



# Virginia Register of Regulations

VOL. 24 ISS. 20

PUBLISHED EVERY OTHER WEEK BY THE VIRGINIA CODE COMMISSION

JUNE 9, 2008

## TABLE OF CONTENTS

<b>Register Information Page</b> .....	2819
<b>Publication Schedule and Deadlines</b> .....	2820
<b>Cumulative Table of Virginia Administrative Code Sections Adopted, Amended, or Repealed</b> ...	2821
<b>Notices of Intended Regulatory Action</b> .....	2834
<b>Regulations</b> .....	2838
2VAC5-420. Regulations for the Enforcement of the Virginia Gasoline and Motor Fuel Law (Final) .....	2838
4VAC50-60. Virginia Stormwater Management Program (VSMP) Permit Regulations (Final) .....	2841
10VAC5-160. Rules Governing Mortgage Lenders and Brokers (Proposed) .....	2869
18VAC60-20. Regulations Governing the Practice of Dentistry and Dental Hygiene (Fast-Track) .....	2872
18VAC85-20. Regulations Governing the Practice of Medicine, Osteopathic Medicine, Podiatry, and Chiropractic (Fast-Track) .....	2874
18VAC85-101. Regulations Governing the Licensure of Radiologic Technologists and Radiologic Technologists-Limited (Fast-Track) .....	2877
18VAC85-120. Regulations Governing the Licensure of Athletic Trainers (Fast-Track) .....	2882
18VAC95-20. Regulations Governing the Practice of Nursing Home Administrators (Fast-Track) .....	2885
18VAC140-20. Regulations Governing the Practice of Social Work (Fast-Track) .....	2888
<b>Governor</b> .....	2892
<b>General Notices/Errata</b> .....	2893

---

# 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**; **William R. Janis**; **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>).

---

### June 2008 through March 2009

<u>Volume: Issue</u>	<u>Material Submitted By Noon*</u>	<u>Will Be Published On</u>
24:20	May 21, 2008	June 9, 2008
<b>INDEX 3 Volume 24</b>		<b>July 2008</b>
24:21	June 4, 2008	June 23, 2008
24:22	June 18, 2008	July 7, 2008
24:23	July 2, 2008	July 21, 2008
24:24	July 16, 2008	August 4, 2008
24:25	July 30, 2008	August 18, 2008
24:26	August 13, 2008	September 1, 2008
<b>FINAL INDEX Volume 24</b>		<b>October 2008</b>
25:1	August 27, 2008	September 15, 2008
25:2	September 10, 2008	September 29, 2008
25:3	September 24, 2008	October 13, 2008
25:4	October 8, 2008	October 27, 2008
25:5	October 22, 2008	November 10, 2008
25:6	November 5, 2008	November 24, 2008
25:7	November 18, 2008 ( <b>Tuesday</b> )	December 8, 2008
<b>INDEX 1 Volume 25</b>		<b>October 2008</b>
25:8	December 3, 2008	December 22, 2008
25:9	December 16, 2008 ( <b>Tuesday</b> )	January 5, 2009
25:10	December 30, 2008 ( <b>Tuesday</b> )	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
25:14	February 25, 2009	March 16, 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 Spring 2008 VAC Supplement includes final regulations published through *Virginia Register* Volume 24, Issue 7, dated December 10, 2007, and fast-track regulations published through *Virginia Register* Volume 24 Issue 10, dated January 21, 2008). Emergency regulations, if any, are listed, followed by the designation "emer," and errata pertaining to final regulations are listed. Proposed regulations are not listed here. The table lists the sections in numerical order and shows action taken, the volume, issue and page number where the section appeared, and the effective date of the section.

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
<b>Title 2. Agriculture</b>			
2 VAC 5-30-10	Amended	24:17 VA.R. 2318	6/12/08
2 VAC 5-30-20	Amended	24:17 VA.R. 2318	6/12/08
2 VAC 5-50-20	Amended	24:17 VA.R. 2320	6/12/08
2 VAC 5-50-70	Amended	24:17 VA.R. 2320	6/12/08
2 VAC 5-50-100	Amended	24:17 VA.R. 2320	6/12/08
2 VAC 5-50-110	Amended	24:17 VA.R. 2321	6/12/08
2 VAC 5-90-30	Amended	24:17 VA.R. 2322	6/12/08
2 VAC 5-150-10	Amended	24:17 VA.R. 2323	6/12/08
2 VAC 5-180-20	Amended	24:17 VA.R. 2326	6/12/08
2 VAC 5-180-30	Amended	24:17 VA.R. 2327	6/12/08
2 VAC 5-180-50	Amended	24:17 VA.R. 2327	6/12/08
2 VAC 5-180-60	Amended	24:17 VA.R. 2327	6/12/08
2 VAC 5-180-80	Amended	24:17 VA.R. 2327	6/12/08
2 VAC 5-180-120	Amended	24:17 VA.R. 2328	6/12/08
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 5-400-5	Added	24:17 VA.R. 2330	6/12/08
2 VAC 5-501-80	Amended	24:17 VA.R. 2332	6/12/08
2 VAC 5-501-100	Amended	24:17 VA.R. 2336	6/12/08
2 VAC 5-510-10	Amended	24:17 VA.R. 2340	6/12/08
2 VAC 5-510-50	Amended	24:17 VA.R. 2341	6/12/08
2 VAC 5-510-60	Repealed	24:17 VA.R. 2341	6/12/08
2 VAC 5-510-70	Repealed	24:17 VA.R. 2341	6/12/08
2 VAC 5-510-80	Repealed	24:17 VA.R. 2342	6/12/08
2 VAC 5-510-90	Amended	24:17 VA.R. 2342	6/12/08
2 VAC 5-510-100	Repealed	24:17 VA.R. 2344	6/12/08
2 VAC 5-510-110	Amended	24:17 VA.R. 2344	6/12/08
2 VAC 5-510-120	Repealed	24:17 VA.R. 2345	6/12/08
2 VAC 5-510-130	Amended	24:17 VA.R. 2345	6/12/08
2 VAC 5-510-140	Repealed	24:17 VA.R. 2347	6/12/08
2 VAC 5-510-150	Amended	24:17 VA.R. 2347	6/12/08
2 VAC 5-510-160	Repealed	24:17 VA.R. 2348	6/12/08
2 VAC 5-510-170	Amended	24:17 VA.R. 2348	6/12/08
2 VAC 5-510-180	Repealed	24:17 VA.R. 2348	6/12/08
2 VAC 5-510-190	Amended	24:17 VA.R. 2348	6/12/08
2 VAC 5-510-200	Repealed	24:17 VA.R. 2349	6/12/08
2 VAC 5-510-210	Amended	24:17 VA.R. 2349	6/12/08

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

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
2 VAC 5-510-220	Repealed	24:17 VA.R. 2349	6/12/08
2 VAC 5-510-230	Repealed	24:17 VA.R. 2349	6/12/08
2 VAC 5-510-240	Amended	24:17 VA.R. 2349	6/12/08
2 VAC 5-510-250	Repealed	24:17 VA.R. 2349	6/12/08
2 VAC 5-510-260	Amended	24:17 VA.R. 2349	6/12/08
2 VAC 5-510-270	Repealed	24:17 VA.R. 2350	6/12/08
2 VAC 5-510-290	Amended	24:17 VA.R. 2350	6/12/08
2 VAC 5-510-300	Repealed	24:17 VA.R. 2350	6/12/08
2 VAC 5-510-310	Amended	24:17 VA.R. 2350	6/12/08
2 VAC 5-510-320	Repealed	24:17 VA.R. 2350	6/12/08
2 VAC 5-510-330	Amended	24:17 VA.R. 2350	6/12/08
2 VAC 5-510-340	Repealed	24:17 VA.R. 2351	6/12/08
2 VAC 5-510-350	Amended	24:17 VA.R. 2351	6/12/08
2 VAC 5-510-360	Repealed	24:17 VA.R. 2351	6/12/08
2 VAC 5-510-390	Amended	24:17 VA.R. 2351	6/12/08
2 VAC 5-510-400	Repealed	24:17 VA.R. 2352	6/12/08
2 VAC 5-510-410	Amended	24:17 VA.R. 2352	6/12/08
2 VAC 5-510-420	Amended	24:17 VA.R. 2352	6/12/08
2 VAC 5-510-500	Amended	24:17 VA.R. 2352	6/12/08
2 VAC 5-510-510	Amended	24:17 VA.R. 2353	6/12/08
2 VAC 5-531-50	Amended	24:16 VA.R. 2235	5/29/08
2 VAC 5-531-140	Amended	24:16 VA.R. 2241	5/29/08
2 VAC 15-20-81	Amended	24:16 VA.R. 2242	4/14/08
2 VAC 20-20-70	Amended	24:17 VA.R. 2355	6/12/08
2 VAC 20-20-130	Amended	24:17 VA.R. 2355	6/12/08
2 VAC 20-20-210	Amended	24:17 VA.R. 2355	6/12/08
2 VAC 20-40-50	Amended	24:17 VA.R. 2357	6/12/08
<b>Title 3. Alcoholic Beverages</b>			
3 VAC 5-50-140 emer	Amended	24:11 VA.R. 1344	1/9/08-1/8/09
3 VAC 5-50-145 emer	Added	24:11 VA.R. 1345	1/9/08-1/8/09
3 VAC 5-70-220	Amended	24:14 VA.R. 1891	5/1/08
3 VAC 5-70-225 emer	Added	24:10 VA.R. 1257	1/2/08-1/1/09
<b>Title 4. Conservation and Natural Resources</b>			
4 VAC 5-50-10 through 4VAC5-50-170	Repealed	24:17 VA.R. 2357	5/28/08
4 VAC 15-20-50	Amended	24:10 VA.R. 1258	1/1/08
4 VAC 15-20-130	Amended	24:10 VA.R. 1259	1/1/08
4 VAC 15-20-200	Amended	24:10 VA.R. 1261	1/1/08
4 VAC 15-20-210	Amended	24:10 VA.R. 1261	1/1/08
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 15-320-25	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

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

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
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 20-40-10 through 4 VAC 20-40-40	Repealed	24:19 VA.R. 2749	4/30/08
4 VAC 20-90-10	Repealed	24:19 VA.R. 2749	4/30/08
4 VAC 20-90-20	Repealed	24:19 VA.R. 2749	4/30/08
4 VAC 20-90-30	Repealed	24:19 VA.R. 2749	4/30/08
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 20-252-120	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 20-270-10 emer	Amended	24:19 VA.R. 2751	5/1/08-5/31/08
4 VAC 20-270-30	Amended	24:19 VA.R. 2750	4/30/08
4 VAC 20-270-40	Amended	24:19 VA.R. 2750	4/30/08
4 VAC 20-270-50	Amended	24:19 VA.R. 2750	4/30/08
4 VAC 20-270-50 emer	Amended	24:19 VA.R. 2751	5/1/08-5/31/08
4 VAC 20-270-55	Amended	24:15 VA.R. 2023	3/1/08
4 VAC 20-270-55	Amended	24:19 VA.R. 2751	4/30/08
4 VAC 20-270-56	Amended	24:19 VA.R. 2751	4/30/08
4 VAC 20-270-58	Added	24:19 VA.R. 2751	4/30/08
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
4 VAC 20-620-70	Amended	24:15 VA.R. 2026	3/1/08
4 VAC 20-670-20	Amended	24:19 VA.R. 2752	4/30/08
4 VAC 20-670-25	Amended	24:19 VA.R. 2752	4/30/08
4 VAC 20-670-30	Amended	24:19 VA.R. 2752	4/30/08
4 VAC 20-670-40	Amended	24:19 VA.R. 2753	4/30/08
4 VAC 20-700-10 emer	Amended	24:19 VA.R. 2753	5/1/08-5/31/08
4 VAC 20-700-15 emer	Added	24:19 VA.R. 2753	5/1/08-5/31/08
4 VAC 20-700-20	Amended	24:15 VA.R. 2026	3/1/08
4 VAC 20-700-20 emer	Amended	24:19 VA.R. 2754	5/1/08-5/31/08
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 20-750-10	Amended	24:15 VA.R. 2026	3/1/08
4 VAC 20-750-10	Repealed	24:19 VA.R. 2754	4/30/08

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

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
4 VAC 20-750-30	Amended	24:15 VA.R. 2026	3/1/08
4 VAC 20-750-30	Repealed	24:19 VA.R. 2754	4/30/08
4 VAC 20-750-40	Repealed	24:19 VA.R. 2754	4/30/08
4 VAC 20-750-50	Repealed	24:19 VA.R. 2754	4/30/08
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 20-752-20	Amended	24:19 VA.R. 2754	4/30/08
4 VAC 20-752-30	Amended	24:16 VA.R. 2246	4/1/08
4 VAC 20-752-30	Amended	24:19 VA.R. 2755	4/30/08
4 VAC 20-880-10 emer	Amended	24:19 VA.R. 2755	5/1/08-5/31/08
4 VAC 20-880-20 emer	Amended	24:19 VA.R. 2755	5/1/08-5/31/08
4 VAC 20-880-20	Amended	24:19 VA.R. 2756	4/30/08
4 VAC 20-880-30 emer	Amended	24:19 VA.R. 2757	5/1/08-5/31/08
4 VAC 20-880-30	Amended	24:19 VA.R. 2757	4/30/08
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 20-1090-10 emer	Amended	24:19 VA.R. 2757	5/1/08-5/31/08
4 VAC 20-1090-30	Amended	24:8 VA.R. 965	12/1/07
4 VAC 20-1090-30 emer	Amended	24:19 VA.R. 2757	5/1/08-5/31/08
4 VAC 20-1090-30	Amended	24:19 VA.R. 2760	4/30/08
4 VAC 20-1130-10 through 4 VAC 20-1130-70	Added	24:8 VA.R. 968-970	12/1/07
4 VAC 20-1140-10	Added	24:19 VA.R. 2763	4/30/08
4 VAC 20-1140-20	Added	24:19 VA.R. 2763	4/30/08
4 VAC 20-1140-30	Added	24:19 VA.R. 2763	4/30/08
4 VAC 25-130 (Forms)	Amended	24:11 VA.R. 1424	--
4 VAC 25-150-90	Amended	24:17 VA.R. 2359	6/12/08
<b>Title 5. Corporations</b>			
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
<b>Title 6. Criminal Justice and Corrections</b>			
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 40-50-10 through 6 VAC 40-50-80	Added	24:9 VA.R. 1103-1104	2/6/08
<b>Title 9. Environment</b>			
9 VAC 20-60-18	Amended	24:9 VA.R. 1106	2/6/08
9 VAC 25-32 (Forms)	Amended	24:13 VA.R. 1738	--
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

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

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
9 VAC 25-120-80	Amended	24:9 VA.R. 1109	2/6/08
9 VAC 25-120-80	Amended	24:18 VA.R. 2502	6/11/08
9 VAC 25-193-40	Amended	24:18 VA.R. 2517	6/11/08
9 VAC 25-193-70	Amended	24:18 VA.R. 2517	6/11/08
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 25-196-70	Amended	24:18 VA.R. 2532	6/11/08
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 25-260-30	Amended	24:13 VA.R. 1741	*
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	24:18 VA.R. 2540	6/11/08
9 VAC 25-720-130	Amended	24:18 VA.R. 2548	6/11/08
<b>Title 11. Gaming</b>			
11 VAC 10-130-60	Amended	24:16 VA.R. 2247	4/14/08
11 VAC 10-180-10	Amended	24:16 VA.R. 2247	4/14/08
11 VAC 10-180-20	Repealed	24:16 VA.R. 2248	4/14/08
11 VAC 10-180-25	Added	24:16 VA.R. 2250	4/14/08
11 VAC 10-180-35	Added	24:16 VA.R. 2250	4/14/08
11 VAC 10-180-60	Amended	24:16 VA.R. 2251	4/14/08
11 VAC 10-180-70	Amended	24:16 VA.R. 2256	4/14/08
11 VAC 10-180-75	Added	24:16 VA.R. 2256	4/14/08
11 VAC 10-180-80	Amended	24:16 VA.R. 2257	4/14/08
11 VAC 10-180-85	Amended	24:16 VA.R. 2258	4/14/08
11 VAC 10-180-110	Amended	24:16 VA.R. 2259	4/14/08
<b>Title 12. Health</b>			
12 VAC 5-90-370	Added	24:19 VA.R. 2777	7/1/08
12 VAC 5-195-10 through 12 VAC 5-195-670	Added	24:19 VA.R. 2778-2802	5/26/08

\* 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
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 5-481-10	Amended	24:18 VA.R. 2566	6/12/08
12 VAC 5-481-20	Amended	24:18 VA.R. 2592	6/12/08
12 VAC 5-481-30	Amended	24:18 VA.R. 2592	6/12/08
12 VAC 5-481-90	Amended	24:18 VA.R. 2592	6/12/08
12 VAC 5-481-100	Amended	24:18 VA.R. 2593	6/12/08
12 VAC 5-481-110	Amended	24:18 VA.R. 2593	6/12/08
12 VAC 5-481-130	Amended	24:18 VA.R. 2594	6/12/08
12 VAC 5-481-150	Amended	24:18 VA.R. 2594	6/12/08
12 VAC 5-481-200	Repealed	24:18 VA.R. 2594	6/12/08
12 VAC 5-481-230 through 12 VAC 5-481-270	Amended	24:18 VA.R. 2594-2595	6/12/08
12 VAC 5-481-340	Amended	24:18 VA.R. 2595	6/12/08
12 VAC 5-481-370 through 12 VAC 5-481-450	Amended	24:18 VA.R. 2597-2607	6/12/08
12 VAC 5-481-460	Repealed	24:18 VA.R. 2607	6/12/08
12 VAC 5-481-470	Amended	24:18 VA.R. 2608	6/12/08
12 VAC 5-481-480	Amended	24:18 VA.R. 2610	6/12/08
12 VAC 5-481-500	Amended	24:18 VA.R. 2619	6/12/08
12 VAC 5-481-510	Amended	24:18 VA.R. 2620	6/12/08
12 VAC 5-481-530 through 12 VAC 5-481-590	Amended	24:18 VA.R. 2622-2626	6/12/08
12 VAC 5-481-571	Added	24:18 VA.R. 2624	6/12/08
12 VAC 5-481-630 through 12 VAC 5-481-760	Amended	24:18 VA.R. 2626-2629	6/12/08
12 VAC 5-481-780	Amended	24:18 VA.R. 2629	6/12/08
12 VAC 5-481-790	Amended	24:18 VA.R. 2629	6/12/08
12 VAC 5-481-800	Repealed	24:18 VA.R. 2629	6/12/08
12 VAC 5-481-810 through 12 VAC 5-481-910	Amended	24:18 VA.R. 2630-2631	6/12/08
12 VAC 5-481-930 through 12 VAC 5-481-1050	Amended	24:18 VA.R. 2632-2633	6/12/08
12 VAC 5-481-971	Added	24:18 VA.R. 2632	6/12/08
12 VAC 5-481-1070	Amended	24:18 VA.R. 2633	6/12/08
12 VAC 5-481-1090	Amended	24:18 VA.R. 2633	6/12/08
12 VAC 5-481-1100	Amended	24:18 VA.R. 2633	6/12/08
12 VAC 5-481-1110	Amended	24:18 VA.R. 2633	6/12/08

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

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
12 VAC 5-481-1130	Amended	24:18 VA.R. 2634	6/12/08
12 VAC 5-481-1151	Added	24:18 VA.R. 2634	6/12/08
12 VAC 5-481-1160	Repealed	24:18 VA.R. 2635	6/12/08
12 VAC 5-481-1161	Added	24:18 VA.R. 2635	6/12/08
12 VAC 5-481-1190	Amended	24:18 VA.R. 2637	6/12/08
12 VAC 5-481-1200	Amended	24:18 VA.R. 2638	6/12/08
12 VAC 5-481-1220 through 12 VAC 5-481-1250	Amended	24:18 VA.R. 2639-2640	6/12/08
12 VAC 5-481-1270	Amended	24:18 VA.R. 2640	6/12/08
12 VAC 5-481-1300	Amended	24:18 VA.R. 2640	6/12/08
12 VAC 5-481-1310	Amended	24:18 VA.R. 2641	6/12/08
12 VAC 5-481-1320	Amended	24:18 VA.R. 2641	6/12/08
12 VAC 5-481-1350	Amended	24:18 VA.R. 2644	6/12/08
12 VAC 5-481-1380	Amended	24:18 VA.R. 2644	6/12/08
12 VAC 5-481-1420	Amended	24:18 VA.R. 2644	6/12/08
12 VAC 5-481-1440	Amended	24:18 VA.R. 2644	6/12/08
12 VAC 5-481-1490	Amended	24:18 VA.R. 2645	6/12/08
12 VAC 5-481-1520	Amended	24:18 VA.R. 2645	6/12/08
12 VAC 5-481-1540	Repealed	24:18 VA.R. 2645	6/12/08
12 VAC 5-481-1550	Repealed	24:18 VA.R. 2646	6/12/08
12 VAC 5-481-1560	Amended	24:18 VA.R. 2646	6/12/08
12 VAC 5-481-1570	Amended	24:18 VA.R. 2647	6/12/08
12 VAC 5-481-1670 through 12 VAC 5-481-2040	Amended	24:18 VA.R. 2647-2650	6/12/08
12 VAC 5-481-2001	Added	24:18 VA.R. 2649	6/12/08
12 VAC 5-481-2050	Repealed	24:18 VA.R. 2650	6/12/08
12 VAC 5-481-2060	Amended	24:18 VA.R. 2651	6/12/08
12 VAC 5-481-2070	Amended	24:18 VA.R. 2651	6/12/08
12 VAC 5-481-2080	Amended	24:18 VA.R. 2651	6/12/08
12 VAC 5-481-2100	Amended	24:18 VA.R. 2651	6/12/08
12 VAC 5-481-2230	Amended	24:18 VA.R. 2652	6/12/08
12 VAC 5-481-2240	Amended	24:18 VA.R. 2653	6/12/08
12 VAC 5-481-2260	Amended	24:18 VA.R. 2653	6/12/08
12 VAC 5-481-2270	Amended	24:18 VA.R. 2653	6/12/08
12 VAC 5-481-2280	Amended	24:18 VA.R. 2654	6/12/08
12 VAC 5-481-2330	Amended	24:18 VA.R. 2654	6/12/08
12 VAC 5-481-2420	Amended	24:18 VA.R. 2654	6/12/08
12 VAC 5-481-2430	Amended	24:18 VA.R. 2655	6/12/08
12 VAC 5-481-2470	Amended	24:18 VA.R. 2655	6/12/08
12 VAC 5-481-2490	Amended	24:18 VA.R. 2655	6/12/08
12 VAC 5-481-2510	Amended	24:18 VA.R. 2656	6/12/08
12 VAC 5-481-2530	Amended	24:18 VA.R. 2656	6/12/08
12 VAC 5-481-2540	Amended	24:18 VA.R. 2656	6/12/08
12 VAC 5-481-2550	Amended	24:18 VA.R. 2657	6/12/08
12 VAC 5-481-2571	Added	24:18 VA.R. 2657	6/12/08
12 VAC 5-481-2572	Added	24:18 VA.R. 2659	6/12/08
12 VAC 5-481-2573	Added	24:18 VA.R. 2660	6/12/08
12 VAC 5-481-2660 through 12 VAC 5-481-2950	Amended	24:18 VA.R. 2660-2661	6/12/08
12 VAC 5-481-2970	Amended	24:18 VA.R. 2661	6/12/08
12 VAC 5-481-2980	Amended	24:18 VA.R. 2662	6/12/08
12 VAC 5-481-3000 through 12 VAC 5-481-3040	Amended	24:18 VA.R. 2663-2665	6/12/08
12 VAC 5-481-3070 through 12 VAC 5-481-3140	Amended	24:18 VA.R. 2667-2670	6/12/08
12 VAC 5-481-3050	Repealed	24:18 VA.R. 2665	6/12/08

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

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
12 VAC 5-481-3051	Added	24:18 VA.R. 2666	6/12/08
12 VAC 5-481-3091	Added	24:18 VA.R. 2668	6/12/08
12 VAC 5-481-3151	Added	24:18 VA.R. 2670	6/12/08
12 VAC 5-481-3160	Amended	24:18 VA.R. 2671	6/12/08
12 VAC 5-481-3200 through 12 VAC 5-481-3270	Amended	24:18 VA.R. 2671-2675	6/12/08
12 VAC 5-481-3241	Added	24:18 VA.R. 2673	6/12/08
12 VAC 5-481-3261	Added	24:18 VA.R. 2674	6/12/08
12 VAC 5-481-3290	Amended	24:18 VA.R. 2675	6/12/08
12 VAC 5-481-3300	Amended	24:18 VA.R. 2675	6/12/08
12 VAC 5-481-3340	Amended	24:18 VA.R. 2675	6/12/08
12 VAC 5-481-3350	Amended	24:18 VA.R. 2675	6/12/08
12 VAC 5-481-3400	Amended	24:18 VA.R. 2676	6/12/08
12 VAC 5-481-3430	Amended	24:18 VA.R. 2677	6/12/08
12 VAC 5-481-3440	Amended	24:18 VA.R. 2683	6/12/08
12 VAC 5-481-3480	Amended	24:18 VA.R. 2684	6/12/08
12 VAC 5-481-3490	Amended	24:18 VA.R. 2684	6/12/08
12 VAC 5-481-3510	Amended	24:18 VA.R. 2684	6/12/08
12 VAC 5-481-3520	Amended	24:18 VA.R. 2685	6/12/08
12 VAC 5-481-3530	Amended	24:18 VA.R. 2685	6/12/08
12 VAC 5-481-3560	Amended	24:18 VA.R. 2686	6/12/08
12 VAC 5-481-3580	Amended	24:18 VA.R. 2687	6/12/08
12 VAC 5-481-3600	Amended	24:18 VA.R. 2687	6/12/08
12 VAC 5-481-3610	Amended	24:18 VA.R. 2688	6/12/08
12 VAC 5-481-3650	Amended	24:18 VA.R. 2688	6/12/08
12 VAC 5-481-3670 through 12 VAC 5-481-3780	Repealed	24:18 VA.R. 2689-2715	6/12/08
12 VAC 30-80-30	Erratum	24:17 VA.R. 2473	--
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 30-120-700	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	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

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

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
12 VAC 35-105-115	Added	24:11 VA.R. 1372	3/5/08
<b>Title 13. Housing</b>			
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
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

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

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
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 10-180-10	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
<b>Title 14. Insurance</b>			
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 (Forms)	Amended	24:17 VA.R. 2452	--
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
<b>Title 16. Labor and Employment</b>			
16 VAC 25-90-1910.6	Added	24:16 VA.R. 2262	6/1/08
16 VAC 25-90-1910.68	Added	24:16 VA.R. 2262	6/1/08
16 VAC 25-90-1910.94	Added	24:16 VA.R. 2262	6/1/08
16 VAC 25-90-1910.103	Added	24:16 VA.R. 2262	6/1/08
16 VAC 25-90-1910.107	Added	24:16 VA.R. 2262	6/1/08
16 VAC 25-90-1910.110	Added	24:16 VA.R. 2262	6/1/08
16 VAC 25-90-1910.111	Added	24:16 VA.R. 2262	6/1/08
16 VAC 25-90-1910.132	Added	24:16 VA.R. 2263	6/1/08
16 VAC 25-90-1910.144	Added	24:16 VA.R. 2262	6/1/08
16 VAC 25-90-1910.243	Added	24:16 VA.R. 2262	6/1/08
16 VAC 25-90-1910.251	Added	24:16 VA.R. 2262	6/1/08
16 VAC 25-90-1910.253	Added	24:16 VA.R. 2262	6/1/08
16 VAC 25-90-1910.261	Added	24:16 VA.R. 2262	6/1/08
16 VAC 25-100-1915.152	Added	24:16 VA.R. 2263	6/1/08
16 VAC 25-120-1917.96	Added	24:16 VA.R. 2263	6/1/08
16 VAC 25-130-1918.106	Added	24:16 VA.R. 2263	6/1/08
16 VAC 25-175-1926.95	Added	24:16 VA.R. 2263	6/1/08
<b>Title 18. Professional and Occupational Licensing</b>			
18 VAC 15-20-451	Amended	24:17 VA.R. 2455	8/1/08
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 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

