental easements may be used to accommodate sight distance requirements and slopes for cuts and fills. The right-of-way requirements are defined in the Subdivision Street Design Guide and the Road Design Manual (see 24VAC30-92-160).

When an existing state maintained road is widened, the additional right-of-way should be dedicated as follows:

1. If the existing right-of-way consists of a prescriptive easement, to the degree that the developer controls the land, the right-of-way shall be dedicated to public use from the centerline of the alignment.
2. If the existing right-of-way is dedicated to public use, the additional right-of-way shall be dedicated to public use.
3. If the existing right-of-way is titled in the name of the department or the Commonwealth, the additional right-of-way shall be deeded to the department or to the Commonwealth, consistent with the title of the existing right-of-way.

B. "Spite strips." Plans that include a reserved or "spite" strip that prohibits otherwise lawful vehicular access to a street from the adjacent properties, whether within or outside the subdivision or development, will not be approved.

C. Encroachments within the right-of-way. Recording of a plat causes the fee title interest of areas dedicated to public use to transfer to the local governing body. Therefore, objects installed within the right-of-way for purposes other than transportation may be considered an unlawful encroachment in the right-of-way and prevent the right-of-way from being considered clear and unencumbered.

Posts, walls, signs, or similar ornamental devices that do not interfere with roadway capacity or encroach into a clear zone or interfere with prescribed sight distance requirements may be permitted within the right-of-way. However, specific authorization by the district administrator's designee or as authorized under the Land Use Permit Manual (see 24VAC30-92-160) is a requisite for these devices or any other encroachment located within the right-of-way. For the purposes of this subsection, mailboxes installed on breakaway posts may occupy the right-of-way without permit. Otherwise, encroachments that do not fall within the clear zone may be allowed within the right-of-way pursuant to a land use permit issued by the district administrator's designee.

24VAC30-92-140. Surety and fees.

A. Policy. Except as otherwise provided herein, the developer shall provide surety to guarantee the satisfactory performance of the street, an inspection fee to cover the department's cost of inspecting the new street, and an administrative cost recovery fee to recover the department's costs associated with the review of subdivision or other development plans and the administrative processing of the acceptance of new streets as determined in this section. All surety and fees collected under this section shall be based on the date of the local governing body's request and the aggregate mileage of new streets in that request, rounded up to the next tenth of a mile. In the event of extenuating circumstances beyond the developer's control, the commissioner or his designee may waive all or a portion of any of the surety and fees.

B. Surety. The department reserves the right to inspect, or have inspected, the street proposed for acceptance into the secondary system of state highways at any stage of construction and prior to street acceptance. The developer, contractor, and third-party inspector, if applicable, shall cooperate with the assigned VDOT personnel to provide the access and information necessary to verify that construction of the street is in accordance with the street's approved design and appropriate standards and specifications. A determination by the district administrator's designee that the required cooperation has not been extended shall be grounds for VDOT to refuse to accept the street for maintenance as part of the secondary system of state highways. A determination of noncooperation may be appealed as specified by this chapter (see 24VAC30-92-110).

1. Type of surety and expiration. The developer shall provide surety to guarantee the satisfactory performance of the street. In the event the developer fails to provide surety or any of the fees described in this section within the 30-day period following the local governing body's request for the department to accept the maintenance of a street, the department's or other entity's previous final inspection of the street shall be considered void and a new inspection shall be required. An acceptable surety may be in the form of a performance bond, cash deposit, certified check, irrevocable letter of credit, third-party escrow account, or other form mutually satisfactory to the department and the developer. Under no circumstances shall the department or any agency of the Commonwealth be named the escrow agent nor shall funds deposited with the department as surety be subject to the payment of interest.

a. Amount of surety. The surety shall be \$3,000 for each tenth of lane mile, or portion thereof, to be accepted by the department for maintenance as part of the secondary system of state highways. The Commonwealth Transportation Board may adjust the surety on an annual basis based on increases or decreases in the producer

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price index for highway and street construction materials up to an amount not to exceed \$5,000 for each tenth of lane mile or portion thereof.