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

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
18 VAC 60-20-220	Amended	24:14 VA.R. 1951	4/16/08
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 85-20-226	Added	24:11 VA.R. 1404	3/5/08
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 85-40-35	Amended	24:11 VA.R. 1404	3/5/08
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 85-50-61	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 85-80-73	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 85-101-153	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 85-110-161	Added	24:11 VA.R. 1407	3/5/08
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 90-20-35	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
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 90-20-230	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 90-30-80	Erratum	24:18 VA.R. 2731-2732	--
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 95-20-80	Amended	24:16 VA.R. 2264	5/14/08
18 VAC 95-30-40	Amended	24:16 VA.R. 2264	5/14/08
18 VAC 110-20-10	Amended	24:8 VA.R. 983	1/23/08
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 110-20-530	Amended	24:16 VA.R. 2265	5/14/08
18 VAC 110-30-15	Amended	24:10 VA.R. 1290	2/20/08
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

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

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
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 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 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 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 135-60-60	Amended	24:9 VA.R. 1230	3/1/08
<b>Title 19. Public Safety</b>			
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 30-190-10 through 19 VAC 30-190-140	Added	24:11 VA.R. 1421-1423	3/6/08
<b>Title 22. Social Services</b>			
22 VAC 15-30-310	Amended	24:10 VA.R. 1295	3/6/08
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
<b>Title 23. Taxation</b>			
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
<b>Title 24. Transportation and Motor Vehicles</b>			
24 VAC 30-72-10 through 24 VAC 30-72-170	Added	24:17 VA.R. 2458-2466	7/1/08

---

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

---

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
24 VAC 30-72-30	Erratum	24:18 VA.R. 2732	--

---

# NOTICES OF INTENDED REGULATORY ACTION

---

## TITLE 8. EDUCATION

### STATE BOARD OF EDUCATION

#### Withdrawal of Notice of Intended Regulatory Action

Notice is hereby given that the State Board of Education has WITHDRAWN the Notice of Intended Regulatory Action for the promulgation of **8VAC20-720, Regulations Governing Local School Boards and School Divisions**, and the repeal of **8VAC20-150, Management of the Student's Scholastic Record in the Public Schools of Virginia**, **8VAC20-170, Regulations Governing Instructional Materials - Selection and Utilization By Local School Boards**, **8VAC20-180, Regulations Governing School Community Programs**, **8VAC20-240, Regulations Governing School Activity Funds**, **8VAC20-250, Regulations Governing the Testing of Sight and Hearing of Pupils**, **8VAC20-270, Regulations Governing Textbook Fund Management and Handling on Local Level**, **8VAC20-310, Rules Governing Instructions Concerning Drugs and Substance Abuse**, **8VAC20-320, Regulations Governing Physical and Health Education**, **8VAC20-390, Rules Governing Division Superintendent of Schools**, **8VAC20-410, Regulations Governing Allowable Credit for Teaching Experience**, **8VAC20-420, Regulations Governing Personnel in Public School Libraries Operated Under Joint Contract Under Control of Local School Board or Boards**, **8VAC20-460, Regulations Governing Sick Leave Plan for Teachers**, **8VAC20-490, Regulations Governing School Boards Local**, **8VAC20-565, Regulations for the Protection of Students as Participants in Human Research**, which was published in 23:24 V.A.R. 3995 August 6, 2007. The Notice of Intended Regulatory Action has been withdrawn in order to accommodate additional amendments as a result of 2008 legislative actions.

**Contact:** Dr. Margaret N. Roberts, Office of Policy & Communications, Department of Education, P.O. Box 2120, 101 N. 14th St., 25th Floor, Richmond, VA 23219, telephone 804-225-2540, FAX 804-225-2524, or email [margaret.roberts@doe.virginia.gov](mailto:margaret.roberts@doe.virginia.gov).

V.A.R. Doc. No. R07-740; Filed May 12, 2007, 10:13 a.m.

---

## TITLE 12. HEALTH

### STATE BOARD OF HEALTH

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with §2.2-4007.01 of the Code of Virginia that the State Board of Health intends to consider promulgating **12VAC5-411, Regulations for**

#### **Inpatient Hospital Licensure and amending 12 VAC5-410, Regulations for the Licensure of Hospitals in Virginia.**

The purpose of the proposed action is to amend the regulation entitled 12VAC5-410, Regulations for the Licensure of Hospitals in Virginia, by repealing sections of the regulation pertaining to inpatient hospitals and promulgating new regulations entitled 12VAC5-411, Regulations for Inpatient Hospital Licensure, that are more reflective of the changes occurring in the inpatient hospital industry while providing the necessary consistency in the provision of the adult care services and assuring safe, adequate and efficient hospital operation.

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

Statutory Authority: §32.1-127 of the Code of Virginia.

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

Agency Contact: Carrie Eddy, Policy Analyst Senior, Department of Health, 9960 Mayland Drive, Suite 401, Richmond, VA 23233, telephone (804) 367-2157, or email [carrie.eddy@vdh.virginia.gov](mailto:carrie.eddy@vdh.virginia.gov).

V.A.R. Doc. No. R08-1333; Filed May 19, 2008, 12:15 p.m.

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with §2.2-4007.01 of the Code of Virginia that the State Board of Health intends to consider amending the following regulations: **12VAC5-80, Regulations for Administration of the Virginia Hearing Impairment Identification and Monitoring System**. The purpose of the proposed action is to amend the regulations as a result of a periodic review. This is necessary to incorporate principles from the "Year 2007 Position Statement: Principles and Guidelines for Early Hearing Detection and Intervention Programs" published by the Joint Committee on Infant Hearing in 2007. The amended regulations will reflect changes in the nationally accepted standards for newborn hearing screening. The amended regulations will also reflect relevant changes in related state regulations.

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

Statutory Authority: §§32.1-12 and 32.1-64.1 of the Code of Virginia.

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

Agency Contact: Susan Tlusty, Department of Health, 109 Governor Street, Richmond, VA 23219, telephone (804) 864-7686, or email [susan.tlusty@vdh.virginia.gov](mailto:susan.tlusty@vdh.virginia.gov).

V.A.R. Doc. No. R08-1334; Filed May 19, 2008, 12:15 p.m.

---

# Notices of Intended Regulatory Action

---

## Notice of Intended Regulatory Action

Notice is hereby given in accordance with §2.2-4007.01 of the Code of Virginia that the State Board of Health intends to consider amending the following regulations: **12VAC5-475, Regulations Implementing the Virginia Organ and Tissue Donor Registry**. The purpose of the proposed action is to fulfill the statutory mandate to review the agency's regulations governing the Virginia Organ and Tissue Donor Registry and to protect the citizens of the Commonwealth. The goals of the board are to enhance the clarity of the regulations to achieve improvements that will be reasonable and prudent and will not impose an unnecessary burden on users of the Virginia Donor Registry or the public.

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

Statutory Authority: §32.1-292.2 of the Code of Virginia.

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

Agency Contact: Janice Hicks, Department of Health, 109 Governor Street, Richmond, VA 23219, telephone (804) 864-7662, FAX (804) 864-7670, or email [janice.hicks@vdh.virginia.gov](mailto:janice.hicks@vdh.virginia.gov).

VA.R. Doc. No. R08-1335; Filed May 19, 2008, 12:16 p.m.

## Notice of Intended Regulatory Action

Notice is hereby given in accordance with §2.2-4007.01 of the Code of Virginia that the State Board of Health intends to consider amending the following regulations: **12VAC5-520, Regulations Governing the Dental Scholarship and Loan Repayment Programs**. The purpose of the proposed action is to resolve ambiguities in language and improve the ease of administration of the program by (i) more clearly defining certain terms used in the regulation, (ii) adding information about the time limits for application of dental specialists such as oral surgeons, (iii) removing the criteria that scholarships be awarded prior to loan repayment, (iv) removing the provision that allows dentists who default on their scholarship contract and later fulfill their obligation to be reimbursed for moneys paid, (v) clarifying and making consistent the terms of default and restitution, and (vi) shortening the response time to requests from the commissioner from 60 to 30 days.

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

Statutory Authority: §32.1-122.9 of the Code of Virginia.

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

Agency Contact: Elizabeth Barrett, Department of Health, 109 Governor Street, Richmond, VA 23219, telephone (804) 864-7824, or email [elizabeth.barrett@vdh.virginia.gov](mailto:elizabeth.barrett@vdh.virginia.gov).

VA.R. Doc. No. R08-1336; Filed May 19, 2008, 12:16 p.m.

## Notice of Intended Regulatory Action

Notice is hereby given in accordance with §2.2-4007.01 of the Code of Virginia that the State Board of Health intends to consider promulgating the following regulations: **12VAC5-612, Regulations for the Onsite Sewage Indemnification Fund**. The purpose of the proposed action is to propose regulations to administer the onsite sewage indemnification fund (fund). The fund assists any Virginia real property owner holding a valid septic tank or other onsite sewage system permit when the system fails within three years of its construction due to the negligence of the Virginia Department of Health. The regulations will (i) provide notice of the fund, (ii) establish the procedure for Virginia real property owners to apply for assistance from the fund, and (iii) establish the procedure for investigating and processing requests for assistance from the fund.

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

Statutory Authority: §32.1-164.1:01 of the Code of Virginia.

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

Agency Contact: Allen Knapp, Environmental Health Coordinator, Department of Health, 109 Governor Street, Richmond, VA 23219, telephone (804) 864-7458, FAX (804) 864-7476, or email [allen.knapp@vdh.virginia.gov](mailto:allen.knapp@vdh.virginia.gov).

VA.R. Doc. No. R08-1337; Filed May 19, 2008, 12:17 p.m.

## Notice of Intended Regulatory Action

Notice is hereby given in accordance with §2.2-4007.01 of the Code of Virginia that the State Board of Health intends to consider amending the following regulations: **12VAC5-160, Regulations for the Sanitary Control of the Picking, Packing and Marketing of Crab Meat for Human Consumption** and **12VAC5-165, Regulations for the Repacking of Crab Meat**. The purpose of the proposed action is to clarify certification requirements, remove standards that have no force of law and modify repacking requirements pertaining to crab meat.

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

Statutory Authority: §28.2-801 of the Code of Virginia.

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

Agency Contact: Bob Croonenberghs, PhD, Director, Shellfish Sanitation, Department of Health, 109 Governor Street, Richmond, VA 23219, or email [bob.croonenberghs@vdh.virginia.gov](mailto:bob.croonenberghs@vdh.virginia.gov).

VA.R. Doc. No. R08-1338; Filed May 19, 2008, 12:17 p.m.

---

# Notices of Intended Regulatory Action

---

## Notice of Intended Regulatory Action

Notice is hereby given in accordance with §2.2-4007.01 of the Code of Virginia that the State Board of Health intends to consider amending the following regulations: **12VAC5-110, Regulations for the Immunization of School Children**. The purpose of the proposed action is to update the regulation in accordance with 2006 and 2007 changes in the law calling for compliance with current nationally recognized immunization practices.

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

Statutory Authority: §§32.1-12 and 32.1-46 of the Code of Virginia.

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

Agency Contact: James Farrell, Director, Division of Immunization, Department of Health, 109 Governor Street, Richmond, VA 23219, telephone (804) 864-8055, or email james.farrell@vdh.virginia.gov.

VA.R. Doc. No. R08-1339; Filed May 19, 2008, 12:18 p.m.

## DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with §2.2-4007.01 of the Code of Virginia that the Board of Medical Assistance Services intends to consider promulgating the following regulations: **12VAC30-120, Waivered Services**. The purpose of the proposed action is consolidate seven groups of regulatory sections found in 12VAC30-120, Waivered Services, to the extent possible, and break out separate regulatory sections for each of the waiver programs to address those unique elements of each program, such as some definitions, service descriptions or eligibility requirements, that are distinct from the other waiver programs. Each of these seven groups of sections address different home- and community-based long-term care Medicaid waiver programs. DMAS intends to fully involve advocates and the affected members of the public to ensure that the resulting 12VAC30-120 is more user friendly and succinct, while maintaining the separate and distinct character of each set of waiver program regulations. In doing so, the agency's goal is to foster greater efficiency without sacrificing any program integrity among the waivers.

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

Statutory Authority: §§32.1-324 and 32.1-325 of the Code of Virginia.

Public Comments: Public comments may be submitted until July 9, 2008.

Agency Contact: Brian McCormick, Regulatory Coordinator, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 371-8856, FAX (804) 786-1680, or email brian.mccormick@dmas.virginia.gov.

VA.R. Doc. No. R08-1142; Filed May 19, 2008, 3:14 p.m.

---

## TITLE 16. LABOR AND EMPLOYMENT

### SAFETY AND HEALTH CODES BOARD

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with §2.2-4007.01 of the Code of Virginia that the Safety and Health Codes Board intends to consider amending the following regulations: **16VAC25-50, Boiler and Pressure Vessel Regulations**. The purpose of the proposed action is to amend the regulation to provide both increased protection of human life and property from the unsafe or dangerous construction, installation, inspection, operation, and repair of boilers and pressure vessels in the Commonwealth of Virginia and to address the costs of doing business. Changes being considered include (i) updating the regulation for consistency with the most recent editions of forms or national and international documents incorporated by reference into the regulations and (ii) monetary increases to primarily cover direct administrative costs or to reflect a cost-of-living adjustment.

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

Statutory Authority: §40.1-51.6 of the Code of Virginia.

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

Agency Contact: Ed Hilton, Director, Boiler Safety Compliance, Department of Labor and Industry, Powers-Taylor Building, 13 South 13th Street, Richmond, VA 23219, telephone (804) 786-2389, FAX (804) 371-2324, TTY (804) 785-2376, or email ed.hilton@doli.virginia.gov.

VA.R. Doc. No. R08-1235; Filed May 20, 2008, 9:12 a.m.

---

## TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

### BOARD OF ACCOUNTANCY

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with §2.2-4007.01 of the Code of Virginia that the Board of Accountancy intends to consider amending the following regulations: **18VAC5-21,**

---

# Notices of Intended Regulatory Action

---

**Board of Accountancy Regulations.** The purpose of the proposed action is to ensure that future revenues are sufficient to cover agency operating expenses and build cash balances in the Special Enforcement Fund.

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

Statutory Authority: §54.1-4403 of the Code of Virginia.

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

Agency Contact: Nancy Taylor Feldman, Executive Director, Board of Accountancy, 3600 West Broad Street, Suite 378, Richmond, VA 23230-4916, telephone (804) 367-8540, FAX (804) 367-2174, TTY (804) 367-9753, or email [boa@boa.virginia.gov](mailto:boa@boa.virginia.gov).

VA.R. Doc. No. R08-1113; Filed May 16, 2008, 5:04 p.m.

## BOARD OF NURSING

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with §2.2-4007.01 of the Code of Virginia that the Board of Nursing intends to consider amending the following regulations: **18VAC90-20, Regulations Governing the Practice of Nursing.** The purpose of the proposed action is to respond to a petition for rulemaking requesting elimination of the Commission on Graduates of Foreign Nursing Schools (CGFNS) examination for foreign-trained nurses and to consider the criteria necessary for minimal competency.

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

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

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

Agency Contact: Jay P. Douglas, R.N., Executive Director, Board of Nursing, 9960 Mayland Drive, Suite 300, Richmond, VA 23233-1463, telephone (804) 367-4515, FAX (804) 527-4455, or email [jay.douglas@dhp.virginia.gov](mailto:jay.douglas@dhp.virginia.gov).

VA.R. Doc. No. R08-04; Filed May 20, 2008, 8:35 a.m.

## BOARD OF PHARMACY

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with §2.2-4007.01 of the Code of Virginia that the Board of Pharmacy intends to consider amending the following regulations: **18VAC110-20, Regulations Governing the Practice of Pharmacy.** The purpose of the proposed action is to add a section on unprofessional conduct to address certain issues and licensee conduct that has been problematic.

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

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

Public Comments: Public comments may be submitted until 5 p.m. on July 9, 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 [scottirussell@dhp.virginia.gov](mailto:scottirussell@dhp.virginia.gov).

VA.R. Doc. No. R08-1341; Filed May 20, 2008, 8:43 a.m.

## BOARD OF SOCIAL WORK

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with §2.2-4007.01 of the Code of Virginia that the Board of Social Work intends to consider amending the following regulations: **18VAC140-20, Regulations Governing the Practice of Social Work.** The purpose of the proposed action is to consider amendments to further define a clinical course of study in the educational requirements for licensure as a clinical social worker.

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

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

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

Agency Contact: Evelyn B. Brown, Executive Director, Board of Social Work, 9960 Mayland Drive, Suite 300, Richmond, VA 23233-1463, telephone (804) 367-4488, FAX (804)

---

# 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

#### Final Regulation

**REGISTRAR'S NOTICE:** The Board of Agriculture and Consumer Services is claiming an exemption from the Administrative Process Act pursuant to §2.2-4002 A 21 of the Code of Virginia when adopting, amending, or repealing regulations pursuant to §59.1-156 A (ii) of the Code of Virginia.

**Title of Regulation:** 2VAC5-420. Regulations for the Enforcement of the Virginia Gasoline and Motor Fuel Law (amending 2VAC5-420-30, 2VAC5-420-80).

**Statutory Authority:** §§59.1-153 and 59.1-156 of the Code of Virginia.

**Effective Date:** May 21, 2008.

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

#### Summary:

*This regulation establishes the following mandates relating to the sales and distribution of gasoline and other motor fuels in this state: (i) specifies minimum standards for motor fuel quality; (ii) requires gasoline and other motor fuels have specific pump labeling; (iii) specifies methods of sampling and testing; (iv) requires the registration of all retail motor fuels; and (v) specifies means of compliance and methods of enforcement.*

*The U.S. Environmental Protection Agency's mandated phase-in of Renewable Fuel Standard Requirements increases the amount of ethanol required to be added to gasoline distributed and sold in the United States. However, the motor fuel quality testing standards currently prescribed in this regulation are incompatible with the gasoline-ethanol blends coming to market in the Commonwealth. Thus, the following amendments are sought to:*

*1. Provide that the specific method for the testing of gasoline is the latest version of ASTM D 4814, "Standard*

*Specification for Automotive Spark Ignition Engine Fuel."*

*2. Specify that volatility standards for gasoline-ethanol blends shall not be more restrictive than those of the EPA.*

*3. Allow three different options for the blending of gasoline with ethanol at concentrations up to 10% by volume.*

*4. Prescribe a maximum percentage by volume of undissolved water and sediment.*

*5. Prescribe seasonal vapor pressure requirements for the gasoline-ethanol blends.*

*6. Provide that the specific method for the testing of diesel fuel is the latest version of ASTM D 975, "Standard Specification of Diesel Fuel Oils."*

#### 2VAC5-420-30. Specifications for gasoline and diesel fuel.

A. Gasoline. Gasoline shall meet the requirements of the following specifications when tested in compliance with the latest version of the ~~American Society for Testing and Materials (ASTM)~~ ASTM International (formerly the American Society for Testing and Materials) Test Methods or other test methods specified below:

Specification	Test Method ASTM
<del>1. Distillation:</del>	<del>D86</del>
<del>a. Percent evaporated during months of: January, February, November, and December at 50°C (122°F)</del>	
<del>Minimum</del>	10%
<del>March, April, May, September, and October at 55°C (131°F)</del>	
<del>Minimum</del>	10%
<del>June, July, and August at 70°C (158°F)</del>	
<del>Minimum</del>	10%
<del>b. Percent evaporated during months of: January, February, November, and December at 110°C (230°F)</del>	
<del>Minimum</del>	50%
<del>March, April, May, September,</del>	50%

and October at 113°C (235°F) Minimum	
June, July, and August at 121°C (250°F) Minimum	50%
e. Percent evaporated during the months of: January, February, March, April, May, September, October, November, and December at 185°C (365°F) Minimum	90%
June, July, and August at 190°C (374°F) Minimum	90%
End point, maximum 225°C (437°F)	
Residue, percent maximum	2%

2. a. Reid vapor pressure at 100°F, pounds per square inch (psi)

Test Method ASTM D4953 or D5191 for both oxygenated or nonoxygenated fuels.

Throughout the Commonwealth of Virginia, except for the nonattainment areas specified below during the period specified below, the Reid vapor pressure standard shall be:

June 1 to September 15	9.0 psi.
September 16 to 30	13.5 psi.
Maximum during months of March, April, May and October	13.5 psi.
Maximum during months of November, December, January, and February	15.0 psi.

For the nonattainment areas specified in Section 3 A 2 (ii) below, the Reid vapor pressure standard shall be:

Maximum during period:	
June 1 to September 15	7.8psi.

b. The nonattainment areas referred to in subsection A 2 a of this section are:

(1) The Northern Virginia nonattainment area which includes the counties of Arlington, Fairfax, Loudoun, Prince William, Stafford, and includes the cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park.

(2) The Richmond nonattainment area which includes the counties of Charles City, Chesterfield, Hanover, Henrico, and includes the cities of Colonial Heights, Hopewell, and Richmond.

(3) The Hampton Roads nonattainment area which includes the counties of James City, York, and includes the cities of Chesapeake, Hampton, Newport News, Norfolk, Poquoson, Portsmouth, Suffolk, Virginia Beach, and Williamsburg.

The Reid vapor pressure values specified in subdivision A 2 of this section shall be increased one psi for gasoline ethanol blends containing at least 9.0% but not more than 10% ethanol by volume.

e. Throughout the Commonwealth of Virginia, from May 1 to May 31 of each year, gasoline refiners, gasoline importers, gasoline pipeline operators, and gasoline terminal operators shall supply fuel with a maximum Reid vapor pressure standard of 9.0 psi.

3. Undissolved water and sediment, percent by volume, maximum 0.01% VDACS Method of Test<sup>1</sup>

4. Existent gum, 5 mg. per 100 ml., maximum ASTM D381

5. The octane number shall not be more than one octane number below the octane number filed in connection with registration. ASTM D2699 and D2700

6. Gasoline labeled as "unleaded," "no lead," or "lead free" shall not contain more than 0.05 grams lead per gallon and not more than 0.005 grams of phosphorus per gallon. ASTM Lead: D3237 Phosphorus: D3231

<sup>1</sup>The calculation for the V.D.A.C.S. Method of Test is as follows:

$$\frac{\text{Volume of water and/or sediment}}{\text{Total volume of sample}} \times 100 = \text{Water and/or Sediment}$$

B. Diesel fuel. Diesel fuel shall meet the requirements of the following specifications when tested in compliance with the latest version of the American Society for Testing and Materials Test Methods specified below:

# Regulations

Specification		ASTM Method
1. Flash point, degrees F minimum		D93
(If registered and labeled as #1 Diesel)	100°F	
(If registered and labeled as #2 Diesel)	125°F	
2. Water and sediment, percent by volume, maximum	0.05%	D1796
3. Sulfur, percent by weight maximum	0.5%	D2622 (D129 shall be the referee method)
4. Cetane number, minimum	40	D613
5. 90 percent distillation point, degrees, F maximum	640°F	D86
6. Corrosion—ASTM copper strip scale maximum	No. 3	D130  3 hours at 50°C

ASTM D 4814-07b, "Standard Specification for Automotive Spark Ignition Engine Fuel," except that volatility standards for unleaded gasoline blended with ethanol shall not be more restrictive than those adopted under the rules, regulations, and Clean Air Act waivers of the U.S. Environmental Protection Agency. Gasoline blended with ethanol at concentrations up to 10% by volume shall be blended under any of the following three options:

1. The base gasoline used in such blends shall meet the requirements of ASTM D 4814 and the ethanol shall meet the requirements of ASTM D 4806-07a, "Standard Specification for Denatured Fuel Ethanol for Blending with Gasolines for Use as Automotive Spark-Ignition Engine Fuel," with the following exceptions applicable to the gasoline-ethanol blend:

- a. The distillation minimum temperature at the 50 volume percent evaporated point shall not be less than 66°C (150°F);
- b. The vapor/liquid ratio specification is waived for gasoline-ethanol blends of up to 10% ethanol;

2. The blend shall meet the requirements of ASTM D 4814; or

3. The base gasoline used in such blends shall meet all the requirements of ASTM D 4814 except distillation, and the blend shall meet the distillation requirements of ASTM D 4814.

Undissolved water and sediment, percent by volume, maximum 0.01% as determined by Virginia Department of Agriculture and Consumer Services (VDACS) Method of Test. The calculation for the VDACS Method of Test is as follows:

Volume of water and/or sediment ÷ total volume of sample x 100 = Percent Water and/or Sediment.

B. Blends of gasoline and ethanol shall meet the following vapor pressure requirements:

1. During the period between June 1 and September 15 of each calendar year, blends containing 9.0% ethanol by volume and a maximum of 10% ethanol by volume shall not exceed the ASTM D 4814 vapor pressure limits by more than 1.0 psi. All other blend concentrations shall meet the ASTM D 4814 vapor pressure limits.

2. During the period between September 16 and May 31 of each calendar year, all blends of gasoline and ethanol shall not exceed the ASTM D 4814 vapor pressure standard by more than 1.0 psi.

C. Diesel fuel. Diesel fuel shall meet the requirements of ASTM D 975-08, "Standard Specification for Diesel Fuel Oils."

## **2VAC5-420-80. Notation for documents incorporated by reference.**

Test methods published by the ASTM and incorporated by reference in this chapter are available from:

American Society for Testing and Materials  
1916 Race Street  
Philadelphia, Pennsylvania 19103  
Phone: (215) 299-5585

ASTM International  
100 Barr Harbor Drive, P.O. Box C700  
West Conshohocken, PA 19428  
[www.astm.org](http://www.astm.org)

## DOCUMENTS INCORPORATED BY REFERENCE

ASTM D975-08, Standard Specification for Diesel Fuel Oils, ASTM International, West Conshohocken, PA, ([www.astm.org](http://www.astm.org)).

~~ASTM Research Method D2699~~ ASTM D2699-07a, Standard Test Method for Research Octane Number of Spark-Ignition Engine Fuel, ASTM International, West Conshohocken, PA, ([www.astm.org](http://www.astm.org)).

ASTM Motor Method D2700 ASTM D2700-07b, Standard Test Method for Motor Octane Number of Spark-Ignition Engine Fuel, ASTM International, West Conshohocken, PA, ([www.astm.org](http://www.astm.org)).

ASTM D4806-07a, Standard Specification for Denatured Fuel Ethanol for Blending with Gasolines for Use as Automotive Spark-Ignition Engine Fuel, ASTM International, West Conshohocken, PA, ([www.astm.org](http://www.astm.org)).

ASTM D4814-07b, Standard Specification for Automotive Spark-Ignition Engine Fuel, ASTM International, West Conshohocken, PA, ([www.astm.org](http://www.astm.org)).

VA.R. Doc. No. R08-1221; Filed May 21, 2008, 11:36 a.m.

## TITLE 4. CONSERVATION AND NATURAL RESOURCES

### VIRGINIA SOIL AND WATER CONSERVATION BOARD

#### Final Regulation

**REGISTRAR'S NOTICE:** The following regulation filed by the Virginia Soil and Water Conservation Board is exempt from the Administrative Process Act in accordance with §2.2-4006 A 9 of the Code of Virginia, which exempts general permits issued by the Virginia Soil and Water Conservation Board pursuant to the Virginia Stormwater Management Act (§10.1-603.1 et seq.) of Title 10.1, if the board (i) provides a Notice of Intended Regulatory Action in conformance with the provisions of §2.2-4007.01, (ii) following the passage of 30 days from the publication of the Notice of Intended Regulatory Action, forms a technical advisory committee composed of relevant stakeholders, including potentially affected citizens groups, to assist in the development of the general permit, (iii) provides notice and receives oral and written comment as provided in §2.2-4007.03, and (iv) conducts at least one public hearing on the proposed general permit.

**Title of Regulation:** 4VAC50-60. Virginia Stormwater Management Program (VSMP) Permit Regulations (amending 4VAC50-60-10, 4VAC50-60-1200, 4VAC50-60-1210, 4VAC50-60-1220, 4VAC50-60-1230, 4VAC50-60-1240).

**Statutory Authority:** §10.1-603.4 of the Code of Virginia.

**Effective Date:** July 9, 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](mailto:david.dowling@dcr.virginia.gov).

#### Summary:

*This regulatory action amends the General Virginia Stormwater Management Program (VSMP) Permit for Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (small MS4s). This action is authorized under the federal Clean Water Act (33 USC §1251 et seq.) and the Virginia Stormwater Management Act (§10.1-603.1 et seq. of the Code of Virginia), and is necessary to update and reissue the general permit, as the current permit expired on December 9, 2007 (coverage under the current permit will be administratively continued until the proposed permit becomes effective for those coverage holders who submitted a registration statement by December 7, 2007). The amendments serve to advance water quality protections to the maximum extent practicable, ensure compliance by the MS4 operator with water quality standards, forward water quality improvements where a wasteload allocation from a TMDL has been assigned to an MS4 prior to the effective date of the permit (unless reopened), provide greater clarity to facility operators as how to administer and improve/advance their MS4 programs, allow for greater consistency in program application between facility operators, and specify sampling protocols and necessary reporting requirements where applicable.*

*The key changes to this permit include:*

- 1. Updating and adding needed definitions such as "maximum extent practicable," "TMDL," "wasteload allocation," "water quality standards" and "MS4 program plan."*
- 2. Updating exemptions and special situations associated with general permit coverage such as de minimis discharges, discharges resulting from spills beyond the operator's control, and portions of an MS4 covered under an industrial stormwater discharge VPDES permit.*
- 3. Updating registration statement requirements such as submittal deadlines and filing information (type of facility, HUC codes that receive discharges, acreage of drainage area discharging to impaired waters, and listing any wasteload allocations to the MS4) including specifying the elements of an MS4 Program Plan (proposed best management practices to be implemented, their associated goals, and an implementation schedule that is established by the MS4).*
- 4. Specifying special procedures within the general permit that a regulated small MS4 shall employ if a wasteload allocation (WLA) as part of a TMDL has been assigned to the MS4 prior to the effective date of the permit (unless reopened), including:*
  - a. MS4 Program Plan updates within 18 months of permit coverage to include measurable goals, strategies and implementation schedules to address the WLA;*

---

## Regulations

---

*b. Development of a schedule to implement procedures and strategies that address MS4 Program weaknesses, such as timetables to update ordinances and legal authorizes, best management practices, policies, plans, procedures and contracts to ensure consistency with the assumptions of the TMDL WLA;*

*c. Outfall reconnaissance procedures for outfalls discharging to the surface water to which the WLA has been assigned;*

*d. For operator-owned or operated property not covered under a separate VPDES permit, pollutant identification and sampling procedures; and*

*e. An estimated annual characterization of the volume of stormwater discharged and the quantity of the pollutant identified in the WLA discharged.*

*5. Specifying that a Municipal Separate Storm Sewer System Management Program shall reduce pollutants from the MS4 to the maximum extent practicable, address impaired waters that the MS4 discharges into, protect water quality, and address WLAs, as well as establish a schedule for MS4 Program Plan Review and submittal.*

*6. Clarifying and expanding minimum criteria within the general permit associated with the six minimum control practices that are:*

*a. Public education and outreach. Requires the operator to increase individual and household knowledge of steps to reduce stormwater pollution; increase public employee, business and general public knowledge of the hazards associated with illegal discharges and improper disposal of waste; increase local involvement in water quality improvement initiatives; increase strategies to reach diverse, disadvantaged, and minority audiences as well as special concerns related to children, and target strategies towards local groups of commercial, industrial, and institutional entities likely to have stormwater impacts.*

*b. Public involvement/participation. Requires the operator to promote the availability and provide public notice of the MS4 Program Plan and any modifications for public review and comment, provide public access to the annual report, and to participate in local activities aimed at increasing public participation in the reduction of stormwater pollutant loads and in improving water quality.*

*c. Illicit discharge detection and elimination. Requires the operator to develop, implement and enforce an illicit discharge detection and elimination program, maintain a storm sewer system map, effectively prohibit nonstormwater discharges into the storm sewer system, develop procedures to detect and address nonstormwater discharges, and prevent to the maximum extent*

*practicable the discharge of hazardous substances or oil in stormwater discharges.*

*d. Construction site stormwater runoff control. Requires program consistency with the Erosion and Sediment Control Law and attendant regulations.*

*e. Postconstruction stormwater management in new development and redevelopment. Requires program consistency with the Virginia Stormwater Management Act and attendant regulations.*

*f. Pollution prevention/good housekeeping for municipal operations. Requires municipal operations to reduce pollutant discharges, eliminate illicit discharges, dispose of waste materials properly, protect soluble or erodible materials from precipitation, apply fertilizers and pesticides appropriately, and for state agencies to develop and implement nutrient management plans.*

*7. Establishing a program self-evaluation requirement once every five years in accordance with EPA guidance.*

*8. Clarifying minimum reporting requirements such as submittal of MS4 Program Plan updates, WLA pollutant reduction estimates, number of illicit discharges identified and how they were controlled or eliminated, information regarding new stormwater management facilities brought online, and a list of agreements with third parties for the implementation of control measures, as well as establishing a time schedule for reporting (by October 1st of each year for the previous July 1 – June 30).*

*9. Refining the basic EPA boilerplate language that applies to all VSMP permits.*

*10. Updating the incorporated General Permit Registration Statement form to track the amended regulation.*

### **4VAC50-60-10. Definitions.**

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

"Adequate channel" means a channel that will convey the designated frequency storm event without overtopping the channel bank nor causing erosive damage to the channel bed or banks.

"Administrator" means the Administrator of the United States Environmental Protection Agency or an authorized representative.

"Applicable standards and limitations" means all state, interstate, and federal standards and limitations to which a discharge or a related activity is subject under the Clean Water Act (CWA) (33 USC §1251 et seq.) and the Act, including effluent limitations, water quality standards, standards of performance, toxic effluent standards or

prohibitions, best management practices, and standards for sewage sludge use or disposal under §§301, 302, 303, 304, 306, 307, 308, 403 and 405 of CWA.

"Approval authority" means the Virginia Soil and Water Conservation Board or their designee.

"Approved program" or "approved state" means a state or interstate program that has been approved or authorized by EPA under 40 CFR Part 123 (2000).

"Aquatic bench" means a 10- to 15-foot wide bench around the inside perimeter of a permanent pool that ranges in depth from zero to 12 inches. Vegetated with emergent plants, the bench augments pollutant removal, provides habitats, conceals trash and water level fluctuations, and enhances safety.

"Average land cover condition" means a measure of the average amount of impervious surfaces within a watershed, assumed to be 16%. Note that a locality may opt to calculate actual watershed-specific values for the average land cover condition based upon 4VAC50-60-110.

"Average monthly discharge limitation" means the highest allowable average of daily discharges over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month.

"Average weekly discharge limitation" means the highest allowable average of daily discharges over a calendar week, calculated as the sum of all daily discharges measured during a calendar week divided by the number of daily discharges measured during that week.

"Best management practice (BMP)" means schedules of activities, prohibitions of practices, including both a structural or nonstructural practice, maintenance procedures, and other management practices to prevent or reduce the pollution of surface waters and groundwater systems from the impacts of land-disturbing activities. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

"Bioretention basin" means a water quality BMP engineered to filter the water quality volume through an engineered planting bed, consisting of a vegetated surface layer (vegetation, mulch, ground cover), planting soil, and sand bed, and into the in-situ material.

"Bioretention filter" means a bioretention basin with the addition of a sand filter collector pipe system beneath the planting bed.

"Board" means the Virginia Soil and Water Conservation Board.

"Bypass" means the intentional diversion of waste streams from any portion of a treatment facility.

"Channel" means a natural or manmade waterway.

"Constructed wetlands" means areas intentionally designed and created to emulate the water quality improvement function of wetlands for the primary purpose of removing pollutants from stormwater.

"Construction activity" means any clearing, grading or excavation associated with large construction activity or associated with small construction activity.

"Contiguous zone" means the entire zone established by the United States under Article 24 of the Convention on the Territorial Sea and the Contiguous Zone (37 FR 11906).

"Continuous discharge" means a discharge which occurs without interruption throughout the operating hours of the facility, except for infrequent shutdowns for maintenance, process changes, or other similar activities.

"Control measure" means any best management practice or other method used to prevent or reduce the discharge of pollutants to surface waters.

"~~Co-permittee~~ Co-operator" means ~~a permittee~~ an operator to a VSMP permit that is only responsible for permit conditions relating to the discharge for which it is the operator.

"CWA" means the federal Clean Water Act (33 USC §1251 et seq.), formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972, Public Law 92-500, as amended by Public Law 95-217, Public Law 95-576, Public Law 96-483, and Public Law 97-117, or any subsequent revisions thereto.

"CWA and regulations" means the Clean Water Act (CWA) and applicable regulations promulgated thereunder. For the purposes of this chapter, it includes state program requirements.

"Daily discharge" means the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the daily discharge is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurement, the daily discharge is calculated as the average measurement of the pollutant over the day.

"Department" means the Department of Conservation and Recreation.

"Development" means a tract of land developed or to be developed as a unit under single ownership or unified control which is to be used for any business or industrial purpose or is to contain three or more residential dwelling units.

"Direct discharge" means the discharge of a pollutant.

---

# Regulations

---

"Director" means the Director of the Department of Conservation and Recreation or his designee.

"Discharge," when used without qualification, means the discharge of a pollutant.

"Discharge of a pollutant" means:

1. Any addition of any pollutant or combination of pollutants to surface waters from any point source; or
2. Any addition of any pollutant or combination of pollutants to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft which is being used as a means of transportation.

This definition includes additions of pollutants into surface waters from: surface runoff that is collected or channeled by man; discharges through pipes, sewers, or other conveyances owned by a state, municipality, or other person that do not lead to a treatment works; and discharges through pipes, sewers, or other conveyances, leading into privately owned treatment works. This term does not include an addition of pollutants by any indirect discharger.

"Discharge Monitoring Report (~~DMR~~) or "DMR" means the form supplied by the department, or an equivalent form developed by the ~~permittee operator~~ and approved by the board, for the reporting of self-monitoring results by ~~permittees operators~~.

"Draft permit" means a document indicating the board's tentative decision to issue or deny, modify, revoke and reissue, terminate, or reissue a permit. A notice of intent to terminate a permit, and a notice of intent to deny a permit are types of draft permits. A denial of a request for modification, revocation and reissuance, or termination is not a draft permit. A proposed permit is not a draft permit.

"Effluent limitation" means any restriction imposed by the board on quantities, discharge rates, and concentrations of pollutants which are discharged from point sources into surface waters, the waters of the contiguous zone, or the ocean.

"Effluent limitations guidelines" means a regulation published by the administrator under §304(b) of the CWA to adopt or revise effluent limitations.

"Environmental Protection Agency (EPA)" means the United States Environmental Protection Agency.

"Existing permit" means for the purposes of this chapter a permit issued by the permit-issuing authority and currently held by a permit applicant.

"Existing source" means any source that is not a new source or a new discharger.

"Facilities or equipment" means buildings, structures, process or production equipment or machinery that form a permanent part of a new source and that will be used in its

operation, if these facilities or equipment are of such value as to represent a substantial commitment to construct. It excludes facilities or equipment used in connection with feasibility, engineering, and design studies regarding the new source or water pollution treatment for the new source.

"Facility or activity" means any VSMP point source or treatment works treating domestic sewage or any other facility or activity (including land or appurtenances thereto) that is subject to regulation under the VSMP program.

"Flooding" means a volume of water that is too great to be confined within the banks or walls of the stream, water body or conveyance system and that overflows onto adjacent lands, causing or threatening damage.

"General permit" means a VSMP permit authorizing a category of discharges under the CWA and the Act within a geographical area.

"Grassed swale" means an earthen conveyance system which is broad and shallow with erosion resistant grasses and check dams, engineered to remove pollutants from stormwater runoff by filtration through grass and infiltration into the soil.

"Hazardous substance" means any substance designated under the Code of Virginia and 40 CFR Part 116 (2000) pursuant to §311 of the CWA.

"Hydrologic Unit Code" or "HUC" means a watershed unit established in the most recent version of Virginia's 6th Order National Watershed Boundary Dataset.

"Illicit discharge" means any discharge to a municipal separate storm sewer that is not composed entirely of stormwater, except discharges pursuant to a VPDES or VSMP permit (other than the VSMP permit for discharges from the municipal separate storm sewer), discharges resulting from fire fighting activities, and discharges identified by and in compliance with 4VAC50-60-1220 C 2.

"Impervious cover" means a surface composed of any material that significantly impedes or prevents natural infiltration of water into soil. Impervious surfaces include, but are not limited to, roofs, buildings, streets, parking areas, and any concrete, asphalt, or compacted gravel surface.

"Incorporated place" means a city, town, township, or village that is incorporated under the Code of Virginia.

"Indian country" means (i) all land within the limits of any Indian reservation under the jurisdiction of the United States government, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation; (ii) all dependent Indian communities with the borders of the United States whether within the originally or subsequently acquired territory thereof, and whether within or without the limits of a state; and (iii) all Indian allotments, the Indian

titles to which have not been extinguished, including rights-of-way running through the same.

"Indirect discharger" means a nondomestic discharger introducing "pollutants" to a "publicly owned treatment works (POTW)."

~~"Individual control strategy" means a final VSMP permit with supporting documentation showing that effluent limits are consistent with an approved wasteload allocation or other documentation that shows that applicable water quality standards will be met not later than three years after the individual control strategy is established.~~

"Infiltration facility" means a stormwater management facility that temporarily impounds runoff and discharges it via infiltration through the surrounding soil. While an infiltration facility may also be equipped with an outlet structure to discharge impounded runoff, such discharge is normally reserved for overflow and other emergency conditions. Since an infiltration facility impounds runoff only temporarily, it is normally dry during nonrainfall periods. Infiltration basin, infiltration trench, infiltration dry well, and porous pavement shall be considered infiltration facilities.

"Inspection" means an on-site review of the project's compliance with the permit, the local stormwater management program, and any applicable design criteria, or an on-site review to obtain information or conduct surveys or investigations necessary in the enforcement of the Act and this chapter.

"Interstate agency" means an agency of two or more states established by or under an agreement or compact approved by Congress, or any other agency of two or more states having substantial powers or duties pertaining to the control of pollution as determined and approved by the administrator under the CWA and regulations.

"Land disturbance" or "land-disturbing activity" means a manmade change to the land surface that potentially changes its runoff characteristics including any clearing, grading, or excavation associated with a construction activity regulated pursuant to the federal Clean Water Act, the Act, and this chapter.

"Large construction activity" means construction activity including clearing, grading and excavation, except operations that result in the disturbance of less than five acres of total land area. Large construction activity also includes the disturbance of less than five acres of total land area that is a part of a larger common plan of development or sale if the larger common plan will ultimately disturb five acres or more.

"Large municipal separate storm sewer system" means all municipal separate storm sewers that are either:

1. Located in an incorporated place with a population of 250,000 or more as determined by the ~~latest~~ 1990

decennial census by the Bureau of Census (40 CFR Part 122 Appendix F (2000));

2. Located in the counties listed in 40 CFR Part 122 Appendix H (2000), except municipal separate storm sewers that are located in the incorporated places, townships or towns within such counties;

3. Owned or operated by a municipality other than those described in subdivision 1 or 2 of this definition and that are designated by the board as part of the large or medium municipal separate storm sewer system due to the interrelationship between the discharges of the designated storm sewer and the discharges from municipal separate storm sewers described under subdivision 1 or 2 of this definition. In making this determination the board may consider the following factors:

- a. Physical interconnections between the municipal separate storm sewers;
- b. The location of discharges from the designated municipal separate storm sewer relative to discharges from municipal separate storm sewers described in subdivision 1 of this definition;
- c. The quantity and nature of pollutants discharged to surface waters;
- d. The nature of the receiving surface waters; and
- e. Other relevant factors.

4. The board may, upon petition, designate as a large municipal separate storm sewer system, municipal separate storm sewers located within the boundaries of a region defined by a stormwater management regional authority based on a jurisdictional, watershed, or other appropriate basis that includes one or more of the systems described in this definition.

"Linear development project" means a land-disturbing activity that is linear in nature such as, but not limited to, (i) the construction of electric and telephone utility lines, and natural gas pipelines; (ii) construction of tracks, rights-of-way, bridges, communication facilities and other related structures of a railroad company; and (iii) highway construction projects.

"Local stormwater management program" or "local program" means a statement of the various methods employed by a locality to manage the quality and quantity of runoff resulting from land-disturbing activities and shall include such items as local ordinances, permit requirements, policies and guidelines, technical materials, inspection, enforcement, and evaluation consistent with the Act and this chapter. The ordinance shall include provisions to require the control of after-development stormwater runoff rate of flow, the proper maintenance of stormwater management facilities, and minimum administrative procedures.

---

# Regulations

---

"Locality" means a county, city, or town.

"Major facility" means any VSMP facility or activity classified as such by the regional administrator in conjunction with the board.

"Major modification" means, for the purposes of this chapter, the modification or amendment of an existing permit before its expiration that is not a minor modification as defined in this regulation.

"Major municipal separate storm sewer outfall (or major outfall)" means a municipal separate storm sewer outfall that discharges from a single pipe with an inside diameter of 36 inches or more or its equivalent (discharge from a single conveyance other than circular pipe which is associated with a drainage area of more than 50 acres); or for municipal separate storm sewers that receive stormwater from lands zoned for industrial activity (based on comprehensive zoning plans or the equivalent), with an outfall that discharges from a single pipe with an inside diameter of 12 inches or more or from its equivalent (discharge from other than a circular pipe associated with a drainage area of two acres or more).

"Manmade" means constructed by man.

"Maximum daily discharge limitation" means the highest allowable daily discharge.

"Maximum extent practicable" or "MEP" means the technology-based discharge standard for municipal separate storm sewer systems established by CWA §402(p). MEP is achieved, in part, by selecting and implementing effective structural and nonstructural best management practices (BMPs) and rejecting [ ineffective ] BMPs [ ~~only when the BMPs would not be technically feasible or the cost would be prohibitive and unreasonable~~ and replacing them with effective best management practices (BMPs) ]. MEP is an iterative standard, which evolves over time as urban runoff management knowledge increases. As such, the operator's MS4 program must continually be assessed and modified to incorporate improved programs, control measures, BMPs, etc., to [ ~~maintain~~ attain ] compliance with water quality standards.

"Medium municipal separate storm sewer system" means all municipal separate storm sewers that are either:

1. Located in an incorporated place with a population of 100,000 or more but less than 250,000 as determined by the ~~latest~~ 1990 decennial census by the Bureau of Census (40 CFR Part 122 Appendix G (2000));
2. Located in the counties listed in 40 CFR Part 122 Appendix I (2000), except municipal separate storm sewers that are located in the incorporated places, townships or towns within such counties;
3. Owned or operated by a municipality other than those described in subdivision 1 or 2 of this definition and that

are designated by the board as part of the large or medium municipal separate storm sewer system due to the interrelationship between the discharges of the designated storm sewer and the discharges from municipal separate storm sewers described under subdivision 1 or 2 of this definition. In making this determination the board may consider the following factors:

- a. Physical interconnections between the municipal separate storm sewers;
- b. The location of discharges from the designated municipal separate storm sewer relative to discharges from municipal separate storm sewers described in subdivision 1 of this definition;
- c. The quantity and nature of pollutants discharged to surface waters;
- d. The nature of the receiving surface waters; or
- e. Other relevant factors.

4. The board may, upon petition, designate as a medium municipal separate storm sewer system, municipal separate storm sewers located within the boundaries of a region defined by a stormwater management regional authority based on a jurisdictional, watershed, or other appropriate basis that includes one or more of the systems described in subdivisions 1, 2 and 3 of this definition.

"Minor modification" means, for the purposes of this chapter, minor modification or amendment of an existing permit before its expiration as specified in 4VAC50-60-640. Minor modification for the purposes of this chapter also means other modifications and amendments not requiring extensive review and evaluation including, but not limited to, changes in EPA promulgated test protocols, increasing monitoring frequency requirements, changes in sampling locations, and changes to compliance dates within the overall compliance schedules. A minor permit modification or amendment does not substantially alter permit conditions, substantially increase or decrease the amount of surface water impacts, increase the size of the operation, or reduce the capacity of the facility to protect human health or the environment.

"Municipal separate storm sewer" means a conveyance or system of conveyances otherwise known as a municipal separate storm sewer system, including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains:

1. Owned or operated by a federal, state, city, town, county, district, association, or other public body, created by or pursuant to state law, having jurisdiction or delegated authority for erosion and sediment control and stormwater management, or a designated and approved management agency under §208 of the CWA that discharges to surface waters;

2. Designed or used for collecting or conveying stormwater;
3. That is not a combined sewer; and
4. That is not part of a publicly owned treatment works.

"Municipal separate storm sewer system" or "MS4" means all separate storm sewers that are defined as "large" or "medium" or "small" municipal separate storm sewer systems or designated under 4VAC50-60-380 A 1.

"Municipal Separate Storm Sewer System Management Program" or "MS4 Program" means a management program covering the duration of a permit for a municipal separate storm sewer system that includes a comprehensive planning process that involves public participation and intergovernmental coordination, to reduce the discharge of pollutants to the maximum extent practicable, to protect water quality, and to satisfy the appropriate water quality requirements of the CWA and regulations and the Virginia Stormwater Management Act and attendant regulations, using management practices, control techniques, and system, design and engineering methods, and such other provisions that are appropriate.

"Municipality" means a city, town, county, district, association, or other public body created by or under state law and having jurisdiction over disposal of sewage, industrial wastes, or other wastes, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under §208 of the CWA.

"National Pollutant Discharge Elimination System (NPDES)" means the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements under §§307, 402, 318, and 405 of the CWA. The term includes an approved program.

"New discharger" means any building, structure, facility, or installation:

1. From which there is or may be a discharge of pollutants;
2. That did not commence the discharge of pollutants at a particular site prior to August 13, 1979;
3. Which is not a new source; and
4. Which has never received a finally effective VPDES or VSMP permit for discharges at that site.

This definition includes an indirect discharger that commences discharging into surface waters after August 13, 1979. It also includes any existing mobile point source (other than an offshore or coastal oil and gas exploratory drilling rig or a coastal oil and gas developmental drilling rig) such as a seafood processing rig, seafood processing vessel, or aggregate plant, that begins discharging at a site for which it does not have a permit; and any offshore or coastal mobile oil

and gas exploratory drilling rig or coastal mobile oil and gas developmental drilling rig that commences the discharge of pollutants after August 13, 1979.

"New permit" means, for the purposes of this chapter, a permit issued by the permit-issuing authority to a permit applicant that does not currently hold and has never held a permit of that type, for that activity, at that location.

"New source," means any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced:

1. After promulgation of standards of performance under §306 of the CWA that are applicable to such source; or
2. After proposal of standards of performance in accordance with §306 of the CWA that are applicable to such source, but only if the standards are promulgated in accordance with §306 of the CWA within 120 days of their proposal.

"Nonpoint source pollution" means pollution such as sediment, nitrogen and phosphorous, hydrocarbons, heavy metals, and toxics whose sources cannot be pinpointed but rather are washed from the land surface in a diffuse manner by stormwater runoff.

"Nonpoint source pollutant runoff load" or "pollutant discharge" means the average amount of a particular pollutant measured in pounds per year, delivered in a diffuse manner by stormwater runoff.

"Operator" means the owner or operator of any facility or activity subject to regulation under the VSMP program. In the context of stormwater associated with a large or small construction activity, operator means any person associated with a construction project that meets either of the following two criteria: (i) the person has direct operational control over construction plans and specifications, including the ability to make modifications to those plans and specifications or (ii) the person has day-to-day operational control of those activities at a project that are necessary to ensure compliance with a stormwater pollution prevention plan for the site or other permit conditions (i.e., they are authorized to direct workers at a site to carry out activities required by the stormwater pollution prevention plan or comply with other permit conditions). [ In the context of stormwater discharges from Municipal Separate Storm Sewer Systems (MS4s), operator means the operator of the regulated MS4 system. ]

"Outfall" means, when used in reference to municipal separate storm sewers, a point source at the point where a municipal separate storm sewer discharges to surface waters and does not include open conveyances connecting two municipal separate storm sewers, or pipes, tunnels or other conveyances which connect segments of the same stream or other surface waters and are used to convey surface waters.

---

# Regulations

---

"Overburden" means any material of any nature, consolidated or unconsolidated, that overlies a mineral deposit, excluding topsoil or similar naturally occurring surface materials that are not disturbed by mining operations.

"Owner" means the Commonwealth or any of its political subdivisions including, but not limited to, sanitation district commissions and authorities, and any public or private institution, corporation, association, firm or company organized or existing under the laws of this or any other state or country, or any officer or agency of the United States, or any person or group of persons acting individually or as a group that owns, operates, charters, rents, or otherwise exercises control over or is responsible for any actual or potential discharge of sewage, industrial wastes, or other wastes to state waters, or any facility or operation that has the capability to alter the physical, chemical, or biological properties of state waters in contravention of §62.1-44.5 of the Code of Virginia, the Act and this chapter.

"Percent impervious" means the impervious area within the site divided by the area of the site multiplied by 100.

"Permit" means an approval issued by the permit-issuing authority for the initiation of a land-disturbing activity or for stormwater discharges from an MS4. Permit does not include any permit that has not yet been the subject of final permit-issuing authority action, such as a draft permit or a proposed permit.

"Permit-issuing authority" means the board, the department, or a locality that is delegated authority by the board to issue, deny, revoke, terminate, or amend stormwater permits under the provisions of the Act and this chapter.

"Permittee" means the person or locality to which the permit is issued, including any operator whose construction site is covered under a construction general permit.

"Person" means any individual, corporation, partnership, ~~firm, association, joint venture, public or private or municipal corporation, trust, estate, state, municipality,~~ commission, board, ~~public or private institution, utility, cooperative, county, city, town~~ or other political subdivision of the Commonwealth, any a state, governmental body (including but not limited to a federal, state, or local entity), any interstate or governmental body or any other legal entity.