The surety for streets petitioned for acceptance into the secondary system of state highways through the Rural Addition Program pursuant to §§33.1-72.1 and 33.1-72.2 of the Code of Virginia, and streets constructed or approved pursuant to §§33.1-221 and 33.1-223 of the Code of Virginia shall be waived.

b. Length of surety. The surety shall guarantee performance of the street for three years from the date of its acceptance into the secondary system of state highways. When a third-party inspection process acceptable to the department in accordance with this chapter is used, the surety shall guarantee performance for one year.

c. Third-party inspection process. A third-party inspection process shall be acceptable to the department if:

(1) The developer or construction contractor arranges for a firm not otherwise related to the developer or contractor to provide inspection services for the construction of the streets in the development;

(2) Inspection and testing methodology and frequency are accomplished in accordance with VDOT Materials Division's Manual of Instructions and the Virginia Department of Transportation Road and Bridge Specifications (see 24VAC30-92-160); and

(3) A report is submitted to the department summarizing the inspections steps taken, certifying the results of the inspection and testing as accurate, and confirming that the street or streets were built to the approved specifications and pavement design, signed and stamped by a professional engineer licensed to practice as such in the Commonwealth.

2. Alternatives to surety.

a. In jurisdictions where the staff of the governing body administers a comprehensive subdivision construction inspection program that has been approved by the department, the surety shall be waived upon certification by the governing body that the proposed addition has been constructed in accordance with approved plans and specifications.

b. If requested by the developer and subject to availability of departmental personnel or consultants, VDOT may perform the construction inspection equivalent to that required for third-party inspection of any street or streets proposed to be added to the secondary system of state highways. In such cases, the developer shall bear all costs incurred by the department,

the surety shall be waived, and no street inspection fee pursuant to subsection D of this section shall be charged.

C. Administrative cost recovery fee.

1. Application of the administrative cost recovery fee. To recover a portion of the department's direct costs associated with the review of plans or plans of development, and the administrative processing of the acceptance of new streets, an administrative cost recovery fee shall be required from the developer at the time the streets are accepted by the department. The amount of this cost recovery fee shall be computed at a base rate of \$500 per center lane, without regard to street length, plus \$250 per tenth of center lane mile, or portion thereof.

2. Alternatives to the administrative cost recovery fee. As an alternative to the administrative cost recovery fee, the department may use one of the following approaches to recover its direct costs:

a. For any subdivision, at the developer's request, the department may establish an account for the purpose of tracking these costs and billing the developer not more often than every 30 days;

b. For large, complex, multiuse developments, the department, at its option, may establish an account for the purpose of tracking these costs and billing the developer not more often than every 30 days. However, the cost recovery fee assessed under this provision shall not be greater than two times the prevailing cost recovery fee structure; or

c. If requested to provide plan review for streets that are not intended for maintenance by the department, the department may establish an account for the purpose of tracking these costs and billing the developer not more often than every 30 days.

D. Street inspection fee. To recover a portion of the department's direct costs associated with the inspection of subdivision streets, an inspection fee shall be required from the developer at the time the streets are accepted by the department.

The inspection fee shall be computed at a base rate of \$250 per lane, without regard to street length, plus \$125 per tenth of lane mile, or portion thereof.

The street inspection fee shall be reduced by 75% if either a third-party inspection process pursuant to subdivision B 1 c of this section or a local street inspection certification process pursuant to subdivision B 2 a of this section was used.

If requested to provide inspection services for subdivision streets that are not intended for maintenance by the department, the department may establish an account for the purpose of tracking these costs and billing the developer not more often than every 30 days.

24VAC30-92-150. Subdivision street development, plan review, and acceptance.

A. The locality-state partnership governing VDOT acceptance of new streets for maintenance. Section 33.1-229 of the Code of Virginia (a Byrd Act provision) creates the authority under which local governments establish new roads as part of the secondary system of state highways. Sections 15.2-2240 and 15.2-2241 of the Code of Virginia establish the authority of local subdivision ordinances and the authority of counties to set the standards for new streets within their territories.

VDOT's participation in the development and acceptance of streets for maintenance is a cooperative commitment of the Commonwealth Transportation Board.

VDOT's concurrence with or approval of a construction plan represents VDOT's commitment to accept the network addition or streets shown on the plan when satisfactorily constructed and all other requirements governing the department's acceptance of streets are satisfied, including the governing body's request for the acceptance of or transfer of the maintenance and operational jurisdiction over the street, as outlined in these requirements.