"Planning area" means a designated portion of the parcel on which the land development project is located. Planning areas shall be established by delineation on a master plan. Once established, planning areas shall be applied consistently for all future projects.

"Point source" means any discernible, confined, and discrete conveyance including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel, or other floating craft from

which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural stormwater runoff.

"Pollutant" means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended (42 USC §2011 et seq.)), heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water. It does not mean:

1. Sewage from vessels; or
2. Water, gas, or other material that is injected into a well to facilitate production of oil or gas, or water derived in association with oil and gas production and disposed of in a well if the well used either to facilitate production or for disposal purposes is approved by the board and if the board determines that the injection or disposal will not result in the degradation of ground or surface water resources.

"Pollution" means such alteration of the physical, chemical or biological properties of any state waters as will or is likely to create a nuisance or render such waters (a) harmful or detrimental or injurious to the public health, safety or welfare, or to the health of animals, fish or aquatic life; (b) unsuitable with reasonable treatment for use as present or possible future sources of public water supply; or (c) unsuitable for recreational, commercial, industrial, agricultural, or other reasonable uses, provided that (i) an alteration of the physical, chemical, or biological property of state waters, or a discharge or deposit of sewage, industrial wastes or other wastes to state waters by any owner which by itself is not sufficient to cause pollution, but which, in combination with such alteration of or discharge or deposit to state waters by other owners, is sufficient to cause pollution; (ii) the discharge of untreated sewage by any owner into state waters; and (iii) contributing to the contravention of standards of water quality duly established by the State Water Control Board, are "pollution" for the terms and purposes of this chapter.

"Post-development" refers to conditions that reasonably may be expected or anticipated to exist after completion of the land development activity on a specific site or tract of land.

"Pre-development" refers to the conditions that exist at the time that plans for the land development of a tract of land are approved by the plan approval authority. Where phased development or plan approval occurs (preliminary grading, roads and utilities, etc.), the existing conditions at the time prior to the first item being approved or permitted shall establish pre-development conditions.

"Privately owned treatment works (PVOTW)" means any device or system that is (i) used to treat wastes from any

facility whose operator is not the operator of the treatment works and (ii) not a POTW.

"Proposed permit" means a VSMP permit prepared after the close of the public comment period (and, when applicable, any public hearing and administrative appeals) that is sent to EPA for review before final issuance. A proposed permit is not a draft permit.

"Publicly owned treatment works (POTW)" means a treatment works as defined by §212 of the CWA that is owned by a state or municipality (as defined by §502(4) of the CWA). This definition includes any devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes, and other conveyances only if they convey wastewater to a POTW treatment plant. The term also means the municipality as defined in §502(4) of the CWA, that has jurisdiction over the indirect discharges to and the discharges from such a treatment works.

"Recommencing discharger" means a source that recommences discharge after terminating operations.

"Regional administrator" means the Regional Administrator of Region III of the Environmental Protection Agency or the authorized representative of the regional administrator.

"Regional (watershed-wide) stormwater management facility" or "regional facility" means a facility or series of facilities designed to control stormwater runoff from a specific watershed, although only portions of the watershed may experience land development.

"Regional (watershed-wide) stormwater management plan" or "regional plan" means a document containing material describing how runoff from open space, existing development and future planned development areas within a watershed will be controlled by coordinated design and implementation of regional stormwater management facilities.

"Revoked permit" means, for the purposes of this chapter, an existing permit that is terminated by the board before its expiration.

"Runoff coefficient" means the fraction of total rainfall that will appear at a conveyance as runoff.

"Runoff" or "stormwater runoff" means that portion of precipitation that is discharged across the land surface or through conveyances to one or more waterways.

"Sand filter" means a contained bed of sand that acts to filter the first flush of runoff. The runoff is then collected beneath the sand bed and conveyed to an adequate discharge point or infiltrated into the in-situ soils.

"Schedule of compliance" means a schedule of remedial measures included in a permit, including an enforceable sequence of interim requirements (for example, actions,

operations, or milestone events) leading to compliance with the Act, the CWA and regulations.

"Secretary" means the Secretary of the Army, acting through the Chief of Engineers.

"Severe property damage" means substantial physical damage to property, damage to the treatment facilities that causes them to become inoperable, or substantial and permanent loss of natural resources that can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

"Shallow marsh" means a zone within a stormwater extended detention basin that exists from the surface of the normal pool to a depth of six to 18 inches, and has a large surface area and, therefore, requires a reliable source of baseflow, groundwater supply, or a sizeable drainage area, to maintain the desired water surface elevations to support emergent vegetation.

"Significant materials" means, but is not limited to: raw materials; fuels; materials such as solvents, detergents, and plastic pellets; finished materials such as metallic products; raw materials used in food processing or production; hazardous substances designated under §101(14) of CERCLA (42 USC §9601(14)); any chemical the facility is required to report pursuant to §313 of Title III of SARA (42 USC §11023); fertilizers; pesticides; and waste products such as ashes, slag and sludge that have the potential to be released with stormwater discharges.

"Single jurisdiction" means, for the purposes of this chapter, a single county or city. The term county includes incorporated towns which are part of the county.

"Site" means the land or water area where any facility or activity is physically located or conducted, a parcel of land being developed, or a designated planning area in which the land development project is located.

"Small construction activity" means:

1. Construction activities including clearing, grading, and excavating that results in land disturbance of equal to or greater than one acre, or equal to or greater than 2,500 square feet in all areas of the jurisdictions designated as subject to the Chesapeake Bay Preservation Area Designation and Management Regulations adopted pursuant to the Chesapeake Bay Preservation Act, and less than five acres. Small construction activity also includes the disturbance of less than one acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than one and less than five acres. Small construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the facility. The

---

# Regulations

---

board may waive the otherwise applicable requirements in a general permit for a stormwater discharge from construction activities that disturb less than five acres where stormwater controls are not needed based on a "total maximum daily load" (TMDL) approved or established by EPA that addresses the pollutant(s) of concern or, for nonimpaired waters that do not require TMDLs, an equivalent analysis that determines allocations for small construction sites for the pollutant(s) of concern or that determines that such allocations are not needed to protect water quality based on consideration of existing in-stream concentrations, expected growth in pollutant contributions from all sources, and a margin of safety. For the purpose of this subdivision, the pollutant(s) of concern include sediment or a parameter that addresses sediment (such as total suspended solids, turbidity or siltation) and any other pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the construction activity. The operator must certify to the board that the construction activity will take place, and stormwater discharges will occur, within the drainage area addressed by the TMDL or equivalent analysis.

2. Any other construction activity designated by the either the board or the EPA regional administrator, based on the potential for contribution to a violation of a water quality standard or for significant contribution of pollutants to surface waters.

"Small municipal separate storm sewer system" or "small MS4" means all separate storm sewers that are (i) owned or operated by the United States, a state, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to state law) having jurisdiction over disposal of sewage, industrial wastes, stormwater, or other wastes, including special districts under state law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under §208 of the CWA that discharges to surface waters and (ii) not defined as "large" or "medium" municipal separate storm sewer systems or designated under 4VAC50-60-380 A 1. This term includes systems similar to separate storm sewer systems in municipalities, such as systems at military bases, large hospital or prison complexes, and highway and other thoroughfares. The term does not include separate storm sewers in very discrete areas, such as individual buildings.

"Source" means any building, structure, facility, or installation from which there is or may be a discharge of pollutants.

"State" means the Commonwealth of Virginia.

"State/EPA agreement" means an agreement between the regional administrator and the state that coordinates EPA and

state activities, responsibilities and programs including those under the CWA and the Act.

"State project" means any land development project that is undertaken by any state agency, board, commission, authority or any branch of state government, including state-supported institutions of higher learning.

"State Water Control Law" means Chapter 3.1 (§62.1-44.2 et seq.) of Title 62.1 of the Code of Virginia.

"State waters" means all water, on the surface and under the ground, wholly or partially within or bordering the Commonwealth or within its jurisdiction, including wetlands.

"Stormwater" means precipitation that is discharged across the land surface or through conveyances to one or more waterways and that may include stormwater runoff, snow melt runoff, and surface runoff and drainage.

"Stormwater detention basin" or "detention basin" means a stormwater management facility that temporarily impounds runoff and discharges it through a hydraulic outlet structure to a downstream conveyance system. While a certain amount of outflow may also occur via infiltration through the surrounding soil, such amounts are negligible when compared to the outlet structure discharge rates and are, therefore, not considered in the facility's design. Since a detention facility impounds runoff only temporarily, it is normally dry during nonrainfall periods.

"Stormwater discharge associated with construction activity" means a discharge of pollutants in stormwater runoff from areas where land-disturbing activities (e.g., clearing, grading, or excavation); construction materials or equipment storage or maintenance (e.g., fill piles, borrow area, concrete truck washout, fueling); or other industrial stormwater directly related to the construction process (e.g., concrete or asphalt batch plants) are located.

"Stormwater discharge associated with large construction activity" means the discharge of stormwater from large construction activities.

"Stormwater discharge associated with small construction activity" means the discharge of stormwater from small construction activities.

"Stormwater extended detention basin" or "extended detention basin" means a stormwater management facility that temporarily impounds runoff and discharges it through a hydraulic outlet structure over a specified period of time to a downstream conveyance system for the purpose of water quality enhancement or stream channel erosion control. While a certain amount of outflow may also occur via infiltration through the surrounding soil, such amounts are negligible when compared to the outlet structure discharge rates and, therefore, are not considered in the facility's design. Since an extended detention basin impounds runoff only temporarily, it is normally dry during nonrainfall periods.

"Stormwater extended detention basin-enhanced" or "extended detention basin-enhanced" means an extended detention basin modified to increase pollutant removal by providing a shallow marsh in the lower stage of the basin.

"Stormwater management facility" means a device that controls stormwater runoff and changes the characteristics of that runoff including, but not limited to, the quantity and quality, the period of release or the velocity of flow.

"Stormwater management plan" means a document containing material for describing how existing runoff characteristics will be maintained by a land-disturbing activity and methods for complying with the requirements of the local program or this chapter.

"Stormwater Management Program" means a program established by a locality that is consistent with the requirements of the Virginia Stormwater Management Act, this chapter and associated guidance documents.

"Stormwater Pollution Prevention Plan" (SWPPP) or "plan" means a document that is prepared in accordance with good engineering practices and that identifies potential sources of pollution that may reasonably be expected to affect the quality of stormwater discharges from the construction site or its associated land-disturbing activities. In addition the document shall describe and ensure the implementation of best management practices, and shall include, but not be limited to the inclusion of, or the incorporation by reference of, an erosion and sediment control plan, a post-construction stormwater management plan, a spill prevention control and countermeasure (SPCC) plan, and other practices that will be used to reduce pollutants in stormwater discharges from land-disturbing activities and to assure compliance with the terms and conditions of this chapter. All plans incorporated by reference into the SWPPP shall be enforceable under the permit issued.

"Stormwater retention basin" or "retention basin" means a stormwater management facility that includes a permanent impoundment, or normal pool of water, for the purpose of enhancing water quality and, therefore, is normally wet, even during nonrainfall periods. Storm runoff inflows may be temporarily stored above this permanent impoundment for the purpose of reducing flooding, or stream channel erosion.

"Stormwater retention basin I" or "retention basin I" means a retention basin with the volume of the permanent pool equal to three times the water quality volume.

"Stormwater retention basin II" or "retention basin II" means a retention basin with the volume of the permanent pool equal to four times the water quality volume.

"Stormwater retention basin III" or "retention basin III" means a retention basin with the volume of the permanent pool equal to four times the water quality volume with the addition of an aquatic bench.

"Subdivision" means the same as defined in §15.2-2201 of the Code of Virginia.

"Surface waters" means:

1. All waters that are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters that are subject to the ebb and flow of the tide;
2. All interstate waters, including interstate wetlands;
3. All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters:
  - a. That are or could be used by interstate or foreign travelers for recreational or other purposes;
  - b. From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or
  - c. That are used or could be used for industrial purposes by industries in interstate commerce.
4. All impoundments of waters otherwise defined as surface waters under this definition;
5. Tributaries of waters identified in subdivisions 1 through 4 of this definition;
6. The territorial sea; and
7. Wetlands adjacent to waters (other than waters that are themselves wetlands) identified in subdivisions 1 through 6 of this definition.

Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of the CWA and the law, are not surface waters. Surface waters do not include prior converted cropland. Notwithstanding the determination of an area's status as prior converted cropland by any other agency, for the purposes of the Clean Water Act, the final authority regarding the Clean Water Act jurisdiction remains with the EPA.

"Total dissolved solids" means the total dissolved (filterable) solids as determined by use of the method specified in 40 CFR Part 136 (2000).

"Total maximum daily load" or "TMDL" means the sum of the individual wasteload allocations for point sources, load allocations (LAs) for nonpoint sources, natural background loading and [ ~~usually a safety factor~~ a margin of safety ]. TMDLs can be expressed in terms of either mass per time, toxicity, or other appropriate measure. The TMDL process provides for point versus nonpoint source trade-offs.

"Toxic pollutant" means any pollutant listed as toxic under §307(a)(1) of the CWA or, in the case of sludge use or

---

# Regulations

---

disposal practices, any pollutant identified in regulations implementing §405(d) of the CWA.

"Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond the reasonable control of the ~~permittee~~ operator. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

"Variance" means any mechanism or provision under §301 or §316 of the CWA or under 40 CFR Part 125 (2000), or in the applicable effluent limitations guidelines that allows modification to or waiver of the generally applicable effluent limitation requirements or time deadlines of the CWA. This includes provisions that allow the establishment of alternative limitations based on fundamentally different factors or on §301(c), §301(g), §301(h), §301(i), or §316(a) of the CWA.

"Vegetated filter strip" means a densely vegetated section of land engineered to accept runoff as overland sheet flow from upstream development. It shall adopt any natural vegetated form, from grassy meadow to small forest. The vegetative cover facilitates pollutant removal through filtration, sediment deposition, infiltration and absorption, and is dedicated for that purpose.

"Virginia Pollutant Discharge Elimination System (VPDES) permit" or "VPDES permit" means a document issued by the State Water Control Board pursuant to the State Water Control Law authorizing, under prescribed conditions, the potential or actual discharge of pollutants from a point source to surface waters and the use or disposal of sewage sludge.

"Virginia Stormwater Management Act" or "Act" means Article 1.1 (§10.1-603.1 et seq.) of Chapter 6 of Title 10.1 of the Code of Virginia.

"Virginia Stormwater Management Program (VSMP)" means the Virginia program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing requirements pursuant to the federal Clean Water Act, the Virginia Stormwater Management Act, this chapter, and associated guidance documents.

"Virginia Stormwater Management Program (VSMP) permit" means a document issued by the permit-issuing authority pursuant to the Virginia Stormwater Management Act and this chapter authorizing, under prescribed conditions, the potential or actual discharge of pollutants from a point source to surface waters. Under the approved state program, a VSMP permit is equivalent to a NPDES permit.

"VSMP application" or "application" means the standard form or forms, including any additions, revisions or

modifications to the forms, approved by the administrator and the board for applying for a VSMP permit.

"Wasteload allocation" or "wasteload" or "WLA" means the portion of a receiving surface water's loading or assimilative capacity allocated to one of its existing or future point sources of pollution. WLAs are a type of water quality-based effluent limitation.

"Water quality standards" or "WQS" means [ ~~narrative statements that describe water quality requirements in general terms, and numeric limits for specific physical, chemical, biological or radiological characteristics of water. These narrative statements and numeric limits describe water quality necessary to meet and maintain reasonable and beneficial uses such as swimming and other water based recreation, public water supply and the propagation and growth of aquatic life~~ provisions of state or federal law that consist of a designated use or uses for the waters of the Commonwealth and water quality criteria for such waters based on such uses. Water quality standards are to protect the public health or welfare, enhance the quality of water, and serve the purposes of the State Water Control Law (§62.1-44.2 et seq. of the Code of Virginia), the Virginia Stormwater Management Act (§10.1-603.1 et seq. of the Code of Virginia), and the federal Clean Water Act (33 USC §1251 et seq.). ]

"Water quality volume" means the volume equal to the first 1/2 inch of runoff multiplied by the impervious surface of the land development project.

"Watershed" means a defined land area drained by a river or stream or system of connecting rivers or streams such that all surface water within the area flows through a single outlet.

"Wetlands" means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

"Whole effluent toxicity" means the aggregate toxic effect of an effluent measured directly by a toxicity test.

## **4VAC50-60-1200. Definitions.**

The words and terms used in this part shall have the meanings defined in the Act and this chapter unless the context clearly indicates otherwise, except that for the purposes of this part:

"Date brought on line" means the date when the operator determines that a new stormwater management facility is properly functioning to meet its designed pollutant load reduction.

"Infiltration" means water other than wastewater that enters a sewer system (including sewer service connections and

foundation drains) from the ground through such means as defective pipes, pipe joints, connections, or manholes. Infiltration does not include, and is distinguished from, inflow.

"Inflow" means water other than wastewater that enters a sewer system (including sewer service connections) from sources such as, but not limited to, roof leaders, cellar drains, yard drains, area drains, drains from springs and swampy areas, manhole covers, cross connections between storm sewers and sanitary sewers, catch basins, cooling towers, stormwaters, surface runoff, street wash waters, or drainage. Inflow does not include, and is distinguished from, infiltration.

"MS4 Program Plan" means the completed registration statement and all approved additions, changes and modifications detailing the comprehensive program implemented by the operator under this permit to reduce the pollutants in the stormwater discharged from its municipal separate storm sewer system (MS4) that has been submitted and accepted by the [ director department ].

"Physically interconnected" means that a MS4 directly discharges to a second MS4.

**4VAC50-60-1210. Purpose; delegation of authority; effective date of the permit.**

A. This VSMP general permit regulation governs stormwater discharges from regulated small municipal separate storm sewer systems (regulated small MS4s) to surface waters of the Commonwealth of Virginia.

1. Unless the small MS4 qualifies for a waiver under subdivision 3 of this subsection, owners operators are regulated if they operate a small MS4, including but not limited to systems operated by federal, state, tribal, and local governments, including the Virginia Department of Transportation; and:

a. The small MS4 is located in an urbanized area as determined by the latest Decennial Census by the Bureau of the Census. If the small MS4 is not located entirely within an urbanized area, only the portion that is within the urbanized area is regulated; or

b. The small MS4 is designated by the board, including where the designation is pursuant to 40 CFR Part 123.35 (b)(3) or (b)(4) (2001), or is based upon a petition under 4VAC50-60-380 D.

2. ~~A~~ A small MS4 may be the subject of a petition pursuant to 4VAC50-60-380 D to the board to require a VSMP permit for their discharge of stormwater. If the board determines that ~~a~~ a small MS4 needs a permit and the owner operator applies for coverage under this general permit, the owner operator is required to comply with the requirements of [ 4VAC50-60-1210 Part XV (4VAC50-60-1180 et seq.) of this chapter ] .

3. The board may waive the requirements otherwise applicable to a regulated small MS4 if it meets the criteria of subdivision 4 or 5 of this subsection. If a waiver is received under this subsection, the owner operator may subsequently be required to seek coverage under a VSMP permit in accordance with 4VAC50-60-400 C [ ~~±~~ ] if circumstances change. (See also 40 CFR Part 123.35 (b) (2001))

4. The board may waive permit coverage if the regulated small MS4 serves a population of less than 1,000 within the urbanized area and meets the following criteria:

a. The system is not contributing substantially to the pollutant loadings of a physically interconnected MS4 that is regulated by the VSMP stormwater program; and

b. ~~If pollutants~~ Pollutants are discharged that have been identified as a cause of impairment of any water body to which the regulated small MS4 discharges, but stormwater controls are not needed based on wasteload allocations that are part of a State Water Control Board established and EPA approved "total maximum daily load" (TMDL) that addresses the pollutants of concern.

5. The board may waive permit coverage if the regulated small MS4 serves a population under 10,000 and meets the following criteria:

a. The ~~board~~ State Water Control Board has evaluated all surface waters, including small streams, tributaries, lakes, and ponds, that receive a discharge from the regulated small MS4;

b. For all such waters, the board has determined that stormwater controls are not needed based on wasteload allocations that are part of a State Water Control Board established and EPA approved TMDL that addresses the pollutants of concern or, if a TMDL has not been developed and approved, an equivalent analysis that determines sources and allocations for the pollutants of concern;

c. For the purpose of this subdivision, the pollutants of concern include biochemical oxygen demand (BOD), sediment or a parameter that addresses sediment (such as total suspended solids, turbidity or siltation), pathogens, oil and grease, and any pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the regulated small MS4; and

d. The board has determined that future discharges from the regulated small MS4 do not have the potential to result in exceedances of water quality standards, including impairment of designated uses, or other significant water quality impacts, including habitat and biological impacts.

---

# Regulations

---

B. This general permit will become effective on ~~December 9, 2002~~ July [ ± 9 ] , 2008, and will expire five years from the effective date.

## **4VAC50-60-1220. Authorization to discharge.**

A. Any ~~owner~~ operator governed by this general permit is hereby authorized to discharge stormwater from the regulated small MS4 to surface waters of the Commonwealth of Virginia provided that the ~~owner~~ operator files and receives acceptance of the registration statement of 4VAC50-60-1230 by the [ ~~director~~ department ] ; ~~and~~ files the permit ~~fee~~ fees required by Part XIII (4VAC50-60-700 et seq.) of this chapter, and provided that the ~~owner~~ operator shall not have been required to obtain an individual permit according to 4VAC50-60-410 B.

B. The ~~owner~~ operator shall not be authorized by this general permit to discharge to state waters specifically named in other State Water Control Board or board regulations or policies that prohibit such discharges.

C. Nonstormwater discharges or flows into the regulated small MS4 are authorized by this permit and do not need to be addressed in the ~~Stormwater Management~~ MS4 Program required under 4VAC50-60-1240, Section II B 3, if:

1. The nonstormwater discharges or flows are covered by a separate individual or general VPDES or VSMP permit for nonstormwater discharges; ~~or~~

2. The individual nonstormwater discharges or flows have been identified in writing by the Department of Environmental Quality as de minimis discharges that are not significant sources of pollutants to state waters and do not require a VPDES permit;

3. Nonstormwater discharges or flows in the following categories have not been identified by the ~~permittee~~ operator, State Water Control Board, or by the board as significant contributors of pollutants to the regulated small MS4: water line flushing, landscape irrigation, diverted stream flows, rising ground waters, uncontaminated ground water infiltration, uncontaminated pumped ground water, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, street wash water, and discharges or flows from fire fighting activities; ~~or~~

4. The discharge of materials resulting from a spill is necessary to prevent loss of life, personal injury, or severe property damage. The operator shall take, or ensure that the responsible party takes, all reasonable steps to minimize or prevent any adverse effect on human health or the environment. This permit does not transfer liability for a spill itself from the party(ies) responsible for the spill to

the operator nor relieve the party(ies) responsible for a spill from the reporting requirements of 40 CFR Part 117 and 40 CFR Part 302 (2001).

In the event the operator is unable to meet certain conditions of this permit due to circumstances beyond the operator's control, a written explanation of the circumstances that prevented permit compliance shall be submitted to the department in the annual report. Circumstances beyond the control of the operator may include abnormal climatic conditions; weather conditions that make certain requirements unsafe or impracticable; or unavoidable equipment failures caused by weather conditions or other conditions beyond the reasonable control of the operator (operator error is not a condition beyond the control of the operator). The failure to provide adequate program funding, staffing or equipment maintenance shall not be an acceptable explanation for failure to meet permit conditions. The board will determine, at its sole discretion, whether the reported information will result in an enforcement action.

D. Discharges that are excluded from obtaining a VSMP permit pursuant to 4VAC50-60-300 are exempted from the regulatory requirements of this permit.

E. Pursuant to 40 CFR Part 122.34 (c) (2001), for those portions of a regulated small MS4 that are covered under a VPDES permit for industrial stormwater discharges, the operator shall follow the conditions established under the VPDES permit. Upon termination of VPDES permit coverage, discharges from previously VPDES authorized outfalls shall meet the conditions of this permit provided it has been determined by the board that an individual MS4 permit is not required.

F. Stormwater discharges from specific MS4 outfalls that have been granted conditional exclusion for "no exposure" of industrial activities and materials to stormwater under the VPDES permitting program shall obtain coverage under this VSMP general permit. The Department of Environmental Quality is responsible for determining compliance with the conditional exclusion under the State Water Control Law and attendant regulations.

~~D:~~ G. Receipt of this VSMP general permit does not relieve any ~~owner~~ operator of the responsibility to comply with any other applicable federal, state or local statute, ordinance or regulation.

## **4VAC50-60-1230. Permit application (registration statement).**

A. Deadline for submitting a registration statement [ ± ]

~~1. Owners of regulated small MS4's designated under 4VAC50-60-1210 A 1 a, that are applying for coverage under this VSMP general permit must submit a complete Registration Statement to the department by March 10, 2003, unless the MS4 serves a jurisdiction with a~~

population under 10,000 and the board has established a schedule for phasing in permit coverage with a final deadline of March 8, 2007.

~~2. Owners~~ 1. Operators of regulated small MS4s ~~MS4s~~ designated under 4VAC50-60-1210 A 1 b, that are applying for coverage under this VSMP general permit must submit a complete registration statement to the department within 180 days of notice of designation, unless the board grants a later date.

2. In order to continue uninterrupted coverage under the VSMP general permit, operators of regulated small MS4s shall submit a new registration statement at least 90 days before the expiration date of the existing permit, unless permission for a later date has been granted by the board. The board shall not grant permission for registration statements to be submitted later than the expiration date of the existing permit.

## B. Registration statement.

The registration statement shall include the following information:

1. The name and location (county or city name) of the regulated small MS4 for which the registration statement is submitted;

2. The name, type (city, county, incorporated town, unincorporated town, college or university, local school board, military installation, transportation system, federal or state facility, or other), and address, ~~and telephone number of the owner~~ operator of the regulated small MS4;

3. The ~~name(s) of the receiving water(s)~~ Hydrologic Unit Code(s) as identified in the most recent version of Virginia's 6th Order National Watershed Boundary Dataset (available online at [http://www.dcr.virginia.gov/soil\\_&\\_water/hu.shtml](http://www.dcr.virginia.gov/soil_&_water/hu.shtml)) currently receiving discharges or that have potential to receive discharges from the regulated small MS4;

4. ~~The best management practices (BMPs) that the owner or another entity proposes to implement for each of the stormwater minimum control measures at 4VAC50-60-1240, Section II B~~ The estimated drainage area, in acres, served by the regulated small MS4 [ directly ] discharging to any impaired receiving surface waters listed in the [ most recent 2006 ] Virginia 305(b)/303(d) Water Quality Assessment Integrated Report, and a description of the land use for each such drainage area;

5. ~~The measurable goals for each of the BMPs including, as appropriate, the years in which the required actions will be undertaken, including interim milestones and the frequency of the action; and~~ A listing of any TMDL wasteloads allocated to the regulated small MS4. This information may be found at: <http://www.deq.state.va.us/tmdl/develop.html>;

6. ~~The person or persons responsible for implementing or coordinating the stormwater management program. The name(s) of any regulated physically interconnected MS4s to which the regulated small MS4 discharges;~~

7. A copy of the MS4 Program Plan that includes:

a. A list of best management practices (BMPs) that the operator proposes to implement for each of the stormwater minimum control measures and their associated measurable goals pursuant to 4VAC50-60-1240, Section II B, that includes:

(1) A list of the existing policies, ordinances, schedules, inspection forms, written procedures, and other documents necessary for best management practice implementation; and

(2) The [ ~~individual, department, division, or unit~~ individuals, departments, divisions, or units ] responsible for implementing the best management practices;

b. The objective and expected results of each best management practice in meeting the measurable goals of the stormwater minimum control measures;

c. The implementation schedule including any interim milestones for the implementation of a proposed new best management practice; and

d. The method that will be utilized to determine the effectiveness of each best management practice and the MS4 Program as a whole;

8. A list of all existing signed agreements between the operator and any applicable third parties where the operator has entered into an agreement in order to implement minimum control measures or portions of minimum control measures;

9. The name, address, telephone number and email address of either the principal executive officer or ranking elected official as defined in 4VAC50-60-370;

10. The name, position title, address, telephone number and email address of any duly authorized representative as defined in 4VAC50-60-370; and

7. 11. The following certification: "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

---

# Regulations

---

C. The registration statement shall be signed by the principal executive officer or ranking elected official in accordance with 4VAC50-60-370.

D. An owner operator may file ~~his~~ its own registration statement, or the owner operator and other ~~municipalities or governmental entities~~ operators of regulated small MS4s may jointly submit a registration statement. If responsibilities for meeting the stormwater minimum control measures will be shared with other municipalities or governmental entities, the registration statement must describe which stormwater minimum control measures the owner operator will implement and identify the entities that will implement the other stormwater minimum control measures within the area served by the regulated small MS4.

E. Where to submit. The registration statement shall be submitted to ~~DCR's Urban Program's Section of the Division of Soil and Water Conservation.~~ :

Department of Conservation and Recreation  
Division of Soil and Water Conservation  
Stormwater Permitting  
203 Governor Street, Suite 206  
Richmond, VA 23219

## 4VAC50-60-1240. General permit.

Any ~~owner operator~~ whose registration statement is accepted by the [ ~~director department~~ ] will receive coverage under the following permit and shall comply with the requirements therein and be subject to all applicable requirements of the Virginia Stormwater Management Act (~~Chapter 6, (Article 1.1 (§10.1-603.1 et seq.) of Chapter 6~~ of Title 10.1 of the Code of Virginia) and the Virginia Stormwater Management Program (VSMP) Permit Regulations (4VAC50-60).

General Permit No.: ~~DCR02 VAR04~~

Effective Date: ~~December 9, 2002~~ July [ ± 9 ] , 2008

Expiration Date: ~~December 9, 2007~~ [ ~~June 30~~ July 8 ] , 2013

### GENERAL PERMIT FOR STORMWATER DISCHARGES OF STORMWATER FROM SMALL MUNICIPAL SEPARATE STORM SEWER SYSTEMS

### AUTHORIZATION TO DISCHARGE UNDER THE VIRGINIA STORMWATER MANAGEMENT PROGRAM AND THE VIRGINIA STORMWATER MANAGEMENT ACT

In compliance with the provisions of the Clean Water Act, as amended and pursuant to the Virginia Stormwater Management Act and regulations adopted pursuant thereto, this permit authorizes operators of small municipal separate storm sewer systems to discharge to surface waters within the boundaries of the Commonwealth of Virginia, except those waters specifically named in State Water Control Board and

Virginia Soil and Water Conservation Board regulations or policies which prohibit such discharges.

The authorized discharge shall be in accordance with this cover page, Section I—Discharge Authorization and Special Conditions, ~~Section II—Stormwater Management Section II—MS4 Program~~ and Section III—Conditions Applicable To All VSMP Permits, as set forth herein. [ The operator shall utilize all legal authority provided by the laws and regulations of the Commonwealth of Virginia to control discharges to and from the MS4. This legal authority may be a combination of statute, ordinance, permit, contract, order or interjurisdictional agreements. ]

### SECTION I DISCHARGE AUTHORIZATION AND SPECIAL CONDITIONS

A. Coverage under this permit. During the period beginning with the date of coverage under this general permit and lasting until the [ ~~permit's expiration date~~ expiration and reissuance of this permit ], the permittee operator is authorized to discharge [ ~~stormwater~~ in accordance with this permit ] from the small municipal separate storm sewer system identified in the registration statement [ into surface waters ] .

B. Special [ ~~Conditions~~ conditions ]. A total maximum daily load (TMDL) approved by the State Water Control Board may include a wasteload allocation to the regulated small MS4 that identifies the pollutant for which stormwater controls are necessary for the surface waters to meet water quality standards. The pollutant identified in a wasteload allocation as of the effective date of this permit must be addressed through the measurable goals of the MS4 Program Plan. A wasteload allocation does not establish that the operator of a regulated small MS4 is [ in or ] out of compliance with the conditions of this permit.

~~1. Total Maximum Daily Load (TMDL) allocations. If a TMDL is approved for any waterbody into which the small MS4 discharges, the board will review the TMDL to determine whether the TMDL includes requirements for control of stormwater discharges. If discharges from the MS4 are not meeting the TMDL allocations, the board will notify the permittee of that finding and may require that the Stormwater Management Program required in Section II be modified to implement the TMDL within a timeframe consistent with the TMDL. Any such new requirement will constitute a case decision by the board.~~

~~2. Releases of hazardous substances or oil in excess of reportable quantities. The discharge of hazardous substances or oil in the stormwater discharge(s) from the small MS4 shall be prevented or minimized to the maximum extent practicable in accordance with the applicable Stormwater Management Program required in Section II. Where a release containing a hazardous~~

substance or oil in an amount equal to or in excess of a reportable quantity established under either 40 CFR Part 110 (2002), 40 CFR Part 117 (2002) or 40 CFR Part 302 (2002) occurs during a 24 hour period, the permittee is required to notify the Department of Environmental Quality and the Department of Conservation and Recreation in accordance with the requirements of Section III G as soon as he has knowledge of the discharge. In addition, the Stormwater Management Program required under Section II of this permit must be reviewed to identify measures to prevent the reoccurrence of such releases and to respond to such releases, and the program must be modified where appropriate. This permit does not relieve the permittee of the reporting requirements of 40 CFR Part 110 (2001), 40 CFR Part 117 (2001) and 40 CFR Part 302 (2001) or §62.1-44.34:19 of the Code of Virginia.

1. The operator shall update its MS4 Program Plan to include measurable goals, schedules, and strategies to ensure MS4 Program consistency with the [ assumptions of the ] TMDL [ WLA ] within 18 months of permit coverage; or, within 18 months of the effective date of any reopening of this permit to include wasteloads allocated to the regulated small MS4 after issuance of permit coverage.

2. The measurable goals, schedules, strategies, and other best management practices (BMPs), required in an updated MS4 Program Plan to assure MS4 Program consistency with an approved TMDL for the pollutant identified in a WLA are, at a minimum:

a. The operator shall develop a list of its current ordinances and legal authorities, [ BMPs, ] policies, plans, procedures and contracts implemented as part of the MS4 Program that are applicable to reducing the pollutant identified in a WLA.

b. The operator shall evaluate existing ordinances and legal authorities, [ BMPs, ] policies, plans, procedures and contracts of the existing MS4 Program to determine the effectiveness of the MS4 Program [ to address reduction in addressing reductions ] of the pollutant identified in the WLA. The evaluation shall identify any weakness or limitation in the MS4 Program to reduce the pollutant identified in the WLA in a manner consistent with the TMDL.

c. The operator shall develop a schedule to implement procedures and strategies [ to that ] address the MS4 Program weaknesses [ including a timetable such as timetables ] to update [ the ] existing ordinances and legal authorities [ within two years ] , [ BMPs, ] policies, plans, procedures and contracts to ensure consistency with the [ assumptions of the ] TMDL [ WLA ]. When possible, source elimination shall be prioritized over load reduction.

[ 3. d. ] The operator shall implement the schedule established in Section I B 2 c.

[ 4. 3. ] The operator shall integrate an awareness campaign into its existing public education and outreach program that promotes methods to eliminate and reduce discharges of the pollutant identified in the WLA. This may include additional employee training regarding the sources and methods to eliminate and minimize the discharge of the pollutant identified in the WLA.

[ 5. 4. ] The operator is encouraged to participate as a stakeholder in the development of any implementation plans developed to address the TMDL and shall incorporate applicable best management practices identified in the TMDL implementation plan in their MS4 Program Plan. [ The operator may choose to implement BMPs of equivalent design and efficiency instead of those identified in the TMDL implementation plan, provided that the rationale for any substituted BMP is provided and the substituted BMP is consistent with the TMDL and the WLA. ]

[ 6. 5. ] The operator shall develop and implement outfall reconnaissance procedures to identify [ and eliminate the discharge potential sources ] of the pollutant identified in the WLA from anthropogenic activities. The operator shall [ annually ] conduct reconnaissance [ on a minimum of 15% of its known MS4 outfalls discharging to the surface water for which the WLA has been assigned. Reconnaissance shall be performed on all outfalls at least once during this permit period in accordance with the following:

a. Should the operator have 250 or more total outfalls discharging to the surface water identified in the WLA, the operator shall perform reconnaissance on a minimum of 250 outfalls for each WLA assigned at least once during the five-year permit period and shall perform reconnaissance on a minimum of 35 outfalls per year.

b. Should the operator have less than 250 total outfalls discharging to an identified surface water, the operator shall perform reconnaissance on all outfalls during the five-year permit period and shall annually conduct reconnaissance on a minimum of 15% of its known MS4 outfalls discharging to the surface water for which the WLA has been assigned. ]

The department recommends that the operator review the publication entitled "Illicit Discharge Detection and Elimination: A Guidance Manual for Program Development and Technical Assessments," EPA cooperative agreement number X-82907801-0, for guidance in implementing its outfall reconnaissance procedures. [ The operator shall implement procedures designed to reduce the discharge of the pollutant in a manner consistent with the TMDL. Physically

---

# Regulations

---

interconnected MS4s may coordinate outfall reconnaissance to meet the requirements of this subdivision. ]

[ 7: 6. ] The operator shall evaluate all properties owned or operated by the MS4 operator [ that are not covered under a separate VPDES permit ] for potential sources of the pollutant identified in the WLA. Within three years of [ the required date for ] updating the MS4 Program Plan, the operator shall conduct a site [ ~~evaluation~~ review ] and characterize the runoff for those properties where it determines that the pollutant identified in the WLA is currently stored, or has been transferred, transported or historically disposed of in a manner that would expose it to precipitation in accordance with the following schedule:

a. [ ~~The~~ As a part of the site review, the ] operator shall collect a total of two samples from a representative outfall for each identified municipal property [ . One sample shall be taken ] during each of the following six-month periods: October through March, and April through September.

b. All collected samples shall be grab samples and collected within the first 30 minutes of a runoff producing event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previous measurable (greater than 0.1 inch rainfall) storm event. The required 72-hour storm event interval is waived where the preceding measurable storm event did not result in a measurable discharge from the property. The required 72-hour storm event interval may also be waived where the operator documents that less than a 72-hour interval is representative for local storm events during the season when sampling is being conducted. Analytical methods shall be conducted according to procedures approved under 40 CFR Part 136 or alternative methods approved by the Environmental Protection Agency (EPA). Where an approved 40 CFR Part 136 method does not exist, the operator must use a method consistent with the TMDL.

c. For properties where there is found to be a discharge of the pollutant identified in the WLA, the operator shall develop and implement a schedule to minimize the discharge of the pollutant identified in the WLA in a manner consistent with the approved TMDL [ . ]

[ ~~8: 7.~~ ] The operator shall conduct an annual characterization that estimates the volume of stormwater discharged, in [ gallons cubic feet ], and the quantity of pollutant identified in the WLA, in a unit consistent with the WLA, discharged by the regulated small MS4.

[ 9: 8. ] As part of the annual evaluation, the operator shall update the MS4 Program Plan to include any new information regarding the TMDL in order to ensure consistency with the TMDL.

[ ~~10: 9.~~ ] Along with reporting requirements in Section II E, the operator shall include the following with each annual report:

a. Copies of any updates to the MS4 Program Plan completed during the reporting cycle and any new information regarding the TMDL in order to evaluate its ability to assure the consistency of its discharge with the [ assumptions of the TMDL ] WLA.

b. The estimate of the volume of stormwater discharged, in [ gallons cubic feet ] , and the quantity of pollutant identified in the WLA, in a unit consistent with the WLA discharged by the regulated small MS4 for each WLA.

## SECTION II STORMWATER MUNICIPAL SEPARATE STORM SEWER SYSTEM MANAGEMENT PROGRAM

A. The ~~permittee~~ operator of a regulated small MS4 must develop, implement, and enforce a ~~stormwater management program~~ MS4 Program designed to reduce the discharge of pollutants from the regulated small MS4 to the maximum extent practicable (MEP), to protect water quality, [ ~~to improve waters that the regulated small MS4 discharges into that are identified as impaired in the 2006 305(b)/303(d) Water Quality Assessment Integrated Report (http://www.deq.state.va.us/wqa/ir2006.html)~~ to ensure compliance by the operator with water quality standards ] , and to satisfy the appropriate water quality requirements of the Clean Water Act and regulations [ ~~and the Virginia Stormwater Management Act and attendant regulations~~ ]. The ~~stormwater management program~~ MS4 Program must include the minimum control measures described in paragraph B of this section. [ ~~For purposes of this section, narrative effluent limitations requiring implementation of best management practices (BMPs) are generally the most appropriate form of effluent limitations when designed to satisfy technology requirements (including reductions of pollutants to the maximum extent practicable) and to protect water quality.~~ ] Implementation of best management practices consistent with the provisions of [ ~~the an~~ ] stormwater management program [ iterative ] MS4 Program required pursuant to this ~~Part~~ section constitutes compliance with the standard of reducing pollutants to the "maximum extent practicable." ~~The stormwater management program must be developed and implemented in accordance with the Act by July 1, 2006, or by a later date if specified by the board. [ and, ]~~ protects water quality in the absence of a TMDL wasteload allocation [ , ensures compliance by the operator with water quality standards, and satisfies the appropriate water quality requirements of the Clean Water Act and regulations in the absence of a TMDL WLA ]. The requirements of this section and those special conditions set out in Section I B also apply where a WLA is applicable.

[ ~~Within 180 days of the effective date of this general permit No later than January 9, 2009 ] , the operator shall review its~~

existing MS4 Program Plan and submit a schedule to develop and implement programs to meet the conditions established by this permit. For operators of regulated small MS4s that are applying for initial coverage under this general permit, the schedule to develop and implement the MS4 Program Plan shall be submitted with the completed registration statement.

[ ~~Prior to submittal of the MS4 Program Plan and proposed schedule to the department, each operator must provide public notification and provide for receipt of public comments. Public notice shall allow at least 30 days for public comment. Public notice shall be given by any method reasonably calculated to give actual notice of the action in question to the persons potentially affected by it, including press releases or any other forum or medium to elicit public participation. Copies of all comments received shall be submitted with the proposed schedule to the department.~~ ]

## B. Minimum control measures.

1. Public education and outreach on stormwater impacts. Implement a public education program to distribute educational materials to the community or conduct equivalent outreach activities about the impacts of stormwater discharges on water bodies and the steps that the public can take to reduce pollutants in stormwater runoff. The [ department recommends that the ] operator [ may ] review the Environmental Protection Agency (EPA) publication entitled "Getting in Step: A Guide for Conducting Watershed Outreach Campaigns," publication number EPA 841-B-03-002, for guidance in developing a public education program.

The operator shall identify, schedule, implement, evaluate and modify, as necessary, BMPs to meet the following public education and outreach measurable goals:

- a. Increased individual and household knowledge about the steps that they can take to reduce stormwater pollution, placing priority on reducing impacts to impaired waters and other local water pollution concerns;
- b. Increased public employee, business, and general public knowledge of hazards associated with illegal discharges and improper disposal of waste, including pertinent legal implications;
- c. Increased individual and group involvement in local water quality improvement initiatives including the promotion of local restoration and clean up projects, programs, groups, meetings and other opportunities for public involvement;
- d. [ ~~Increased range of diverse~~ Diverse ] strategies to target audiences specific to the area serviced by the regulated small MS4;
- e. Improved outreach program to address viewpoints and concerns of target audiences, [ particularly minority and disadvantaged audiences as well as special concerns

relating to children with a recommended focus on minorities, disadvantaged audiences and minors ] ; and

f. Targeted strategies towards local groups of commercial, industrial, and institutional entities likely to have significant stormwater impacts.

2. Public involvement/participation. [ ~~At a minimum, comply with applicable state, tribal, and local public notice requirements when implementing the ] stormwater management program [ MS4 Program. ]~~

The operator shall [ comply with applicable state, tribal, and local public notice requirements and ] identify, schedule, implement, evaluate and modify, as necessary, BMPs to meet the following public involvement/participation measurable goals:

a. Promote the availability of the operator's MS4 Program Plan [ and any modifications ] for public review and comment. [ Public notice shall be given by any method reasonably calculated to give actual notice of the action in question to the persons potentially affected by it, including press releases or any other forum or medium to elicit public participation. ] Provide access to or copies of the MS4 Program Plan [ or any modifications ] upon request of interested parties in compliance with all applicable freedom of information regulations;

b. Provide access to or copies of the annual report upon request of interested parties in compliance with all applicable freedom of information regulations; and

c. Participate, through promotion, sponsorship, or other involvement, in local activities aimed at increasing public participation to reduce stormwater pollutant loads and improve water quality.

3. Illicit discharge detection and elimination. The MS4 Program shall:

a. Develop, implement and enforce a program to detect and eliminate illicit discharges, as defined at ~~4VAC50-60-1200~~ 4VAC50-60-10, into the regulated small MS4. The department recommends that the operator review the publication entitled "Illicit Discharge Detection and Elimination: A Guidance Manual for Program Development and Technical Assessments," Environmental Protection Agency (EPA) cooperative agreement number X-82907801-0, for guidance in implementing and evaluating its illicit discharge detection and elimination program;

b. (4)-Develop, if not already completed, and maintain, an updated a storm sewer system map, showing the location of all ~~major~~ known outfalls of the regulated small MS4 including those physically interconnected to a regulated MS4, the associated [ surface waters and ] HUCs, and the names and ~~location~~ locations of all impaired surface waters that receive discharges from

---

# Regulations

---

those outfalls. The operator shall also estimate the acreage within the regulated small MS4 discharging to each HUC and impaired water;

(2) c. To the extent allowable under state, tribal or local law or other regulatory mechanism, effectively prohibit, through ordinance, or other regulatory mechanism, nonstormwater discharges into the storm sewer system and implement appropriate enforcement procedures and actions;

The following categories of nonstormwater discharges or flows (i.e., illicit discharges) must be addressed only if they are identified by the operator, the State Water Control Board, or by the board as significant contributors of pollutants to the regulated small MS4: water line flushing, landscape irrigation, diverted stream flows, rising ground waters, uncontaminated ground water infiltration, uncontaminated pumped ground water, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, street wash water, discharges or flows from fire fighting activities, and flows that have been identified in writing by the Department of Environmental Quality as de minimis discharges that are not significant sources of pollutants to state waters and not requiring a VPDES permit;

(3) d. Develop and implement a plan procedures to detect and address nonstormwater discharges, including illegal dumping, to the system regulated small MS4; and

(4) Inform public employees, businesses, and the general public of hazards associated with illegal discharges and improper disposal of waste.

e. The following categories of nonstormwater discharges or flows (i.e., illicit discharges) must be addressed only if they are identified by the permittee or by the board as significant contributors of pollutants to the small MS4: water line flushing, landscape irrigation, diverted stream flows, rising ground waters, uncontaminated ground water infiltration, uncontaminated pumped ground water, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, street wash water, and discharges or flows from fire fighting activities.

e. Prevent or minimize to the maximum extent practicable, the discharge of hazardous substances or oil in the stormwater discharge(s) from the regulated small MS4. In addition, the MS4 Program must be reviewed to

identify measures to prevent the recurrence of such releases and to respond to such releases, and the program must be modified where appropriate. This permit does not relieve the operator or the responsible part(ies) of any reporting requirements of 40 CFR Part 110 (2001), 40 CFR Part 117 (2001) and 40 CFR Part 302 (2001) or §62.1-44.34:19 of the Code of Virginia;

f. Track the number of illicit discharges identified, provide narrative on how they were [controlled or] eliminated, and submit the information in accordance with Section II E [ 2 3 ] ; and

g. Notify, in writing, any downstream regulated MS4 to which the small regulated MS4 is physically interconnected of the small regulated MS4's connection to that system.

#### 4. Construction site stormwater runoff control.

a. ~~Develop~~ The operator shall develop, implement, and enforce a program procedures to reduce pollutants in any stormwater runoff to the regulated small MS4 from construction activities that result in a land disturbance of greater than or equal to one acre or equal to or greater than 2,500 square feet in all areas of the jurisdictions designated as subject to the Chesapeake Bay Preservation Area Designation and Management Regulations adopted pursuant to the Chesapeake Bay Preservation Act. Additionally, reduction of stormwater discharges from construction activity disturbing less than one acre must be included in the program if that construction activity is part of a larger common plan of development or sale that would disturb one acre or more. If the board waives requirements for stormwater discharges associated with small construction activity in accordance with the definition in 4VAC50-60-10, the permittee is not required to develop, implement, and/or enforce a program to reduce pollutant discharges from such sites.

b. ~~The program procedures~~ must include the development and implementation of, at a minimum:

(1) An ordinance or other regulatory mechanism to require erosion and sediment controls, as well as sanctions to ensure compliance with the Erosion and Sediment Control Law and attendant regulations, to the extent allowable under state, tribal, or local law. Such ordinances and other mechanisms shall be updated as necessary;

(2) Requirements for construction site [owners and] operators to implement [appropriate erosion and sediment control best management practices as part of] an erosion and sediment control [plan] that is consistent with the Erosion and Sediment Control Law and attendant regulations and other applicable requirements of state, tribal, or local law [ . Where determined appropriate by the operator, the operator shall

encourage the use of structural and nonstructural design techniques to create a design that has the goal of maintaining or replicating predevelopment runoff characteristics and site hydrology ] ;

(3) Requirements for construction site [ owners and ] operators to ~~control waste such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at the construction site that may cause adverse impacts to water quality; or procedures to ensure that construction site operators have secured or will secure~~ authorization to discharge stormwater from construction activities under a VSMP ~~construction~~ permit for construction activities that result in a land disturbance of greater than or equal to one acre or equal to or greater than 2,500 square feet in all areas of the jurisdictions designated as subject to the Chesapeake Bay Preservation Area Designation and Management Regulations adopted pursuant to the Chesapeake Bay Preservation Act. Additionally, [ reduction of ] stormwater discharges from construction activity disturbing less than one acre must [ ~~be included in the procedures~~ secure authorization to discharge under a VSMP permit ] if that construction activity is part of a larger common plan of development or sale that would disturb one acre or more;

(4) Procedures for site plan review which incorporate consideration of potential water quality and quantity impacts and ensures compliance with the Chesapeake Bay Preservation Act as implemented in Tidewater Virginia localities;

~~(5)~~ (4) Procedures for receipt and consideration of information submitted by the public; and

~~(6)~~ (5) Procedures for site inspection and enforcement of control measures.

b. The operator shall ensure that plan reviewers, inspectors, program administrators and construction site [ owners and ] operators obtain the appropriate certifications as required under the Erosion and Sediment Control Law;

c. ~~Track~~ The operator shall track regulated land-disturbing activities and submit the following information for the reporting period with the annual ~~report required~~ in accordance with Section II E [ ~~2 3~~ ] :

(1) Total number of regulated land-disturbing activities; and

(2) Total disturbed acreage.

5. Post-construction stormwater management in new development and redevelopment.

a. ~~Develop~~ The operator shall develop, implement, and enforce a ~~program procedures~~ to address stormwater runoff to the regulated small MS4 from new development

and redevelopment projects that disturb greater than or equal to one acre or equal to or greater than 2,500 square feet in all areas of the jurisdictions designated as subject to the Chesapeake Bay Preservation Area Designation and Management Regulations adopted pursuant to the Chesapeake Bay Preservation Act, including projects less than one acre that are part of a larger common plan of development or sale, that discharge into the regulated small MS4. The ~~program~~ procedures must ensure that controls are in place that would prevent or minimize water quality and quantity impacts in accordance with this section.

b. The operator shall:

(1) Develop and implement strategies which include a combination of structural and/or nonstructural best management practices (BMPs) appropriate for ~~your the~~ [ local operator's ] community. [ ~~The operator shall encourage the use of low impact development where determined appropriate by the operator~~ Where determined appropriate by the operator, the operator shall encourage the use of structural and nonstructural design techniques to create a design that has the goal of maintaining or replicating predevelopment runoff characteristics and site hydrology ] ;

(2) Use an ordinance [ , regulation, ] or other ~~regulatory~~ mechanism to address post-construction runoff from new development and redevelopment projects to ensure compliance with the Virginia Stormwater Management Act (§10.1-603.1 et seq. of the Code of Virginia) and attendant regulations, and to the extent allowable under state, tribal or local law. Such ordinances and other mechanisms shall be updated as necessary; and

(3) Require construction site [ owners and ] operators to secure authorization to discharge stormwater from construction activities under a VSMP permit for new development and redevelopment projects that result in a land disturbance of greater than or equal to one acre or equal to or greater than 2,500 square feet in all areas of the jurisdictions designated as subject to the Chesapeake Bay Preservation Area Designation and Management Regulations adopted pursuant to the Chesapeake Bay Preservation Act. Additionally, [ reduction of ] stormwater discharges from construction activity disturbing less than one acre must [ ~~be included in the procedures~~ secure authorization to discharge under a VSMP permit ] if that construction activity is part of a larger common plan of development or sale that would disturb one acre or more;

~~(3)~~ (4) [ ~~Ensure~~ Require ] adequate long-term operation and maintenance by the owner of ~~BMPs~~ structural stormwater management facilities through requiring the owner to develop a recorded inspection schedule and maintenance agreement ~~or some other mechanism that~~

---

# Regulations

---

~~achieves an equivalent objective [ to the extent allowable under state, tribal or local law or other legal mechanism ] . The operator shall additionally develop, through the maintenance agreement or other method, a mechanism for enforcement of maintenance responsibilities by the operator if they are neglected by the owner;~~

~~(5) Conduct site inspection and enforcement measures consistent with the Virginia Stormwater Management Act and attendant regulations; [ and ]~~

~~[ (6) Track number of acres per HUC developed utilizing low impact development principles; and ]~~

~~(4) [ (7) (6) ] If the MS4 discharges to the Chesapeake Bay watershed, track all known permanent BMP's installed in the MS4 (structural and nonstructural), stormwater management facilities that discharge to the regulated small MS4 and submit the following information with the annual report required in accordance with Section II E [ 2 3 ] :~~

~~(a) Type of BMP structural stormwater management facility installed as defined in the Virginia Stormwater Management Handbook;~~

~~(b) Geographic location (Hydrologic Unit Code) (HUC);~~

~~(c) Waterbody Where applicable, the impaired surface water that the BMP stormwater management facility is discharging into; and~~

~~(d) Number of acres treated to the nearest one tenth acre;~~

~~(e) Whether the BMP is inspected or maintained; and~~

~~(f) How often the BMP is maintained (quarterly, annually, etc.);~~

6. Pollution prevention/good housekeeping for municipal operations. Develop and implement an operation and maintenance program [ consistent with the MS4 Program Plan ] that includes a training component and has the ultimate goal of preventing or reducing pollutant runoff from municipal operations. Using training materials ~~that are~~ including those available from EPA, state, tribe, or other organizations, the program ~~must~~ shall include employee training to prevent and reduce stormwater pollution from activities such as park and open space maintenance, fleet and building maintenance, new construction and land disturbances, and ~~stormwater system~~ MS4 maintenance. The operator is encouraged to review the Environmental Protection Agency's (EPA's) National Menu of Stormwater Best Management Practices for ideas and strategies to incorporate into its program. The menu can be accessed at <http://cfpub.epa.gov/npdes/stormwater/menuofbmps/index.cfm>.