Pursuant to these principles:

1. Local government controls land development activity and establishes new streets, the relocation of existing streets, and the criteria governing the development of such streets.

2. VDOT establishes the minimum standards that must be satisfied for new subdivision streets to be considered for maintenance by the department as part of the secondary system of state highways under its jurisdiction.

Within each locality, VDOT is represented by a resident engineer or comparable designee.

B. Street development and acceptance of maintenance process.

1. Concept and construction plan approval phase. The proposed construction plan shall be considered incomplete in the absence of a preliminary pavement design based on the Pavement Design Guide (see 24VAC30-92-160) and the presumed values therein.

2. Construction phase. Upon approval of the construction plan and prior to construction, the resident engineer should advise the developer regarding inspection of the construction phases and the scheduling of those inspections. VDOT approval of each of the following phases of construction is recommended.

a. Installation of any enclosed drainage system before it is covered.

b. Installation of any enclosed utility placements within the right-of-way before being covered.

c. Construction of the cuts and fills, including field density tests, before placement of roadbed base materials.

d. A final pavement design, based on actual soil characteristics and certified tests, completed and approved before the pavement structure is placed.

e. Placement of base materials, including stone depths, consistent with the approved pavement design, prior to placement of the paving course or courses, followed by field density and moisture tests and the placement of a paving course as soon as possible.

f. Construction of pavement, including depth and density, upon completion as part of the final inspection.

3. Street acceptance process. In the absence of any other formal acceptance, the governing body's resolution requesting the department to accept a street for maintenance as part of the secondary system of state highways completes the dedication and is deemed to constitute the governing body's acceptance of the street.

4. Post acceptance phase.

24VAC30-92-160. Documents incorporated by reference.

Information pertaining to the availability and cost of any of these publications should be directed to the address indicated below the specific document. Requests for documents available from the department may be obtained from the department's division indicated at 1401 E. Broad St., Richmond, Virginia 23219; however, department documents may be available over the Internet at www.virginiadot.org.

The department shall post all documents incorporated into this regulation by reference and under its control on its website. After the effective date of any changes to such incorporated documents under the control of the department, the department shall post the changes for a period of at least 60 days on its website. Any changes to regulations appearing in this list shall be made in accordance with the Administrative Process Act (§2.2-4000 et seq. of the Code of Virginia) or the Virginia Register Act (§2.2-4100 et seq. of the Code of Virginia).

Drainage Manual, 2002, VDOT Location and Design Division.

Land Use Permit Manual (24VAC30-150), 1983, VDOT Asset Management Division.

Pavement Design Guide for Subdivision and Secondary Roads in Virginia, 2000, VDOT Materials Division.

Road and Bridge Specifications, effective 2008, VDOT Construction Division.

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Road Design Manual, 2005, VDOT Location and Design Division.

Subdivision Street Design Guide (Appendix B: Road Design Manual, 2005), VDOT Location and Design Division.

Road and Bridge Standards, 2001, VDOT Location and Design Division.

Standard Specifications for Highway Bridges, 1996, American Association of State Highway and Transportation Officials (AASHTO).

VDOT Modifications to Standard Specifications for Highway Bridges, 1996, American Association of State Highway and Transportation Officials (AASHTO), November 1999 through September 2007, VDOT Structure and Bridge Division.

Virginia Erosion and Sediment Control Handbook, 1992, Division of Soil and Water Conservation with The Virginia Erosion and Sediment Control Law and Regulations, (date), Division of Soil and Water Conservation.

Highway Capacity Manual, 2000, Transportation Research Board.

VDOT Erosion and Sediment Control and Stormwater Management Program Standards and Specifications, 2004, VDOT Location and Design Division Policy for Integrating Bicycle and Pedestrian Accommodations, 2004, Commonwealth Transportation Board, Note: This policy reference is included in the regulation only for informational purposes and is not considered a regulatory provision. Applicable elements of this policy are stated in the regulation itself.

Access Management Regulation: Principal Arterials (24VAC30-72), 2008, VDOT Asset Management Division.

Design Standards for Entrance/Intersection Access Management (Appendix F of the Road Design Manual), 2008, VDOT Location and Design Division.

Traffic Impact Analysis Regulation (24VAC30-151), 2007, VDOT Asset Management Division.

Manual of Instructions, 2006, VDOT Materials Division.

VA.R. Doc. No. R07-217; Filed March 26, 2008, 12:07 p.m.



GENERAL NOTICES/ERRATA

AIR POLLUTION CONTROL BOARD

2008 Proposed Air Quality Monitoring Network Review

Beginning March 17, 2008, and ending on April 25, 2008, the Virginia Department of Environmental Quality will have for public inspection a copy of the 2008 proposed Air Quality Monitoring Network Review. This document will contain a discussion of the proposed changes to the air quality monitoring network projected for fiscal year 2008 as well as a description of the existing monitors in the network. The Monitoring Network Review is a federal requirement and is specifically cited in 40 CFR 58.10(a)(1). To access the documents that are contained in the 2008 Annual Network review, please see the Virginia DEQ webpage <http://www.deq.virginia.gov/air/permitting/monitoring.htm>. The information on the webpage contains copies of all the documents included in the review as well as an agency contact should there be any questions regarding its contents.

Agency Contact: Charles L. Turner, Director, Air Quality Monitoring, Department of Environmental Quality, 4949-C Cox Road, Glen Allen, VA 23060, telephone (804) 527-5178, or email clturner@deq.virginia.gov.

State Implementation Plan Revision - NAAQS for PM_{2.5}

Notice of action: The Department of Environmental Quality (DEQ) is announcing an opportunity for public comment on a proposed plan to attain and maintain the national ambient air quality standard (NAAQS) for very fine particulate matter (PM_{2.5}). If adopted, the Commonwealth intends to submit the plan 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 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 overall plan, and on the issue of whether the plan demonstrates the Commonwealth's compliance with certain federal Clean Air Act requirements related to general state plan infrastructure.

Public comment period: March 31, 2008, to May 1, 2008.

Public Hearing: First Floor Conference Room, Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia, at 9 a.m. on April 30, 2008.

Description of proposal: This SIP revision addresses those requirements of §110(a)(2)(A) through (M) of the federal Clean Air Act for PM_{2.5} that have not been addressed in other SIP revisions. It is a compilation of certain elements that describe how the state will demonstrate how the PM_{2.5}

NAAQS is being implemented, maintained, and enforced. This SIP revision, once approved by EPA, will provide a federally enforceable confirmation of how the state will continue to comply with the PM_{2.5} requirements of §110(a)(2).

Federal information: This notice is being given to satisfy the public participation requirements of federal regulations (40 CFR 51.102). Except as noted below, 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. It is planned to submit all provisions of the proposal 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.** 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. Environmental Protection Agency.

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 4:30 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,
- 2) DEQ Southwest Regional Office, 355 Deadmore Street, Abingdon, Virginia, (540) 676-4800,
- 3) DEQ West Central Regional Office, 3019 Peters Creek Road, Roanoke, Virginia, (540) 562-6700,
- 4) DEQ South Central Regional Office, 7705 Timberlake Road, Lynchburg, Virginia, (804) 582-5120,
- 5) DEQ Valley Regional Office, 4411 Early Road, Harrisonburg, Virginia, (540) 574-7800,
- 6) DEQ Fredericksburg Satellite Office, 806 Westwood Office Park, Fredericksburg, Virginia, (540) 899-4600,

General Notices/Errata

7) DEQ Piedmont Regional Office, 4949-A, Cox Road, Glen Allen, Virginia, (804) 527-5020,

8) DEQ Northern Regional Office, 13901 Crown Court, Woodbridge, Virginia, (703) 583-3800, and

9) DEQ Tidewater Regional Office, 5636 Southern Boulevard, Virginia Beach, Virginia, (757) 518-2000.

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 damacleod@deq.virginia.gov.

DEPARTMENT OF CRIMINAL JUSTICE SERVICES

Entry-Level Law-Enforcement Standards

The Committee on Training of the Criminal Justice Services Board has approved changes to the training objectives, criteria, and lesson plan guides of the compulsory minimum training standards for entry-level law-enforcement officers as part of its annual review under 6VAC20-20-25. Copies of the changes may be obtained by contacting Judith Kirkendall at Department of Criminal Justice Services, 202 North 9th Street, 10th Floor, Richmond, VA 23219, (804) 786-8003, or email judith.kirkendall@dcjs.virginia.gov.