[ a: ] The operator shall identify, implement, evaluate and modify, as necessary, BMPs to meet the following

pollution prevention/good housekeeping for municipal operations measurable goals:

[ (1) a. ] Operation and maintenance programs including activities, schedules, and inspection procedures shall include provisions and controls to reduce pollutant discharges into the regulated small MS4 [ and receiving surface waters ] ;

[ (2) b. ] Illicit discharges shall be eliminated from storage yards, fleet or maintenance shops, outdoor storage areas, rest areas, waste transfer stations, and other municipal facilities;

[ (3) c. ] Waste materials shall be disposed of properly;

[ (4) d. ] Materials that are soluble or erodible shall be protected from exposure to precipitation;

[ (5) e. ] Materials, including but not limited to fertilizers and pesticides, that have the potential to pollute receiving surface waters shall be applied according to manufacturer's recommendations; and

[ (6) f. ] For state agencies with lands where nutrients are applied, nutrient management plans shall be developed and implemented in accordance with the requirements of §10.1-104.4 of the Code of Virginia.

~~C. Qualifying state, tribal or local program.~~ If an existing qualifying local program requires the implementation of one or more of the minimum control measures of Section II B, the permittee operator, with the approval of the board, may follow that qualifying program's requirements rather than the requirements of Section II B. A qualifying local program is that may be considered includes, but is not limited to, a local, state or tribal ~~municipal stormwater management~~ program that imposes, at a minimum, the relevant requirements of Section II B.

The ~~permittee's stormwater management program must~~ operator's MS4 Program Plan shall identify and fully describe any qualifying local program that will be used to satisfy one or more of the minimum control measures of Section II B.

If the ~~qualifying local~~ program the permittee operator is using requires the approval of a third party, the program must be fully approved by the third party, or the ~~permittee operator~~ must be working towards getting full approval. Documentation of the ~~qualifying local~~ program's approval status, or the progress towards achieving full approval, must be included in the annual report required by Section II E [ 2 3 ] .

~~D. Sharing responsibility.~~ The permittee operator may rely on another entity to satisfy the VSMP permit obligations to implement a minimum control measure if: (i) the other entity, in fact, implements the control measure; (ii) the particular control measure, or component thereof, is at least as stringent as the corresponding VSMP permit requirement; and (iii) the

other entity agrees to implement the control measure on behalf of the permittee operator. The agreement between the parties must be documented in writing and retained by the permittee operator with the Stormwater Management MS4 Program Plan for the duration of this permit.

In the annual reports that must be submitted under Section II E [ 2 3 ], the permittee operator must specify that another entity is being relied on to satisfy some of the permit obligations.

If the permittee operator is relying on another governmental entity regulated under 4VAC50-60-380 to satisfy all of the permit obligations, including the obligation to file periodic reports required by Section II E [ 2 3 ], the permittee operator must note that fact in the registration statement, but is not required to file the periodic reports.

The permittee operator remains responsible for compliance with the permit obligations if the other entity fails to implement the control measure (or component thereof).

E. Evaluation and assessment.

1. Evaluation.

a. The permittee operator must annually evaluate:

~~program~~ (1) Program compliance [ 7 i ]

~~the~~ (2) The appropriateness of the identified best management practices BMPs [ 7; (as part of this evaluation, the operator shall evaluate the effectiveness of BMPs in addressing discharges into waters that are identified as impaired in the 2006 305(b)/303(d) Water Quality Assessment Integrated Report); ] and

~~progress~~ (3) Progress towards achieving the identified measurable goals.

b. The operator must evaluate its MS4 Program once during the permit cycle using the "Municipal Stormwater Program Evaluation Guidance," Environmental Protection Agency EPA-833-R-07-003. Such information shall be utilized when reapplying for permit coverage. Results of this evaluation shall be kept on file and made available during audits and inspections.

[ 2. Recordkeeping. The operator must keep records required by the NPDES permit for at least three years. These records must be submitted to the NPDES permitting authority only upon specific request. The operator must make the records, including a description of the stormwater management program, available to the public at reasonable times during regular business hours.

3. ] Annual reports. The permittee operator must submit an annual report for the reporting period of July 1 through June 30 to the [ director department ] by the annual anniversaries of the date of coverage under this permit the following October 1. The reports must shall include:

a. [ Background Information.

(1) The name and permit number of the program submitting the annual report;

(2) The annual report permit year;

(3) Modifications to any operator's department's roles and responsibilities;

(4) Number of new MS4 outfalls and associated acreage by HUC added during the permit year; and

(5) Signed certification.

b. ] The status of compliance with permit conditions, an assessment of the appropriateness of the identified best management practices and progress towards achieving the identified measurable goals for each of the minimum control measures;

[ ~~b. c.~~ ] Results of information collected and analyzed, including monitoring data, if any, during the reporting period;

[ ~~e. d.~~ ] A summary of the stormwater activities the permittee operator plans to undertake during the next reporting cycle;

[ ~~d. e.~~ ] A change in any identified best management practices or measurable goals for any of the minimum control measures [ including steps to be taken to address any deficiencies ];

[ ~~e. f.~~ ] Notice that the permittee operator is relying on another government entity to satisfy some of the permit obligations (if applicable) [ 7 i ] and

[ ~~f. g.~~ ] The approval status of any ~~qualifying local~~ programs pursuant to Section II C (if appropriate), or the progress towards achieving full approval of these programs;

[ ~~g. h.~~ ] Information required pursuant to Section I B [ 40-9 ];

[ ~~h. i.~~ ] The number of illicit discharges identified and the narrative on how they were [ controlled or ] eliminated pursuant to Section II B 3 f;

[ ~~i. j.~~ ] Regulated land-disturbing activities data tracked under Section II 4 c;

[ ~~j. k.~~ ] All known permanent stormwater management facility data tracked under Section II B 5 b (6) [ ~~and (7)~~ ] submitted in a database format to be prescribed by the department. Upon filing of this list, subsequent reports shall only include those new stormwater management facilities that have been brought online; [ ~~and~~ ]

[ ~~k. l.~~ ] A list of any new or terminated signed agreements between the operator and any applicable third parties where the operator has entered into an agreement in order

---

# Regulations

---

to implement minimum control measures or portions of minimum control measures [ ; and

m. Copies of any written comments received during a public comment period regarding the MS4 Program Plan or any modifications ].

F. Program Plan modifications. The ~~department board~~ may require modifications to the ~~Stormwater Management MS4 Program Plan~~ as needed to address adverse impacts on receiving surface water quality caused, or contributed to, by discharges from the regulated small MS4. Modifications ~~requested~~ required by the ~~department board~~ shall be made in writing and set forth the time schedule to develop and implement the modification. The permittee operator may propose alternative program modifications and time schedules to meet the objective of the ~~requested~~ required modification. The ~~department board~~ retains the authority to require any modifications it determines are necessary.

## SECTION III

### CONDITIONS APPLICABLE TO ALL VSMP PERMITS

~~NOTE: Monitoring is not required for this permit. If you choose to monitor your stormwater discharges or BMP's in support of your Stormwater Management Program, you must comply with the requirements of subsections A, B, and C, as appropriate.~~

#### A. Monitoring.

1. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.
2. Monitoring shall be conducted according to procedures approved under 40 CFR Part 136 (2001) or alternative methods approved by the U.S. Environmental Protection Agency, unless other procedures have been specified in this permit.
3. The permittee operator shall periodically calibrate and perform maintenance procedures on all monitoring and analytical instrumentation at intervals that will insure accuracy of measurements.

#### B. Records.

1. ~~Records of monitoring information~~ Monitoring records/reports shall include:
  - a. The date, exact place, and time of sampling or measurements;
  - b. The individual(s) who performed the sampling or measurements;
  - c. The date(s) and time(s) analyses were performed;
  - d. The individual(s) who performed the analyses;
  - e. The analytical techniques or methods used; and

f. The results of such analyses.

2. The permittee operator shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the registration statement for this permit, for a period of at least three years from the date of the sample, measurement, report or request for coverage. This period of retention shall be extended automatically during the course of any unresolved litigation regarding the regulated activity or regarding control standards applicable to the permittee operator, or as requested by the board.

#### C. Reporting monitoring results.

1. The permittee operator shall submit the results of the monitoring required by this permit ~~not later than the 10th day of the month after monitoring takes place,~~ with the annual report unless another reporting schedule is specified elsewhere in this permit. ~~Monitoring results shall be submitted to the department's Urban Program's Section of the Division of Soil and Water Conservation.~~

2. Monitoring results shall be reported on a Discharge Monitoring Report (DMR) [ ~~of ;~~ ] on forms provided, approved or specified by the department [ - ; or in any format provided the date, location, parameter, method, and result of the monitoring activity are included. ]

3. If the permittee operator monitors any pollutant specifically addressed by this permit more frequently than required by this permit using test procedures approved under 40 CFR Part 136 (2001) or using other test procedures approved by the U.S. Environmental Protection Agency or using procedures specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR or reporting form specified by the department.

4. Calculations for all limitations that require averaging of measurements shall utilize an arithmetic mean unless otherwise specified in this permit.

D. Duty to provide information. The permittee operator shall furnish to the department, within a reasonable time, any information that the board may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. The board may require the permittee operator to furnish, upon request, such plans, specifications, and other pertinent information as may be necessary to determine the effect of the wastes from his discharge on the quality of state surface waters, or such other information as may be necessary to accomplish the purposes of the CWA and Virginia Stormwater Management Act. The permittee operator shall also furnish to the department upon request, copies of records required to be kept by this permit.

E. Compliance schedule reports. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date.

F. Unauthorized [~~stormwater~~] discharges. [~~Except in compliance with this permit, or another permit issued by the board or State Water Control Board, it shall be unlawful for any person to:~~

1. ~~Discharge into~~] state [~~surface waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances; or~~
2. ~~Otherwise alter the physical, chemical or biological properties of such ]-state- [ surface waters and make them detrimental to the public health, or to animal or aquatic life, or to the use of such waters for domestic or industrial consumption, or for recreation, or for other uses.~~

Pursuant to §10.1-603.2:2 A of the Code of Virginia, except in compliance with a permit issued by the board, it shall be unlawful to cause a stormwater discharge from a MS4. ]

G. Reports of unauthorized discharges. Any permittee operator of a regulated small MS4 who discharges or causes or allows a discharge of sewage, industrial waste, other wastes or any noxious or deleterious substance or a hazardous substance or oil in an amount equal to or in excess of a reportable quantity established under either 40 CFR Part 110 (2002), 40 CFR Part 117 (2002) or 40 CFR Part 302 (2002) that occurs during a 24-hour period into or upon state surface waters [ in violation of Section III F ]; or who discharges or causes or allows a discharge that may reasonably be expected to enter state surface waters [ in violation of Section III F ], shall notify the Department of Environmental Quality ~~and the Department of Conservation and Recreation~~ of the discharge immediately upon discovery of the discharge, but in no case later than within 24 hours after said discovery. A written report of the unauthorized discharge shall be submitted to the Department of Environmental Quality and the Department of Conservation and Recreation, within five days of discovery of the discharge. The written report shall contain:

1. A description of the nature and location of the discharge;
2. The cause of the discharge;
3. The date on which the discharge occurred;
4. The length of time that the discharge continued;
5. The volume of the discharge;
6. If the discharge is continuing, how long it is expected to continue;
7. If the discharge is continuing, what the expected total volume of the discharge will be; and

8. Any steps planned or taken to reduce, eliminate and prevent a recurrence of the present discharge or any future discharges not authorized by this permit.

Discharges reportable to the Department of Environmental Quality and the Department of Conservation and Recreation under the immediate reporting requirements of other regulations are exempted from this requirement.

H. Reports of unusual or extraordinary discharges. If any unusual or extraordinary discharge including a [ ] bypass [ ] or [ ] upset [ , as defined herein, ] should occur from a facility and the discharge enters or could be expected to enter state surface waters, the permittee operator shall promptly notify, in no case later than within 24 hours, the Department of Environmental Quality and the Department of Conservation and Recreation by telephone after the discovery of the discharge. This notification shall provide all available details of the incident, including any adverse affects on aquatic life and the known number of fish killed. The permittee operator shall reduce the report to writing and shall submit it to the Department of Environmental Quality and the Department of Conservation and Recreation within five days of discovery of the discharge in accordance with Section III I 2. Unusual and extraordinary discharges include but are not limited to any discharge resulting from:

1. Unusual spillage of materials resulting directly or indirectly from processing operations;
2. Breakdown of processing or accessory equipment;
3. Failure or taking out of service some or all of the facilities; and
4. Flooding or other acts of nature.

I. Reports of noncompliance. The permittee operator shall report any noncompliance which may adversely affect state surface waters or may endanger public health.

1. An oral report shall be provided within 24 hours to the Department of Environmental Quality and the Department of Conservation and Recreation from the time the permittee operator becomes aware of the circumstances. The following shall be included as information ~~that~~ which shall be reported within 24 hours under this paragraph:
  - a. Any unanticipated bypass; and
  - b. Any upset which causes a discharge to surface waters.
2. A written report shall be submitted within five days and shall contain:
  - a. A description of the noncompliance and its cause;
  - b. The period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and

---

# Regulations

---

c. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

The board or its designee may waive the written report on a case-by-case basis for reports of noncompliance under Section III I if the oral report has been received within 24 hours and no adverse impact on state surface waters has been reported.

3. The permittee operator shall report all instances of noncompliance not reported under Sections III I 1 or 2, in writing, at the time the next monitoring reports are submitted. The reports shall contain the information listed in Section III I 2.

NOTE: The immediate (within 24 hours) reports required to be provided to the Department of Environmental Quality in Sections III G, H and I may be made to the ~~department's Urban Program's Section of the Division of Soil and Water Conservation~~ appropriate Department of Environmental Quality's Regional Office Pollution Response Program as found at <http://www.deq.virginia.gov/prep/homepage.html#>.

Reports may be made by telephone or by fax. For reports outside normal working hours, leave a message and this shall fulfill the immediate reporting requirement. For emergencies, the Virginia Department of Emergency Services maintains a 24-hour telephone service at 1-800-468-8892.

4. Where the permittee operator becomes aware ~~that it failed of a failure~~ to submit any relevant facts [ ~~in a permit application~~ ], or submitted submittal of incorrect information [ ~~in a permit application or~~ ] in any report to the department or the Department of Environmental Quality, it shall promptly submit such facts or correct information.

## J. Notice of planned changes.

1. The permittee operator shall give notice to the department as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:

a. The permittee operator plans an alteration or addition to any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced:

(1) After promulgation of standards of performance under §306 of [ the ] Clean Water Act that are applicable to such source; or

(2) After proposal of standards of performance in accordance with §306 of [ the ] Clean Water Act that are applicable to such source, but only if the standards are promulgated in accordance with §306 within 120 days of their proposal;

b. The operator plans alteration or addition ~~could that would~~ significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants that are not subject to effluent limitations in this permit; or

2. The permittee operator shall give advance notice to the department of any planned changes in the permitted facility or activity; ~~that~~ which may result in noncompliance with permit requirements.

## K. Signatory requirements.

1. Registration statement. All registration statements shall be signed as follows:

a. For a corporation: by a responsible corporate officer. For the purpose of this subsection, a responsible corporate officer means: (i) A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

b. For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or

c. For a municipality, state, federal, or other public agency: By either a principal executive officer or ranking elected official. For purposes of this subsection, a principal executive officer of a public agency includes:

(1) The chief executive officer of the agency, or

(2) A senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

2. Reports, etc. All reports required by permits, and other information requested by the board shall be signed by a person described in Section III K 1, or by a duly authorized representative of that person. A person is a duly authorized representative only if:

a. The authorization is made in writing by a person described in Section III K 1;

b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the ~~company~~ operator. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.); and

c. The written authorization is submitted to the department.

3. Changes to authorization. If an authorization under Section III K 2 is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of Section III K 2 shall be submitted to the department prior to or together with any reports, or information to be signed by an authorized representative.

4. Certification. Any person signing a document under Sections III K 1 or 2 shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

L. Duty to comply. The permittee operator shall comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Virginia Stormwater Management Act and the Clean Water Act, except that noncompliance with certain provisions of this permit may constitute a violation of the Virginia Stormwater Management Act but not the Clean Water Act. Permit noncompliance is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application.

The permittee operator shall comply with effluent standards or prohibitions established under §307(a) of the Clean Water Act for toxic pollutants within the time provided in the regulations that establish these standards or prohibitions or standards for sewage sludge use or disposal, even if this permit has not yet been modified to incorporate the requirement.

M. Duty to reapply. If the permittee operator wishes to continue an activity regulated by this permit after the

expiration date of this permit, the permittee operator shall submit a new registration statement at least 90 days before the expiration date of the existing permit, unless permission for a later date has been granted by the board. The board shall not grant permission for registration statements to be submitted later than the expiration date of the existing permit.

N. Effect of a permit. This permit does not convey any property rights in either real or personal property or any exclusive privileges, nor does it authorize any injury to private property or invasion of personal rights, or any infringement of federal, state or local law or regulations.

O. State law. Nothing in this permit shall be construed to preclude the institution of any legal action under, or relieve the permittee operator from any responsibilities, liabilities, or penalties established pursuant to any other state law or regulation or under authority preserved by §510 of the Clean Water Act. Except as provided in permit conditions on "bypassing" (Section III U), and "upset" (Section III V) nothing in this permit shall be construed to relieve the permittee operator from civil and criminal penalties for noncompliance.

P. Oil and hazardous substance liability. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee operator from any responsibilities, liabilities, or penalties to which the permittee operator is or may be subject under §§62.1-44.34:14 through 62.1-44.34:23 of the State Water Control Law [ or § 311 of the Clean Water Act ] .

Q. Proper operation and maintenance. The permittee operator shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) ~~that~~ , which are installed or used by the permittee operator to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes effective plant performance, adequate funding, adequate staffing, and adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems ~~that~~ , which are installed by the permittee operator only when the operation is necessary to achieve compliance with the conditions of this permit.

R. Disposal of solids or sludges. Solids, sludges or other pollutants removed in the course of treatment or management of pollutants shall be disposed of in a manner so as to prevent any pollutant from such materials from entering [ ~~state surface~~ ] waters.

S. Duty to mitigate. The permittee operator shall take all reasonable steps to minimize or prevent any discharge in violation of this permit that has a reasonable likelihood of adversely affecting human health or the environment.

T. Need to halt or reduce activity not a defense. It shall not be a defense for a ~~permittee an operator~~ in an enforcement

---

# Regulations

---

action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

## U. Bypass.

1. [ "~~Bypass~~" "Bypass," as defined in 4VAC50-60-10, ] means the intentional diversion of waste streams from any portion of a treatment facility. The ~~permittee operator~~ may allow any bypass to occur that does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of Sections III U 2 and U 3.

### 2. Notice.

a. Anticipated bypass. If the ~~permittee operator~~ knows in advance of the need for a bypass, prior notice shall be submitted, if possible at least 10 days before the date of the bypass.

b. Unanticipated bypass. The ~~permittee operator~~ shall submit notice of an unanticipated bypass as required in Section III I.

### 3. Prohibition of bypass.

a. Bypass is prohibited, and the board or its designee may take enforcement action against ~~a permittee~~ an operator for bypass, unless:

(1) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(2) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass that occurred during normal periods of equipment downtime or preventive maintenance; and

(3) The ~~permittee operator~~ submitted notices as required under Section III U 2.

b. The board or its designee may approve an anticipated bypass, after considering its adverse effects, if the board [ or its designee ] determines that it will meet the three conditions listed above in Section III U 3 a.

## V. Upset.

1. An upset [ , as defined in 4VAC50-60-10, ] constitutes an affirmative defense to an action brought for noncompliance with technology based permit effluent limitations if the requirements of Section III V 2 are met. A determination made during administrative review of claims that noncompliance was caused by upset, and before an

action for noncompliance, is not a final administrative action subject to judicial review.

2. [ An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

3. ] ~~A permittee~~ An operator who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

a. An upset occurred and that the ~~permittee operator~~ can identify the cause(s) of the upset;

b. The permitted facility was at the time being properly operated;

c. The ~~permittee operator~~ submitted notice of the upset as required in Section III I; and

d. The ~~permittee operator~~ complied with any remedial measures required under Section III S.

[ ~~3-~~ 4. ] In any enforcement proceeding the ~~permittee operator~~ seeking to establish the occurrence of an upset has the burden of proof.

W. Inspection and entry. The ~~permittee operator~~ shall allow the [ ~~director~~ department ] as the board's designee, or an authorized representative (including an authorized contractor acting as a representative of the administrator), upon presentation of credentials and other documents as may be required by law, to:

1. Enter upon the ~~permittee's operator's~~ premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;

2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;

3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and

4. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act and the Virginia Stormwater Management Act, any substances or parameters at any location.

For purposes of this subsection, the time for inspection shall be deemed reasonable during regular business hours, and whenever the facility is discharging. Nothing contained herein shall make an inspection unreasonable during an emergency.

X. Permit actions. Permits may be modified, revoked and reissued, or terminated for cause. The filing of a request by the ~~permittee operator~~ for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

Y. Transfer of permits.

1. Permits are not transferable to any person except after notice to the department. Except as provided in Section III Y 2, a permit may be transferred by the ~~permittee operator~~ to a new owner or operator only if the permit has been modified or revoked and reissued, or a minor modification made, to identify the new ~~permittee operator~~ and incorporate such other requirements as may be necessary under the Virginia Stormwater Management Act and the Clean Water Act.

2. As an alternative to transfers under Section III Y 1, this permit may be automatically transferred to a new ~~permittee operator~~ if:

- a. The current ~~permittee operator~~ notifies the department at least two days in advance of the proposed transfer of the title to the facility or property;
- b. The notice includes a written agreement between the existing and new ~~permittees operators~~ containing a specific date for transfer of permit responsibility, coverage, and liability between them; and
- c. The board does not notify the existing ~~permittee operator~~ and the proposed new ~~permittee operator~~ of its intent to modify or revoke and reissue the permit. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in Section III Y 2 b.

Z. Severability. The provisions of this permit are severable, and if any provision of this permit or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

**NOTICE:** The forms used in administering 4VAC50-60, Virginia Stormwater Management Program (VSMP) Permit Regulations, are not being published; however, the name of each form is listed below. The forms are available for public inspection at the Department of Conservation and Recreation, 203 Governor Street, Richmond, Virginia, or at the office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia.

FORMS

Application Form 1-General Information, Consolidated Permits Program, EPA Form 3510-1 (~~June 1980~~) (August 1990) (DCR 199-149).

Department of Conservation and Recreation Permit Application Fee Form, (DCR 199-145) (09/04).

VSMP General Permit Registration Statement for Construction Activity Stormwater Discharges, (DCR01), (DCR 199-146) (09/04).

VSMP General Permit Notice of Termination for Construction Activity Stormwater Discharges, (DCR01), (DCR 199-147) (09/04).

VSMP General Permit Registration Statement for Stormwater Discharges From Small Municipal Separate Storm Sewer Systems (~~DCR02~~) (VAR04), (DCR 199-148) (~~09/04~~) [ (~~09/07~~) (07/08) ].

DOCUMENTS INCORPORATED BY REFERENCE

Illicit Discharge Detection and Elimination – A Guidance Manual for Program Development and Technical Assessments, EPA Cooperative Agreement X-82907801-0, October 2004, by Center for Watershed Protection and Robert Pitt, University of Alabama, available on the Internet at [http://www.cwp.org/idde\\_verify.htm](http://www.cwp.org/idde_verify.htm).

Getting in Step – A Guide for Conducting Watershed Outreach Campaigns, EPA-841-B-03-002, December 2003, U.S. Environmental Protection Agency, Office of Wetlands, Oceans, and Watersheds, available on the Internet at <http://www.epa.gov/owow/watershed/outreach/documents/getnstep.pdf>, or may be ordered from National Service Center for Environmental Publications, telephone 1-800-490-9198.

Municipal Stormwater Program Evaluation Guidance, EPA-833-R-07-003, January 2007 (field test version), U.S. Environmental Protection Agency, Office of Wastewater Management, available on the Internet at [http://cfpub.epa.gov/npdes/docs.cfm?program\\_id=6&view=alprog&sort=name#ms4\\_guidance](http://cfpub.epa.gov/npdes/docs.cfm?program_id=6&view=alprog&sort=name#ms4_guidance), or may be ordered from National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161, telephone 1-800-553-6847 or (703) 605-6000.

VA.R. Doc. No. R07-147; Filed May 16, 2008, 4:22 p.m.

**TITLE 10. FINANCE AND FINANCIAL INSTITUTIONS**

**STATE CORPORATION COMMISSION**

**Proposed Regulation**

**Title of Regulation: 10VAC5-160. Rules Governing Mortgage Lenders and Brokers (amending 10VAC5-160-10; adding 10VAC5-160-70, 10VAC5-160-80).**

**Statutory Authority: §§6.1-421 and 12.1-13 of the Code of Virginia.**

---

# Regulations

---

## Public Hearing Information:

July 1, 2008 - 10 a.m. - Tyler Building, 1300 East Main Street, Richmond, VA

Public Comments: Public comments may be submitted until 5 p.m. on June 23, 2008.

Agency Contact: Susan Hancock, BFI Deputy Commissioner, State Corporation Commission, P.O. Box 1197, Richmond, VA 23218, telephone (804) 371-9657, FAX (804) 371-9416, or email [susan.hancock@scc.virginia.gov](mailto:susan.hancock@scc.virginia.gov).

## Summary:

*The proposed amendments are designed to implement the provisions of Chapter 863 of the 2008 Acts of Assembly and clarify certain terms in Chapter 16 (§6.1-408 et seq.) of Title 6.1 of the Code of Virginia. Definitions of "covered employee," "customer," "dwelling," "personal family or household purposes" and "personal identifying or financial information" are added to implement Chapter 863 and definitions of "licensee" and "senior officer" clarify the commission's construction of these terms in Chapter 16. Provisions are added implementing the prohibition against employment of individuals who have been convicted of certain crimes and the procedure for obtaining relief from this prohibition, and prescribing mandatory initial and continuing education requirements for various employees of Chapter 16 licensees.*

AT RICHMOND, MAY 20, 2008

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. BFI-2008-00289

Ex Parte: In re: proposed amendments to Mortgage Lender and Broker Act regulations

## ORDER TO TAKE NOTICE

WHEREAS, § 6.1-421 of the Code of Virginia authorizes the State Corporation Commission ("Commission") to promulgate regulations to effect the purposes of the Mortgage Lender and Broker Act (the "Act");

WHEREAS, Chapter 863 of the 2008 Acts of Assembly amends the Act effective July 1, 2008; and

WHEREAS, the Commissioner of Financial Institutions has proposed that the Commission adopt regulations implementing the aforesaid amendments insofar as they relate to employment prohibitions, criminal history checks, mandatory employee education, and for other purposes;

IT IS THEREFORE ORDERED THAT:

- (1) The proposed regulations are appended hereto and made part of the record in this case.
- (2) Written comments must be submitted in writing to Joel

H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218, on or before June 23, 2008, and shall contain a reference to Case No. BFI-2008-00289. Interested persons desiring to submit comments electronically may do so by following the instructions at the Commission's website: <http://www.scc.virginia.gov/case>.