DEPARTMENT OF ENVIRONMENTAL QUALITY

Town of Appomattox

Citizens may comment on a proposed consent order amendment for the Town of Appomattox, located in Appomattox County, Virginia.

Public comment period: April 14, 2008, to May 15, 2008.

Purpose of notice: To invite the public to comment on a proposed amendment to a 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 town and entered into by mutual agreement.

Consent order description: The Department of Environmental Quality (DEQ) proposes to issue a consent order amendment to the Town of Appomattox to address violations occurring at the town's Trickling Filter Wastewater Treatment Plant. The consent order amendment describes a settlement to resolve effluent limit violations of State Water Control Law.

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 close of business on the final day of the public comment period.

To review the consent order: The public may review the proposed consent order on the DEQ website at www.deq.virginia.gov.

Contact for public comments, document requests and additional information: G. Marvin Booth, III, Department of Environmental Quality, South Central Regional Office, 7705 Timberlake Road, Lynchburg, VA 24502, telephone (434) 582-5120 ext. 6237, FAX (434) 582-5125, or email gmbooth@deq.virginia.gov.

Virginia Coastal and Estuarine Land Conservation Program Plan

The Virginia Coastal Zone Management Program at the Department of Environmental Quality seeks written comments from interested parties on the draft Virginia Coastal and Estuarine Land Conservation Program Plan, herein referred to as the Virginia CELCP Plan.

Virginia must have a CELCP Plan to be eligible to participate in a national competition for federal land acquisition funding through the Coastal and Estuarine Land Conservation Program (CELCP). CELCP was established through the National Oceanic and Atmospheric Administration's (NOAA) Office of Coastal Resource Management (OCRM) "for the purpose of protecting important coastal and estuarine areas that have significant conservation, recreation, ecological, historical, or aesthetic values, or that are threatened by conversion from their natural or recreational state to other uses."

The Virginia Coastal Zone Management (CZM) Program at DEQ serves as the lead agency for Virginia's CELCP. The Virginia CZM Program has developed the Virginia CELCP Plan in accordance with the CELCP Guidelines published in the Federal Register (68 FR 35860-35869) on June 17, 2003. The Virginia CELCP Plan (i) provides a map of coastal areas that should be of top priority for land conservation to protect the best remaining coastal resources; (ii) provides project eligibility requirements; (iii) provides information on existing state and regional acquisition plans consistent with the goals of CELCP and the Virginia CZM Program; and (iv) provides a description of the Commonwealth's evaluation process and scoring criteria to be used by the Virginia CZM Program in ranking land conservation proposals. The three highest ranking Virginia proposals will be submitted in an application to NOAA for consideration in the national competition for CELCP funding. Each proposal can request a maximum of \$3,000,000 in federal CELCP funding and should reflect priorities identified in the Virginia CELCP Plan.

The public comment period begins on April 14, 2008, and ends on May 13, 2008. Written comments should include the name, address, and telephone number of the person

submitting the comments. Send comments to Kelly Price, Virginia Coastal Zone Management Program, Department of Environmental Quality, 629 East Main Street, P.O. Box 1105, Richmond VA 23219, telephone (804) 698-4260, FAX (804) 698-4319, or email kaprice@deq.virginia.gov.

Designation of a Regional Solid Waste Management Planning Unit

In accordance with the provision of §10.1-1411 of the Code of Virginia, and 9VAC20-130-180 and 9VAC20-130-190 of the Solid Waste Management Planning and Recycling Regulations, Amendment 2, the Director of the Department of Environmental Quality (director) intends to designate a solid waste management region for the local governments of the Region 2000 Services Authority-Solid Waste Management Planning Region. The Region 2000 Services Authority-Solid Waste Management Planning Region is comprised of the cities of Lynchburg and Bedford, the counties of Campbell and Nelson and the towns of Altavista and Brookneal. The Region 2000 Services Authority-Solid Waste Management Planning Region will be designated for the development and/or implementation of a regional solid waste management plan and the maintaining of the recycling rate of solid waste generated within the designated region.

A petition has been received by the Department of Environmental Quality for the designation on behalf of the local governments.

Any questions concerning this notice should be directed to the contact person below. Also, anyone wishing to comment on the designation of this region should respond in writing by 5 p.m. on Friday, May 16, 2008, to the contact person below.

Following the closing date for comments, the director will determine if there is a need for a public hearing to be held in the proposed region prior to the designation. At least 14 days prior to any such public hearing, a notice of the proposed public hearing will appear in a newspaper of general circulation within the proposed solid waste planning unit.

Contact Information: Daniel S. Gwinner, Office of Waste Technical Support, Department of Environmental Quality, 629 East Main Street, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4218, FAX (804) 698-4327, or email dsgwinner@deq.virginia.gov.

VIRGINIA DEPARTMENT OF LABOR AND INDUSTRY AND THE SAFETY AND HEALTH CODES BOARD

Second Comment Period for the Proposed Regulation Entitled, Reverse Signal Operation Safety Procedures Dealing With Vehicular Equipment, Motor Vehicles, Material Handling Equipment and Motor Vehicle Equipment in Existing Standards

The Virginia Department of Labor and Industry (DOLI) and the Safety and Health Codes Board will hold a second comment period for the proposed regulation entitled, Reverse Signal Operation Safety Procedures Dealing with Vehicular Equipment, Motor Vehicles, Material Handling Equipment and Motor Vehicle Equipment in Existing Standards, 16VAC25-96. Information concerning this proposed regulation was published in the Virginia Register on August 20, 2007. A 60-day public comment period began on that publication date and extended to October 10, 2007. A public hearing was held October 18, 2007. However, a number of written comments were received after the close of the comment period. For this reason, an additional comment period will be held to extend for 30 days, from April 14, 2008, to May 14, 2008.

DOLI and the Safety and Health Codes Board seek public comment on the review of issues related to this regulation. Comments on this regulation are welcome and will be accepted until May 14, 2008. Comments may be mailed to Jay Withrow, Virginia Department of Labor and Industry, Powers-Taylor Building, 13 South 13th Street, Richmond, VA 23219 or emailed to jay.withrow@doli.virginia.gov.

Please include full name and mailing address with any submitted comments.

STATE LOTTERY DEPARTMENT

Director's Orders

The following Director's Orders of the State Lottery Department were filed with the Virginia Registrar of Regulations on March 26, 2008. The orders may be viewed at the State Lottery Department, 900 E. Main Street, Richmond, Virginia, or at the office of the Registrar of Regulations, 910 Capitol Street, 2nd Floor, Richmond, Virginia.

Final Rules for Game Operation:

Director's Order Number Two (08)

Virginia's Instant Game Lottery 565; "Casino Royale" (effective 3/21/08)

General Notices/Errata

Director's Order Number Three (08)

Virginia's Instant Game Lottery 1019; "Rock Paper Scissors" (effective 3/18/08)

Director's Order Number Four (08)

Virginia's Instant Game Lottery 1020; "Silver 7's" (effective 3/21/08)

Director's Order Number Five (08)

Virginia's Instant Game Lottery 1021; "Kings and Queens" (effective 3/21/08)

Director's Order Number Six (08)

Virginia's Instant Game Lottery 1015; "Tax Free Million" (effective 3/17/08)

Director's Order Number Seven (08)

Virginia's Instant Game Lottery 1040; "Washington Nationals" (effective 3/21/08)

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Notice of Intent to Revise Targeted Case Management Reimbursement Methodology

Notice is hereby given that the Department of Medical Assistance Services (DMAS) intends to modify its reimbursement methodology for targeted case management services pursuant to the department's authority under Title XIX of the Social Security Act. This notice is intended to satisfy the requirements of 42 CFR 447.205 and of §1902(a)(13) of the Social Security Act, 42 USC §1396a(a)(13). All of the changes contained in this public notice are occurring in response to the Interim Final Rule with Comment Period published by the Centers for Medicare and Medicaid Services on December 4, 2007.

The current reimbursement methodology for targeted case management under the State Plan for Medical Assistance Services is codified in state regulations at 12VAC30-80-110 and 12VAC30-80-111. In most instances, DMAS reimburses a daily or monthly rate. The new CMS rule requires state Medicaid agencies to reimburse targeted case management using 15 minute units. The recently approved reimbursement methodology for substance abuse case management already requires a 15 minute unit. CMS has instructed states that it will be necessary to identify the types of costs used to build the rate and the unit of service in the State Plan. States must also assure that billed time does not exceed available productive time by practitioner through maximum service hours.