(3) The Commission shall conduct a hearing in the Commission's Courtroom, Second Floor, Tyler Building, 1300 East Main Street, Richmond, Virginia at 10:00 a.m. on July 1, 2008, to consider the adoption of the proposed regulations.

(4) The proposed regulations shall be posted on the Commission's website at <http://www.scc.virginia.gov/case>.

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

AN ATTESTED COPY hereof shall be sent to the Commissioner of Financial Institutions, who shall forthwith mail a copy of this Order and the proposed regulations to all licensed mortgage lenders and mortgage brokers and such other interested persons as he may designate.

## **10VAC5-160-10. Definitions.**

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

"Advertisement" means a commercial message in any medium that promotes, directly or indirectly, a mortgage loan. The term includes a communication sent to a consumer as part of a solicitation of business, but excludes messages on promotional items such as pens, pencils, notepads, hats, calendars, etc., as well as rate sheets or other information distributed or made available solely to other businesses.

"Affiliate" for purposes of subdivision 3 of §6.1-411 of the Code of Virginia means an entity of which 25% or more of the voting shares or ownership interest is held, directly or indirectly, by a company that also owns a bank, savings institution, or credit union.

"Commission" and "commissioner" shall have the meanings ascribed to them in §6.1-409 of the Code of Virginia.

"Commitment" means a written offer to make a mortgage loan signed by a person authorized to sign such offers on behalf of a mortgage lender.

"Commitment agreement" means a commitment accepted by an applicant for a mortgage loan, as evidenced by the applicant's signature thereon.

"Commitment fee" means any fee or charge accepted by a mortgage lender, or by a mortgage broker for transmittal to a mortgage lender, as consideration for binding the mortgage

lender to make a mortgage loan in accordance with the terms of a commitment or as a requirement for acceptance by the applicant of a commitment, but the term does not include fees paid to third persons or interest.

"Covered employee" means an employee involved in soliciting, marketing, processing, underwriting, approving, closing, or performing compliance or quality control functions in connection with mortgage loan transactions.

"Customer" means an individual seeking a mortgage loan from, or with the assistance of, a licensee.

"Dwelling" means one- to four-family residential property located in the Commonwealth.

"Fees paid to third persons" means the bona fide fees or charges paid by the applicant for a mortgage loan to third persons other than the mortgage lender or mortgage broker, or paid by the applicant to, or retained by, the mortgage lender or mortgage broker for transmittal to such third persons in connection with the mortgage loan, including, but not limited to, recording taxes and fees, reconveyance or releasing fees, appraisal fees, credit report fees, attorney fees, fees for title reports and title searches, title insurance premiums, surveys and similar charges.

"Licensee" means a person licensed under Chapter 16 (§6.1-408 et seq.) of Title 6.1 of the Code of Virginia.

"Lock-in agreement" means a written agreement between a mortgage lender, or a mortgage broker acting on behalf of a mortgage lender, and an applicant for a mortgage loan that establishes and sets an interest rate and the points to be charged in connection with a mortgage loan that is closed within the time period specified in the agreement. A lock-in agreement can be entered into before mortgage loan approval, subject to the mortgage loan being approved and closed, or after such approval. A commitment agreement that establishes and sets an interest rate and the points to be charged in connection with a mortgage loan that is closed within the time period specified in the agreement is also a lock-in agreement. The interest rate that is established and set by the agreement may be either a fixed rate or an adjustable rate.

"Lock-in fee" means any fee or charge accepted by a mortgage lender, or by a mortgage broker for transmittal to a mortgage lender, as consideration for making a lock-in agreement, but the term does not include fees paid to third persons or interest.

"Mortgage lender," "mortgage broker," and "mortgage loan" shall have the meanings ascribed to them in §6.1-409 of the Code of Virginia.

"Personal, family or household purposes" for purposes of §6.1-409 of the Code of Virginia means that the individual obtaining the loan intends to use the proceeds to build or purchase a dwelling that will be occupied by such individual

or another individual as their temporary or permanent residence. The term includes a loan used to build or purchase a dwelling that will be (i) improved or rehabilitated by or on behalf of the purchaser for subsequent sale to one or more other individuals who will reside in the dwelling on a temporary or permanent basis, or (ii) leased by the purchaser to one or more other individuals who will reside in the dwelling on a temporary or permanent basis.

"Personal identifying or financial information" means the name, social security number, driver license number, home address, telephone number, date of birth, place of birth, race or ethnic origin of a customer together with any information about the customer's account numbers, assets, liabilities, sources of income or credit worthiness.

"Points" means any fee or charge retained or received by a mortgage lender or mortgage broker stated or calculated as a percentage or fraction of the principal amount of the loan, other than or in addition to fees paid to third persons or interest.

"Reasonable period of time" means that period of time, determined by a mortgage lender in good faith on the basis of its most recent relevant experience and other facts and circumstances known to it, within which the mortgage loan will be closed.

"Senior officer" for purposes of §§6.1-414, 6.1-415, 6.1-416 and 6.1-416.1 of the Code of Virginia means an individual who has significant management responsibility within an organization or otherwise has the authority to influence or control the conduct of the organization's affairs, including but not limited to its compliance with applicable laws and regulations.

"Subsidiary" for purposes of subdivision 3 of §6.1-411 of the Code of Virginia means an entity of which 25% or more of the voting shares or ownership interest is held, directly or indirectly, by a bank, savings institution, or credit union.

## **10VAC5-160-70. Employee criminal record investigations.**

A. A licensee shall not, on or after July 1, 2008, and without obtaining prior approval from the commission, hire any individual for a position of employment who may have access to personal identifying or financial information relating to any customer, without first obtaining a criminal history record from the Central Criminal Records Exchange that shows that the prospective employee has not been convicted in any court of any felony, or any misdemeanor involving fraud, misrepresentation or deceit, under the laws of any state or the United States. A licensee shall be subject to a separate penalty under §6.1-428 of the Code of Virginia for each individual hired without obtaining the criminal history record required by this section.

---

# Regulations

---

B. Licensees shall make criminal history records obtained under subsection A of this section and employment history information available for review by commission staff.

C. If a licensee wishes to hire an individual notwithstanding the prohibition in subsection A of this section, the licensee shall file a petition seeking an exemption in accordance with 5VAC5-20-100 C of the commission's Rules of Practice and Procedure. The petition shall be accompanied by a copy of the individual's criminal history record, which shall be kept under seal in the Office of the Clerk.

D. When deciding whether or not to grant a petition filed in accordance with subsection C of this section, the commission shall consider the following factors:

1. The number and classification of offenses committed by the individual;
2. The potential and actual penalties imposed for the offenses committed;
3. The dates of the offenses or convictions;
4. The extent to which the nature of the offenses committed relate to the prospective employee's job duties; and
5. Such other factors and evidence as the commission deems pertinent.

E. The petitioning licensee shall bear the burden of proof that an exemption from the employment prohibition under subsection A of this section should be granted.

## **10VAC5-160-80. Required employee training.**

A. Licensees shall be responsible for providing initial education, and continuing education on at least an annual basis, for all their covered employees with respect to all laws and regulations applicable to the licensees' business. Applicable laws and regulations include, but are not limited to, the Real Estate Settlement Procedures Act (12 USC §2601 et seq.), Truth in Lending Act (15 USC §1601 et seq.), Equal Credit Opportunity Act (15 USC §1691 et seq.) and Fair Credit Reporting Act (15 USC §1681 et seq.), federal and Virginia privacy protection laws, federal and Virginia laws relating to mortgage fraud, the Virginia Mortgage Lender and Broker Act (§6.1-408 et seq. of the Code of Virginia) and all other Virginia laws applicable to the licensees' business, and all regulations adopted under the foregoing laws.

B. Initial education shall consist of at least 14 hours relating to applicable federal laws and regulations, at least six hours relating to applicable Virginia laws and regulations, and additionally at least two hours relating to mortgage fraud prevention, including penalties for participating in mortgage fraud. Initial education shall be provided to individuals who are covered employees as of July 1, 2008, on or before December 1, 2008, and to individuals who become covered employees after July 1, 2008, within 90 days of their hire

date. Continuing education shall consist of at least six hours related to applicable federal laws and regulations, at least four hours related to applicable Virginia laws and regulations, and additionally at least one hour relating to mortgage fraud prevention, including penalties for participating in mortgage fraud.

C. Licensees shall maintain a training manual and documentation available for commission staff's review demonstrating successful completion of the education required under this section, including names of education providers, names and descriptions of educational courses, and dates of attendance and numbers of hours completed by each covered employee, and shall provide any additional information relating to such education that the commissioner may require. Mere training in the sale or marketing of mortgage loans shall not count towards required education. Education relating to applicable federal laws and regulations, as identified in subsection A of this section, received pursuant to like educational requirements imposed by other states may be used to fulfill educational requirements imposed under this section relating to applicable federal laws and regulations.

D. A licensee shall be subject to a separate penalty under §6.1-428 of the Code of Virginia for each covered employee not provided with the education required by this section.

VA.R. Doc. No. R08-1296; Filed May 21, 2008, 11:05 a.m.

---

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

### **BOARD OF DENTISTRY**

#### **Fast-Track Regulation**

Title of Regulation: 18VAC60-20. Regulations Governing the Practice of Dentistry and Dental Hygiene (amending 18VAC60-20-30).

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

Public Hearing Information:

June 27, 2008 - 8:45 a.m. - Department of Health Professions, Perimeter Center, 9960 Mayland Drive, 2nd Floor, Richmond, VA

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

Effective Date: July 24, 2008.

Agency Contact: Sandra Reen, Executive Director, Board of Dentistry, 9960 Mayland Drive, Suite 300, Richmond, VA 23233-1463, telephone (804) 367-4538, FAX (804) 527-4428, or email [sandra.reen@dhp.virginia.gov](mailto:sandra.reen@dhp.virginia.gov).

Basis: Regulations are promulgated under the general authority of Chapter 24 (§54.1-2400 et seq.) of Title 54.1 of the Code of Virginia. Section 54.1-2400 provides the Board of Dentistry the authority to promulgate regulations to administer the regulatory system and to set fees.

Purpose: In 2006, the Board of Dentistry adopted an amended fee schedule to address a growing deficit in its budget. As a part of the revenue and expenditure analysis, it was projected that the fee for an inspection of a dental office would be increased from \$200 to \$350 to reflect the actual cost of having an investigator conduct the inspection as ordered in a disciplinary proceeding. While other increased fees were included in the action that became effective January 10, 2007, the inspection fee was omitted. The inspection fee has been included in board orders and was increased to \$350 as a part of the overall fee increase, so inclusion in board regulations does not increase the fee for those dentists subject to an inspection.

The inclusion of the fee is necessary to ensure that the board can recover its costs for the inspection. Otherwise, the board will be required to increase other fees charged to licensees through renewal or application fees. Those practitioners who are the subject of a disciplinary proceeding should incur the cost for inspection, just as pharmacies and other facilities are charged an inspection fee, if required by regulation or by a disciplinary action. A fee that covers the actual cost for the inspection will enable the board to order an inspection that it believes is necessary to protect the health and safety of patients of the dentist in question without jeopardizing the balance between revenues and expenditures.

Rationale for Using Fast-Track Process: The fast-track process is being used to promulgate the amendments because there is general agreement with the addition of the inspection fee as proposed. The inspection fee is currently a part of the disciplinary order from the board whenever an inspection of a dental office is required. The action was unanimously supported by the members of the board, and it is believed that there will be no objections raised.

Substance: The amendment includes a fee for \$350 for an inspection of a dental office.

Issues: The advantage to the public would be greater protection offered by an inspection of a dental office for a practice in which there has been unprofessional conduct or patient harm by a licensee. There would be no disadvantages.

There are no disadvantages to the agency or the Commonwealth. The advantage of setting the fee in regulation would be less confusion about the fee or its amount. Rather than stating the amount of a fee in the order, it could require the licensee to pay the inspection fee. Currently, some orders continued to include a \$200 inspection fee, even after the board voted in 2006 to increase the fee to \$350.

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

Summary of the Proposed Amendments to Regulation. The Board of Dentistry (Board) proposes to amend its regulations to include a fee for inspecting dental offices pursuant to disciplinary proceeding orders.

Result of Analysis. The benefits likely exceed the costs for this proposed change.

Estimated Economic Impact. Currently the Board's regulations do not include a fee for inspection of dental offices during disciplinary proceedings. Instead, the \$350 fee is written into the disciplinary proceeding orders. The Board proposes to amend its regulations so that this inspection fee is listed in the regulatory fee schedule.

Because dentists and dental offices are already charged this fee as part of disciplinary proceedings, they are unlikely to incur any costs on account of this regulatory action. To the extent that any interested individuals may have been unsure about what these office inspections cost, including this fee in the text of the regulations will provide the benefit of clarity.

Businesses and Entities Affected. This regulatory change may affect any dentist who is the subject of disciplinary proceedings. The Department of Health Professions (DHP) reports that 22 dentists have had to pay this fee in the last two years.

Localities Particularly Affected. No locality will be particularly affected by this proposed regulatory action.

Projected Impact on Employment. This regulatory action will likely have no impact on employment in the Commonwealth.

Effects on the Use and Value of Private Property. This regulatory action will likely have no effect on the use or value of private property in the Commonwealth.

Small Businesses: Costs and Other Effects. Small businesses in the Commonwealth are unlikely to incur any costs on account of this regulatory action.

Small Businesses: Alternative Method that Minimizes Adverse Impact. Small businesses in the Commonwealth are unlikely to incur any costs on account of this regulatory action.

Real Estate Development Costs. This regulatory action will likely have no affect on real estate development costs in the Commonwealth.

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

---

# Regulations

---

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 Board of Dentistry concurs with the analysis of the Department of Planning and Budget for the proposed regulation, 18VAC60-20, Regulations Governing the Practice of Dentistry and Dental Hygiene, relating to setting an inspection fee for dental offices in a disciplinary matter.

Summary:

*The amendment adds a fee of \$350 for an inspection of a dental office pursuant to a disciplinary proceeding order.*

**18VAC60-20-30. Other fees.**

A. Dental licensure application fees. The application fee for a dental license by examination, a license to teach dentistry, a full-time faculty license, or a temporary permit as a dentist shall be \$400. The application fee for dental license by credentials shall be \$500.

B. Dental hygiene licensure application fees. The application fee for a dental hygiene license by examination, a license to teach dental hygiene, or a temporary permit as a dental hygienist shall be \$175. The application fee for dental hygienist license by endorsement shall be \$275.

C. Duplicate wall certificate. Licensees desiring a duplicate wall certificate shall submit a request in writing stating the necessity for such duplicate wall certificate, accompanied by a fee of \$60.

D. Duplicate license. Licensees desiring a duplicate license shall submit a request in writing stating the necessity for such duplicate license, accompanied by a fee of \$20. If a licensee maintains more than one office, a notarized photocopy of a license may be used.

E. Licensure certification. Licensees requesting endorsement or certification by this board shall pay a fee of \$35 for each endorsement or certification.

F. Restricted license. Restricted license issued in accordance with §54.1-2714 of the Code of Virginia shall be at a fee of \$285.

G. Restricted volunteer license. The application fee for licensure as a restricted volunteer dentist or dental hygienist issued in accordance with §54.1-2712.1 or §54.1-2726.1 of the Code of Virginia shall be \$25.

H. Returned check. The fee for a returned check shall be \$35.

I. Inspection fee. The fee for an inspection of a dental office shall be \$350.

VA.R. Doc. No. R08-1090; Filed May 21, 2008, 8:47 a.m.

## BOARD OF MEDICINE

### Fast-Track Regulation

Title of Regulation: **18VAC85-20. Regulations Governing the Practice of Medicine, Osteopathic Medicine, Podiatry, and Chiropractic (amending 18VAC85-20-400).**

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

Public Hearing Information:

June 26, 2008 - 8:30 a.m. - Department of Health Professions, Perimeter Center, 9960 Mayland Drive, 2nd Floor Conference Center, Richmond, VA

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

Effective Date: July 24, 2008.

Agency Contact: William L. Harp, M.D., Executive Director, Board of Medicine, 9960 Mayland Drive, Suite 300, Richmond, VA 23233-1463, telephone (804) 367-4621, FAX (804) 527-4429, or email [william.harp@dhp.virginia.gov](mailto:william.harp@dhp.virginia.gov).

Basis: Regulations are promulgated under the general authority of Chapter 24 (§54.1-2400 et seq.) of Title 54.1 of the Code of Virginia. Section 54.1-2400 (6) provides the Board of Medicine the authority to promulgate regulations to administer the regulatory system.

Purpose: The goal of this action is to eliminate the requirement for a second check of a mixed or reconstituted vaccine in a physician practice. For the doctor in a busy pediatric practice or a family practice, the requirement for a second check necessitates that the doctor interrupt his time seeing patients to check on what an assistant has already prepared before administration or that the doctor employ a specifically trained registered nurse or physician assistant to give vaccines since a second check would not be required.

While there may be a very slight risk of harm from improperly reconstituted vaccines, the benefit of having physicians spend their time seeing patients rather than checking vaccines outweighs any potential risk. Doctors are required to ensure that all personnel under their supervision who are involved in mixing, diluting or reconstituting are appropriately trained and utilize the practices and principles of disinfection techniques and solution compatibility. Therefore, the board believes the amendment is beneficial to the health and safety of patients in those practices.

Rationale for Using Fast-Track Process: The fast-track process is being used to promulgate the amendment because the proposal was unanimously supported by board members who believe there would no opposition and full support from the physician community. Additionally, the amendment may be reflective of how most physician practices are currently being conducted with an unlicensed person reconstituting the vaccine and administering without the doctor conducting a second check.

Substance: The proposed fast-track action amends 18VAC85-20-400 by exempting the mixing, diluting or reconstituting of a vaccine that is performed by personnel working under the supervision of a doctor of medicine or osteopathic medicine from having a second check by a doctor, a pharmacist, or by a specifically trained physician assistant or registered nurse.

Issues: The advantage to the public of this amendment would be the availability of vaccines, both pediatric and adult, in physician offices where it is not feasible or cost-effective to have a doctor, pharmacist or other appropriate licensee perform a second check when a vaccine has been mixed or diluted by a specifically trained unlicensed assistant. While there is a very slight chance that underdilution or overdilution or the mixing or reconstituting of a vaccine with sterile water could put the public at risk, the chances of harm are very slight. The board believes the overall benefit of allowing an exemption from the second check for this particular mixing or diluting outweighs any potential for harm. There are no disadvantages to the agency or the Commonwealth of the proposed amendments. There are no other pertinent matters of interest.

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

Summary of the Proposed Amendments to Regulation. The Board of Medicine (Board) proposes to exempt the mixing, diluting or reconstituting of vaccines that is performed by personnel under the supervision of a doctor from the requirement for a second check by a doctor, pharmacist, or by a physician assistant or registered nurse who has been specifically trained.

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

Estimated Economic Impact.

These regulations require that

Doctors of medicine or osteopathic medicine who engage in immediate-use mixing, diluting or reconstituting shall:

...

2. Ensure that all personnel under their supervision who are involved in immediate-use mixing, diluting or reconstituting are appropriately and properly trained in and utilize the practices and principles of disinfection techniques, aseptic manipulations and solution compatibility;

3. Establish and implement procedures for verification of the accuracy of the product that has been mixed, diluted, or reconstituted to include a second check performed by a doctor of medicine or osteopathic medicine or a pharmacist, or by a physician assistant or a registered nurse who has been specifically trained pursuant to subdivision 2 of this subsection in immediate-use mixing, diluting or reconstituting. Mixing, diluting or reconstituting that is performed by a doctor of medicine or osteopathic medicine, a pharmacist, or by a specifically trained physician assistant or registered nurse or mixing, diluting or reconstituting of vaccines does not require a second check;

The Board proposes to exempt vaccines from the requirement that a second check be performed to assess the accuracy of the product that has been mixed, diluted, or reconstituted. According to the Department of Health Professions (Department) the work with vaccines is straight forward and low risk, while the work with some other medications can be more complex and higher risk. The Department also states that

... the benefit of having physicians spend their time seeing patients rather than checking vaccines outweighs any potential risk. Doctors are required to ensure that all personnel under their supervision who are involved in mixing, diluting or reconstituting are appropriately trained and utilize the practices and principles of disinfection techniques and solution compatibility. Therefore, the Board believes the amendment is beneficial to the health and safety of patients in those practices.

Given the apparent low risk associated with the mixing, diluting or reconstituting of vaccines and the training that staff doing this work will have, the value of having physicians (and physician assistants and registered nurses) spend additional time seeing patients likely outweighs what appears to be a minute increase in risk to patients' health associated with the physicians (and physician assistants and registered nurses) not performing a second check. Thus, the proposed amendment most likely produces a net benefit.

Businesses and Entities Affected. The proposed amendment potentially affects the 4317 offices of physicians in the

---

# Regulations

---

Commonwealth, their staff, and patients. All but one of the 4317 offices qualify as small businesses.<sup>1</sup>

Localities Particularly Affected. The proposed amendment does not disproportionately affect specific localities.

Projected Impact on Employment. The proposed amendment likely will not significantly affect total employment, but will allow physicians and their staff to use their labor hours more effectively.

Effects on the Use and Value of Private Property. The proposed amendment will allow some offices of physicians to use their staff time more efficiently; physicians can spend more time seeing patients and in other productive activities. This may lead to a moderate increase in the value of some practices.

Small Businesses: Costs and Other Effects. The proposed amendment produces a cost savings (reduced labor time) and does not introduce any new cost for small businesses.

Small Businesses: Alternative Method that Minimizes Adverse Impact

The proposed amendment does not produce an adverse impact for small businesses.

Real Estate Development Costs. The proposed amendment does not affect real estate development costs.

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

---

<sup>1</sup> Data Source: Quarterly Census of Employment and Wages (QCEW) for 2006, Quarter 4 - (Private ownerships). Offices of mental health physicians are not included.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The Board of Medicine concurs with the analysis of the Department of Planning and Budget for amendments to 18VAC85-20, relating to exemption for second check for the mixing, diluting or reconstituting of vaccines.

Summary:

*The proposed amendments will exempt the mixing, diluting or reconstituting of vaccines that is performed by personnel under the supervision of a doctor from the requirement for a second check by a doctor or pharmacist, or by a physician assistant or registered nurse who has been specifically trained.*

Part IX  
Mixing, Diluting or Reconstituting of Drugs for  
Administration

**18VAC85-20-400. Requirements for immediate-use sterile mixing, diluting or reconstituting.**

A. For the purposes of this chapter, the mixing, diluting, or reconstituting of sterile manufactured drug products when there is no direct contact contamination and administration begins within 10 hours of the completion time of preparation shall be considered immediate-use. If manufacturers' instructions or any other accepted standard specifies or indicates an appropriate time between preparation and administration of less than 10 hours, the mixing, diluting or reconstituting shall be in accordance with the lesser time. No direct contact contamination means that there is no contamination from touch, gloves, bare skin or secretions from the mouth or nose. Emergency drugs used in the practice of anesthesiology and administration of allergens may exceed 10 hours after completion of the preparation, provided administration does not exceed the specified expiration date of a multiple use vial and there is compliance with all other requirements of this section.

B. Doctors of medicine or osteopathic medicine who engage in immediate-use mixing, diluting or reconstituting shall:

1. Utilize the practices and principles of disinfection techniques, aseptic manipulations and solution compatibility in immediate-use mixing, diluting or reconstituting;
2. Ensure that all personnel under their supervision who are involved in immediate-use mixing, diluting or reconstituting are appropriately and properly trained in and utilize the practices and principles of disinfection techniques, aseptic manipulations and solution compatibility;

3. Establish and implement procedures for verification of the accuracy of the product that has been mixed, diluted, or reconstituted to include a second check performed by a doctor of medicine or osteopathic medicine or a pharmacist, or by a physician assistant or a registered nurse who has been specifically trained pursuant to subdivision 2 of this subsection in immediate-use mixing, diluting or reconstituting. Mixing, diluting or reconstituting that is performed by a doctor of medicine or osteopathic medicine, a pharmacist, or by a specifically trained physician assistant or registered nurse or mixing, diluting or reconstituting of vaccines does not require a second check;

4. Provide a designated, sanitary work space and equipment appropriate for aseptic manipulations;

5. Document or ensure that personnel under his supervision documents in the patient record or other readily retrievable record that identifies the patient; the names of drugs mixed, diluted or reconstituted; and the date of administration; and

6. Develop and maintain written policies and procedures to be followed in mixing, diluting or reconstituting of sterile products and for the training of personnel.

C. Any mixing, diluting or reconstituting of drug products that are hazardous to personnel shall be performed consistent with requirements of all applicable federal and state laws and regulations for safety and air quality, to include but not be limited to those of the Occupational Safety and Health Administration (OSHA). For the purposes of this chapter, Appendix A of the National Institute for Occupational Safety and Health publication (NIOSH Publication No. 2004-165), Preventing Occupational Exposure to Antineoplastic and Other Hazardous Drugs in Health Care Settings is incorporated by reference for the list of hazardous drug products and can be found at [www.cdc.gov/niosh/docs/2004-165](http://www.cdc.gov/niosh/docs/2004-165).

V.A.R. Doc. No. R08-1201; Filed May 21, 2008, 8:48 a.m.

**Fast-Track Regulation**

**Title of Regulation:** 18VAC85-101. Regulations Governing the Licensure of Radiologic Technologists and Radiologic Technologists-Limited (amending 18VAC85-101-25, 18VAC85-101-40, 18VAC85-101-50, 18VAC85-101-60, 18VAC85-101-150; adding 18VAC85-101-55; repealing 18VAC85-101-70).

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

**Public Hearing Information:**

June 26, 2008 - 8:30 a.m. - Department of Health Professions, Perimeter Center, 9960 Mayland Drive, 2nd Floor Conference Center, Richmond, VA

**Public Comments:** Public comments may be submitted until 5 p.m. on July 9, 2008.

**Effective Date:** July 24, 2008.

**Agency Contact:** William L. Harp, M.D., Executive Director, Board of Medicine, 9960 Mayland Drive, Suite 300, Richmond, VA 23233, telephone (804) 367-4621, FAX (804) 527-4429, or email [william.harp@dhp.virginia.gov](mailto:william.harp@dhp.virginia.gov).

**Basis:** Regulations are promulgated under the general authority of Chapter 24 (§54.1-2400 et seq.) of Title 54.1 of the Code of Virginia. Section 54.1-2400 (6) provides the Board of Medicine the authority to promulgate regulations to administer the regulatory system. The specific mandate for evidence of continued competency is found in §54.1-2912.1 of the Code of Virginia.

**Purpose:** Regulations currently require 24 hours of continuing education for radiologic technologists and 12 hours for radiologic technologists-limited for the biennial renewal. The proposed regulation does not change the number of hours but does eliminate the designation of Category A for half of the hours. Since radiologic technologists must have 24 hours of CE every two years to maintain ARRT certification, the requirement for licensure renewal remains consistent.

Since the initial licensure of radiologic technologists and radiologic technologists-limited, there has been confusion about the requirements for licensure. Reorganization and clarification of certain sections of regulation may alleviate some of the confusion and assist with compliance. Clarification of the regulation will encourage those who perform radiological services to practice in accordance with law and regulation and provide greater protection for the public health and safety.