This amendment is estimated to neither increase nor decrease total annual Medicaid spending.

A copy of this notice is available for public review from William Lessard, Director, Provider Reimbursement Division, Department of Medical Assistance Services, 600 Broad Street, Suite 1300, Richmond, VA 23219, and this notice is available for public review on the Regulatory Town Hall (www.townhall.com). Comments or inquiries may be submitted, in writing, within 30 days of this notice publication to Mr. Lessard and such comments are available for review at the same address.

Contact Information: Brian McCormick, Regulatory Supervisor, Department of Medical Assistance Services, 600 Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 371-8856, FAX (804) 786-1680, TDD (800) 343-0634, or email brian.mccormick@dmas.virginia.gov.

DEPARTMENT OF SOCIAL SERVICES

Notice of Periodic Review

22VAC40-191, Background Checks for Child Welfare Agencies

Start of comment period: 4/14/2008

End of comment period: 5/5/2008

Pursuant to Executive Order Number 36 (2006), the Department of Social Services is currently reviewing 22VAC40-191, Background Checks for Child Welfare Agencies, to determine if it should be terminated, amended, or retained in its current form. The review will be guided by the principles listed in Executive Order Number 36 (2006) and in the department's Plan for Review of Existing Agency Regulations.

The department seeks public comment regarding the regulation's interference in private enterprise and life, essential need of the regulation, less burdensome and intrusive alternatives to the regulation, specific and measurable goals that the regulation is intended to achieve, and whether the regulation is clearly written and easily understandable.

Written comments may be submitted until May 5, 2008, in care of Karen Cullen, Program Consultant, Division of Licensing Programs, Department of Social Services, 7 North 8th Street, Richmond, VA 23219, by email to karen.cullen@dss.virginia.gov, or FAX (804) 726-7132.

STATE WATER CONTROL BOARD

Alliant Techsystems, Inc. and the United States Army

Citizens may comment on a proposed consent order for a facility in Montgomery County, Virginia.

Public comment period: April 15, 2008, to May 14, 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.

Consent order description: The State Water Control Board proposes to issue a consent order to the Alliant Techsystems, Inc. and the United States Army RFAAP to address alleged violations of Virginia's regulations. The location of the facility where the alleged violation occurred is the Radford Army Ammunition Plant (RAAP). The consent order describes a settlement to resolve effluent limit violations and unpermitted discharges at RAAP. It includes a civil charge.

How a decision is made: After public comments have been considered, the State Water Control Board will make a final decision.

How to comment: DEQ accepts comments from the public by 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.

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 rpsteele@deq.virginia.gov.

Evergreen Country Club, Inc.

Purpose of notice: To invite citizens to comment on a proposed consent order for a sewage treatment plant at Evergreen Country Club in Prince William County, Virginia.

Public comment period: April 15, 2008, through May 14, 2008.

Consent order description: The State Water Control Board proposes to issue a consent order to Evergreen Country Club, Inc. to address alleged violations of the Virginia Pollutant Discharge Elimination System Permit No. VA0087891. Evergreen Country Club, Inc. is a country club and golf course with a sewage treatment plant on site located in Prince William County, Virginia. The consent order describes a settlement to resolve violations of a previous consent order as well as permit effluent limit violations.

How to comment: DEQ accepts comments from the public by email, fax or postal mail. All comments must include the

name, address and telephone number of the person commenting and be received by DEQ within the comment period. The public may review the proposed consent order at the DEQ office named below or on the DEQ website at www.deq.virginia.gov.

Contact for public comments, document requests and additional information: Sarah Baker, Department of Environmental Quality, Northern Virginia Regional Office, 13901 Crown Court, Woodbridge, VA 22193, telephone (703) 583-3850, FAX (703) 583-3871, or email sbaker@deq.virginia.gov.

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.

ERRATA

BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

Title of Regulation: **13VAC5-63. Virginia Uniform Statewide Building Code.**

Publication (online full text version): 24:14 VA.R. March 17, 2008.

Correction to Final Regulation (full text version – published online only):

General Notices/Errata

13VAC5-63-210, subsection E, paragraph 6, after the bracket, strike "Bed and breakfasts and other transient boarding facilities with 10 or fewer occupants are permitted to be classified as Group R-3 or R-5."

V.A.R. Doc. No. R07-125