**Rationale for Using Fast-Track Process:** The fast-track process is being used to promulgate the amendment because it is recommended by the Advisory Board on Radiological Technology (ARRT) and by staff to clarify certain provisions of the regulations. The only substantive change is elimination of Category A as verified by the ARRT in obtaining the required number of hours of continuing education. Since there are no changes to requirements for initial licensure, hours required for renewal of licensure or standards of practice, there should be no objections raised.

**Substance:** The proposed fast-track action amends 18VAC85-101-150 by deleting the requirement that at least half of the hours of continuing education be documented by the American Registry of Radiologic Technologists (ARRT). ARRT no longer distinguishes between Category A and Category B hours.

**Issues:** There are no advantages or disadvantages to the public of these amendments. Current requirements for licensure and practice are not being amended, so the competency of rad techs or rad techs-limited to practice should not be affected.

---

# Regulations

---

There are no disadvantages to the agency or the Commonwealth; the proposed amendments are consistent with the board's regulations.

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

Summary of the Proposed Amendments to Regulation. The Board of Medicine (Board) proposes to amend its Regulations Governing the Licensure of Radiologic Technologists and Radiologic Technologists-Limited so that rules for each license designation (radiologic technologist and radiologic technologist-limited) are grouped in different sections of these regulations. The Board also proposes to eliminate the requirement that 12 of the 24 hours of continuing education completed by radiologic technologists (for biennial license renewal) be "acceptable to the ARRT<sup>1</sup> as category A."

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

Estimated Economic Impact. Currently, certain rules for radiologic technologists and radiologic technologists-limited are commingled. The rules that govern license renewal for these license designations, for instance, are all in one regulatory section. In order to add clarity to these regulations, the Board proposes to separate the rules that are commingled. Individuals who are looking in these regulations to find the rules that govern either radiologic technologists or radiologic technologists-limited will likely benefit from this proposed reorganization.

Current regulations require that radiologic technologists complete 24 hours of ARRT approved continuing education during each biennial license renewal cycle; currently 12 of these 24 hours must be acceptable to ARRT as "category A" education. The Board proposes to eliminate the separate requirement that half of continuing education hours fall into category A because ARRT no longer accepts any education that falls into categories below "A." Since all continuing education must be acceptable to the ARRT, all continuing education hours will now have to be in categories "A" or "A+." Regulated entities will likely incur no additional costs on account of the Board's Elimination of this now obsolete language from these regulations. These entities may get a (likely small) benefit from the Board's removal of language that implies that some lesser category of education is acceptable to maintain licensure.

Businesses and Entities Affected. The Department of Health Professions (DHP) reports that the Board currently licenses 2,977 radiologic technologists and 855 radiologic technologists-limited. These individuals, as well as any individuals who seek licensure in the future, will be affected by these proposed regulatory changes.

Localities Particularly Affected. No locality will be particularly affected by this proposed regulatory action.

Projected Impact on Employment. This regulatory action will likely have no impact on employment in the Commonwealth.

Effects on the Use and Value of Private Property. This regulatory action will likely have no effect on the use or value of private property in the Commonwealth.

Small Businesses: Costs and Other Effects. Small businesses in the Commonwealth are unlikely to incur any costs on account of this regulatory action.

Small Businesses: Alternative Method that Minimizes Adverse Impact. Small businesses in the Commonwealth are unlikely to incur any costs on account of this regulatory action.

Real Estate Development Costs. This regulatory action will likely have no effect on real estate development costs in the Commonwealth.

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.

---

<sup>1</sup> American Registry of Radiologic Technologists

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The Board of Medicine concurs with the analysis of the Department of Planning and Budget for 18VAC85-101, Regulations Governing the Licensure of Radiologic Technologists and Radiologic Technologists-Limited, relating to clarification of regulations.

## Summary:

*The proposed action will clarify and simplify the regulations for ease of compliance by licensees by separating and reorganizing certain requirements for radiologic technologist-limited. The board has also amended the regulation to delete Category A as designated by the ARRT for continuing education, since the ARRT will no longer recognize anything but Category A or A+ after January 1, 2008.*

**18VAC85-101-25. Fees.**

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

B. Initial licensure fees.

1. The application fee for radiologic technologist licensure shall be \$130.
2. The application fee for the radiologic technologist-limited licensure shall be \$90.
3. All examination fees shall be determined by and made payable as designated by the board.

C. Licensure renewal and reinstatement for a radiologic technologist.

1. The fee for active license renewal ~~for a radiologic technologist shall be \$135, and for a radiologic technologist limited shall be \$70. The~~ fee for inactive license renewal ~~for a radiologic technologist shall be \$70 and for a radiologic technologist limited shall be \$35.~~
2. An additional fee of \$50 ~~for a radiologic technologist and \$25 for a radiologic technologist limited~~ to cover administrative costs for processing a late renewal application within one renewal cycle shall be imposed by the board.
3. The fee for reinstatement of a license that has lapsed for a period of two years or more shall be \$180 ~~for a radiologic technologist and \$120 for a radiologic technologist limited~~ and shall be submitted with an application for licensure reinstatement.
4. The fee for reinstatement of a license pursuant to §54.1-2408.2 of the Code of Virginia shall be \$2,000.

D. Licensure renewal and reinstatement for a radiologic technologist-limited.

1. The fee for active license renewal shall be \$70, and the fee for inactive license renewal shall be \$35.
2. An additional fee of \$25 to cover administrative costs for processing a late renewal application within one renewal cycle shall be imposed by the board.
3. The fee for reinstatement of a license that has lapsed for a period of two years or more shall be \$120 and shall be submitted with an application for licensure reinstatement.

4. The fee for reinstatement of a license pursuant to §54.1-2408.2 of the Code of Virginia shall be \$2,000.

E. Other fees.

1. The application fee for a traineeship as a radiologic technologist or a radiologic technologist-limited shall be \$25.
2. The fee for a letter of good standing or verification to another state for licensure shall be \$10; the fee for certification of ~~grades~~ scores to another jurisdiction shall be \$25.
3. The fee for a returned check shall be \$35.
4. The fee for a duplicate license shall be \$5.00, and the fee for a duplicate wall certificate shall be \$15.

**18VAC85-101-40. Licensure requirements.**

A. An applicant for board licensure shall:

1. Meet the educational requirements specified in 18VAC85-101-30;
2. Submit the required application, fee, and credentials to the board; and
3. Submit evidence of passage of the ARRT certification examination with a minimum passing score acceptable to the board.

B. If an applicant has been licensed or certified in another jurisdiction, he shall provide ~~on the application~~ information on the status of each license or certificate held and verification from that jurisdiction of any current, unrestricted license.

C. An applicant who fails the ARRT examination shall follow the policies and procedures of the ARRT for successive attempts.

**18VAC85-101-50. Traineeship for unlicensed graduate.**

A. An applicant who is an unlicensed graduate of an ARRT acceptable program may be employed as a trainee under the direct supervision of a licensed radiologic technologist, or doctor of medicine, osteopathy, chiropractic, or podiatry.

B. The graduate shall submit an application for a traineeship to the board for review and approval by the Chairman of the Advisory Board on Radiological Technology or his designee.

C. The traineeship shall terminate 14 working days after receipt by the candidate of the licensure examination results. The unlicensed graduate may reapply for a new traineeship while awaiting to take the next examination.

D. An unlicensed graduate may serve in a traineeship for a period not to exceed two years or through three unsuccessful attempts of the licensure examination, whichever comes first. After such time, the graduate shall apply to the ~~Radiologic~~

---

# Regulations

---

Advisory Board on Radiological Technology Advisory Committee for approval to continue in practice as a trainee.

## Part III

Licensure Requirements - Radiologic Technologist-Limited

### **18VAC85-101-55. Educational requirements for radiologic technologists-limited.**

A. An applicant for licensure as a radiologic technologist-limited shall be trained by one of the following:

1. Successful completion of a program that is directed by a radiologic technologist with a bachelor's degree and current ARRT certification, has instructors who are licensed radiologic technologists or doctors of medicine or osteopathic medicine who are board certified in radiology, and has a minimum of the following coursework:

a. Image production/equipment operation - 25 clock hours;

b. Radiation protection - 15 clock hours; and

c. Radiographic procedures in the anatomical area of the radiologic technologist-limited's practice - 10 clock hours taught by a radiologic technologist with current ARRT certification or a licensed doctor of medicine, osteopathy, podiatry or chiropractic;

2. An ACRRT-approved program;

3. The ISCD certification course for bone densitometry; or

4. Any other program acceptable to the board.

B. A radiologic technologist-limited who has been trained through the ACRRT-approved program or the ISCD certification course and who also wishes to be authorized to perform x-rays in other anatomical areas shall meet the requirements of subdivision A 1 of this section.

### **18VAC85-101-60. Examination Licensure requirements.**

A. An applicant for licensure by examination as a radiologic technologist-limited shall submit:

1. The required application and fee as prescribed by the board;

2. Evidence of successful completion of an examination as required in this section; and

3. Evidence of completion of training as required in ~~18VAC85-101-70~~ 18VAC85-101-55.

B. To qualify for limited licensure to practice under the direction of a doctor of medicine, ~~osteopathy, or chiropractic osteopathic medicine,~~ with the exception of practice in bone densitometry, the applicant shall:

1. Provide evidence that he has received a passing score as determined by the board on the core section of the ARRT examination for Limited Scope of Practice in Radiography;

2. Meet one of the following requirements:

a. Provide evidence that he has received a passing score, as determined by the board, on the section of the ARRT examination on specific radiographic procedures, depending on the anatomical areas in which the applicant intends to practice; or

b. Until the ARRT offers an examination for limited licensure in the radiographic procedures of the abdomen and pelvis, the applicant may qualify for a limited license by submission of a notarized statement from a licensed radiologic technologist or doctor of medicine or osteopathy attesting to the applicant's training and competency to practice in that anatomical area as follows:

(1) To perform radiographic procedures on the abdomen or pelvis, the applicant shall have successfully performed during the traineeship at least 25 radiologic examinations of the abdomen or pelvis ~~in a traineeship~~ under the direct supervision and observation of a licensed radiologic technologist or a doctor of medicine or osteopathy. The notarized statement shall further attest to the applicant's competency in the areas of radiation safety, positioning, patient instruction, anatomy, pathology and technical factors.

(2) When a section is added to the limited license examination by the ARRT that includes the abdomen and pelvis, the applicant shall provide evidence that he has received a passing score on that portion of the examination as determined by the board; and

3. Provide evidence of having successfully performed in a traineeship at least 10 radiologic examinations in the anatomical area for which he is seeking licensure under the direct supervision and observation of a licensed radiologic technologist or a doctor of medicine or osteopathy. A notarized statement from the supervising practitioner shall attest to the applicant's competency in the areas of radiation safety, positioning, patient instruction, anatomy, pathology and technical factors.

C. To qualify for limited licensure to practice in bone densitometry under the direction of a doctor of medicine, osteopathy, or chiropractic, the applicant shall either:

1. Provide evidence that he has received a passing score as determined by the board on the core section of the ARRT examination for Limited Scope of Practice in Radiography; and

a. The applicant shall provide a notarized statement from a licensed radiologic technologist or doctor of medicine, osteopathy, or chiropractic attesting to the applicant's training and competency to practice in that anatomical area. The applicant shall have successfully performed at least 10 examinations for bone density under the direct

supervision and observation of a licensed radiologic technologist or a doctor of medicine or osteopathy; or

b. When a section is added to the limited license examination by the ARRT that includes bone densitometry, the applicant shall provide evidence that he has received a passing score on that portion of the examination as determined by the board; or

2. Provide evidence that he has taken and passed an examination resulting in certification in bone densitometry from the ISCD or any other substantially equivalent credential acceptable to the board.

D. To qualify for a limited license in the anatomical areas of the spine or extremities or in bone densitometry to practice under the direction of a doctor of chiropractic, the applicant shall provide evidence that he has met the appropriate requirements of subsection B, taken and passed the appropriate requirements of subsection C for bone densitometry only, or taken and passed an examination by the ACRRT.

E. To qualify for a limited license in the anatomical area of the foot and ankle to practice under the direction of a doctor of podiatry, the applicant shall provide evidence that he has taken and passed an examination acceptable to the board.

F. An applicant who fails the examination shall be allowed two more attempts to pass the examination after which he shall reapply and take additional educational hours which meet the criteria of 18VAC85-101-70.

**18VAC85-101-70. Educational requirements for radiologic technologists limited. (Repealed.)**

A. An applicant for licensure as a radiologic technologist limited shall be trained by one of the following:

1. ~~Successful completion of a program which is directed by a radiologic technologist with a bachelor's degree and current ARRT certification, has instructors who are licensed radiologic technologists, and has a minimum of the following coursework:~~

a. ~~Image Production/Equipment Operation — 25 clock hours;~~

b. ~~Radiation Protection — 15 clock hours; and~~

c. ~~Radiographic procedures in the anatomical area of the radiologic technologist limited's practice — 10 clock hours taught by a radiologic technologist with current ARRT certification or a licensed doctor of medicine, osteopathy, podiatry or chiropractic;~~

2. ~~An ACRRT approved program;~~

3. ~~The ISCD certification course for bone densitometry; or~~

4. ~~Any other program acceptable to the board.~~

~~B. A radiologic technologist limited who has been trained through the ACRRT approved program or the ISCD certification course and who also wishes to be authorized to perform x rays in other anatomical areas shall meet the requirements of subdivision A 1 of this section.~~

Part VI  
Renewal of Licensure

**18VAC85-101-150. Biennial renewal of license.**

A. A radiologic technologist or radiologic technologist-limited who intends to continue practice shall renew his license biennially during his birth month in each odd-numbered year and pay to the board the prescribed renewal fee.

B. A license that has not been renewed by the first day of the month following the month in which renewal is required shall be expired.

C. An additional fee as prescribed in ~~48VAC85-101-125~~ 18VAC85-101-25 shall be imposed by the board.

D. ~~On and after January 1, 2005, in~~ In order to renew an active license as a radiologic technologist, a licensee shall attest to having completed 24 hours of continuing education as acceptable to ~~and documented by~~ the ARRT within the last biennium. ~~At least 12 of the hours must be acceptable to the ARRT as Category A.~~

E. ~~On and after January 1, 2005, in~~ In order to renew an active license as a radiologic technologist-limited, a licensee shall attest to having completed 12 hours of ~~Category A~~ continuing education within the last biennium that corresponds to the anatomical areas in which the limited licensee practices. Hours shall be acceptable to ~~and documented by~~ the ARRT, or by the ACRRT for limited licensees whose scope of practice is chiropractic, or by any other entity approved by the board for limited licensees whose scope of practice is podiatry or bone densitometry.

F. Other provisions for continuing education shall be as follows:

1. A practitioner shall be exempt from the continuing education requirements for the first biennial renewal following the date of initial licensure in Virginia.

2. The practitioner shall retain in his records ~~the completed form provided by the board~~ the Continued Competency Activity and Assessment Form available on the board's website with all supporting documentation for a period of four years following the renewal of an active license.

3. The board shall periodically conduct a random audit of its active licensees to determine compliance. The practitioners selected for the audit shall provide all supporting documentation within 30 days of receiving notification of the audit.

---

# Regulations

---

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

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

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

**NOTICE:** The forms used in administering the above regulation are not being published; however, the name of each form is listed below. The forms are available for public inspection by contacting the agency contact for this regulation, or at the office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia.

## FORMS

Instructions for Completing an Application for Licensure as a Radiologic Technologist By Examination/Endorsement (rev. 6/04).

Application for a License as a Radiologic Technologist (rev. 6/04).

Form A, Claims History Sheet (rev. 6/04).

Form B, Activity Questionnaire (rev. 6/04).

Form C, Clearance from Other States (rev. 6/04).

Form E, Certification Request from ARRT (rev. 6/04).

Form F, Traineeship Application (rev. 6/04).

Form L, Certificate of Radiologic Technology Education (eff. 6/04).

Instructions for Completing an Application for Licensure as a Radiologic Technologist-Limited (rev. 6/04).

Application for a License to Practice Radiologic Technology-Limited (rev. 6/04).

Form T/A (1) and T/A (2), Radiologic Technologist-Limited Training Application for Abdomen/Pelvis pursuant to Virginia Regulations 18VAC85-101-60 B (3) (rev. 6/04).

Form T/C (1) and T/C (2), Radiologic Technologist-Limited Clinical Training Application (rev. 6/04).

Form T/E, Radiologic Technologist-Limited Traineeship Application (rev. 6/04).

Instructions for Completing Reinstatement of Radiologic Technology Licensure (rev. 4/04).

Application for Reinstatement of License to Practice Radiologic Technologist (eff. 4/04).

Instructions for Completing Reinstatement of Radiologic Technologist-Limited Licensure (rev. 4/04).

Application for Reinstatement of License to Practice Radiologic Technologist-Limited (eff. 4/04).

License Renewal Notice and Application, 0120 Radiologic Technologist (rev. 11/02).

License Renewal Notice and Application, 0122 Limited Radiologic Technologist (eff. 11/02).

Application for Registration for Volunteer Practice (eff. 12/02).

Sponsor Certification for Volunteer Registration (eff. 1/03).

Continued Competency Activity and Assessment Form (eff. 7/08).

VA.R. Doc. No. R08-992; Filed May 21, 2008, 8:49 a.m.

## Fast-Track Regulation

**Title of Regulation:** **18VAC85-120. Regulations Governing the Licensure of Athletic Trainers (amending 18VAC85-120-10, 18VAC85-120-50, 18VAC85-120-70, 18VAC85-120-90, 18VAC85-120-150; adding 18VAC85-120-95).**

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

### Public Hearing Information:

June 26, 2008 - 8:30 a.m. - Department of Health Professions, Perimeter Center, 9960 Mayland Drive, 2nd Floor Conference Center, Richmond, VA

**Public Comments:** Public comments may be submitted until 5 p.m. on July 9, 2008.

**Effective Date:** July 24, 2008.

**Agency Contact:** William L. Harp, M.D., Executive Director, Board of Medicine, 9960 Mayland Drive, Suite 300, Richmond, VA 23233, telephone (804) 367-4621, FAX (804) 527-4429, or email [william.harp@dhp.virginia.gov](mailto:william.harp@dhp.virginia.gov).

**Basis:** Regulations are promulgated under the general authority of Chapter 24 (§54.1-2400 et seq.) of Title 54.1 of the Code of Virginia. Section 54.1-2400 (6) provides the Board of Medicine the authority to promulgate regulations to administer the regulatory system. The specific mandate for evidence of continued competency is found in § 54.1-2912.1.

**Purpose:** Regulations require the submission of evidence that the applicant has current certification from the National Athletic Trainers' Association Board of Certification (NATABOC). Such certification is granted to persons who have graduated from an accredited educational program in athletic training and have passed the certifying examination. Verification is provided directly by NATABOC, so requiring

evidence to also be submitted by the applicant is unnecessarily burdensome.

Currently, there is no provision for an inactive license, so an athletic trainer who is not actively practicing in Virginia must either continue to pay for an active license or allow his license to lapse. The availability of an inactive license, which is less costly to renew or reactivate, may encourage athletic trainers to return to practice in Virginia at a future date. Any increased availability of athletic trainers for practice is likely to benefit the health and safety of the citizens of the Commonwealth, especially young persons who engage in sports in schools and colleges.

**Rationale for Using Fast-Track Process:** The fast-track process is being used to promulgate the amendment because it is recommended by the Advisory Board on Athletic Training and by staff to clarify certain provisions of the regulations. The only substantive change is adding the option of inactive licensure for those trainers who are not currently working in the field. Since there are no changes to requirements for initial licensure, renewal of licensure or practice, there should be no objections raised.

**Substance:** The proposed fast-track action amends 18VAC85-120-150 by adding fees for inactive licensure, and 18VAC85-20-95 is added to establish an inactive license with requirements for reactivation.

**Issues:** There are no advantages or disadvantages to the public of these amendments. Current requirements for licensure, renewal and practice are not being amended, so the competency of athletic trainers to practice should not be affected. There is an advantage to an athletic trainer who is not currently practicing in Virginia but who would like to maintain an inactive license. With these amendments, that less costly option would be available. There are no disadvantages to the agency or the Commonwealth; the proposed amendments are consistent with the board's regulations. There are no other pertinent matters of interest.

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

Summary of the Proposed Amendments to Regulation. The Board of Medicine (Board) proposes to amend its Regulations Governing the Licensure of Athletic Trainers so that applicants for licensure will no longer have to provide documentation of education and successful completion of the required national examination. The Board also proposes to add an option for inactive licensure (with an attendant fee) for athletic trainers.

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

Estimated Economic Impact. Currently, applicants for licensure as athletic trainers must provide, with their applications, proof that they have completed all required

education and have passed the national examination for athletic trainers; Applicants must also provide proof of current National Athletic Trainers' Association Board of Certification (NATABOC) certification. In order to obtain NATABOC certification, applicant athletic trainers must prove that they have finished the required education and passed the national exam. Because of this, the Board proposes to eliminate the duplicative requirement that applicants for licensure provide separate proof of education and exam passage.

Applicants for initial licensure as athletic trainers, as well as applicants for license renewal, will likely marginally benefit from this regulatory change as they will not have to engage in recordkeeping separate from what is required for NATABOC. These recordkeeping costs include costs for copying and mailing forms and papers as well as the value of time spent on these activities.

Current regulation requires athletic trainers to renew their licenses (fee – \$135) every two years. Licensees who plan to not work as athletic trainers for a time may either pay the fee for renewal every two years or allow their license to lapse and pay a reinstatement fee of \$180 (as well as provide proof of current NATABOC certification) when they decide to reenter their field. The Board proposes to add an inactive license to these regulations. This will allow individuals who do not plan to work as athletic trainers for at least two years to pay a \$70 inactive license fee rather than the \$135 fee for license renewal. When these individuals are ready to start working as athletic trainers again, the proposed regulations would require that they pay the difference between the inactive license fee and the license renewal fee (for the current renewal cycle) and provide proof of NATABOC certification or recertification.

This regulatory change will benefit licensees who plan on not working for a time (or at least not working as athletic trainers for a time). These individuals will save \$65 for every renewal cycle, but the last, that they are not working (in this field). The Department of Health Professions (DHP) does not know how many individuals would choose to take advantage of this regulatory change but does report that 4% of occupational therapists currently hold an inactive license.

Businesses and Entities Affected. The Department of Health Professions (DHP) reports that the Board currently licenses 842 athletic trainers. All of these licensees, as well as individuals who might choose to be athletic trainers in the future, will be affected by these proposed regulatory changes.

Localities Particularly Affected. No locality will be disproportionately affected by this proposed regulatory action.

Projected Impact on Employment. This regulatory action will likely have no impact on employment in the Commonwealth.

---

# Regulations

---

Effects on the Use and Value of Private Property. This regulatory action will likely have no effect on the use or value of private property in the Commonwealth.

Small Businesses: Costs and Other Effects. Small businesses in the Commonwealth are unlikely to incur any costs on account of this regulatory action.

Small Businesses: Alternative Method that Minimizes Adverse Impact. Small businesses in the Commonwealth are unlikely to incur any costs on account of this regulatory action.

Real Estate Development Costs. This regulatory action will likely have no effect on real estate development costs in the Commonwealth.

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 Board of Medicine concurs with the analysis of the Department of Planning and Budget for proposed regulations, 18VAC85-120, relating to clarifications to regulations and establishment of inactive licensure.

## Summary:

*The proposed amendments (i) add an option for inactive licensure for those athletic trainers who are not currently working in the field, with requirements for reactivation; (ii) establish fees for an inactive license; and (iii) require the submission of evidence that the applicant has current*

*certification from the National Athletic Trainers' Association Board of Certification.*

## Part I

### General Provisions

#### **18VAC85-120-10. Definitions.**

In addition to words and terms defined in §54.1-2900 of the Code of Virginia, the following words and terms when used in this chapter shall have the following meanings, unless the context clearly indicates otherwise:

"Accredited educational program" means a program in athletic training accredited by the Commission on Accreditation of ~~Allied Health Education Programs (CAAHEP)~~ Athletic Training Education (CAATE) or any other agency approved by the National Athletic Trainers' Association Board of Certification (NATABOC) for its entry level certification examination or any other organization approved by the board.

"Advisory board" means the Advisory Board on Athletic Training to the board as specified in §54.1-2957.5 of the Code of Virginia.

"Athletic trainer" means a person licensed by the Virginia Board of Medicine to engage in the practice of athletic training as defined in §54.1-2900 of the Code of Virginia.

"Board" means the Virginia Board of Medicine.

"NATABOC" means the National Athletic Trainers' Association Board of Certification.

#### **18VAC85-120-50. Application Requirements for licensure.**

An applicant for licensure shall submit evidence of meeting the following requirements for licensure on forms provided by the board:

1. A completed application and fee as prescribed in 18VAC85-130-150;
- ~~2. Verification of professional education in athletic training as required in 18VAC85-130-60;~~
- ~~3.~~ 2. Verification of professional activity as required on the application form;
- ~~4. Documentation of passage of the national examination as required in 18VAC85-130-70;~~
- ~~5.~~ 3. Evidence of current NATABOC certification; and
- ~~6.~~ 4. If licensed or certified in any other jurisdiction, documentation of practice as an athletic trainer and verification as to whether there has been any disciplinary action taken or pending in that jurisdiction.

**18VAC85-120-70. Examination requirements.**

An applicant for a license to practice as an athletic trainer shall ~~submit to the board written evidence that the applicant has passed~~ pass the NATABOC entry level examination for athletic trainers or its equivalent as determined by the board.

Part III  
Renewal and Reinstatement

**18VAC85-120-90. Renewal of license.**

A. Every athletic trainer intending to continue licensure shall biennially in each odd-numbered year in his birth month:

1. Register with the board for renewal of licensure;
2. Pay the prescribed renewal fee at the time he files for renewal; and
3. Attest to current NATABOC certification.

B. An athletic trainer whose license has not been renewed by the first day of the month following the month in which renewal is required shall pay a late fee as prescribed in ~~18VAC85-130-150~~ 18VAC85-120-150.

**18VAC85-120-95. Inactive licensure.**

A. An athletic trainer who holds a current, unrestricted license in Virginia shall, upon a request on the renewal application and submission of the required fee, be issued an inactive license.

1. The holder of an inactive license shall not be required to maintain NATABOC certification.
2. An inactive licensee shall not be entitled to practice as an athletic trainer in Virginia.

B. An inactive licensee may reactivate his license upon submission of:

1. The required application;
2. Payment of the difference between the current renewal fee for inactive licensure and the renewal fee for active licensure for the biennium in which the license is being reactivated; and
3. Documentation of having maintained certification or having been recertified by the NATABOC.

C. The board reserves the right to deny a request for reactivation to any licensee who has been determined to have committed an act in violation of §54.1-2915 of the Code of Virginia or any provisions of this chapter.

Part V  
Fees

**18VAC85-120-150. Fees.**

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

B. The following fees have been adopted by the board:

1. The application fee shall be \$130.
2. The fee for renewal of licensure shall be \$135 and shall be due in the licensee's birth month, in each odd-numbered year.
3. A fee of \$50 for processing a late renewal within one renewal cycle shall be paid in addition to the renewal fee.
4. The fee for reinstatement of a license that has expired for two or more years shall be \$180 and shall be submitted with an application for reinstatement.
5. The fee for reinstatement of a license pursuant to §54.1-2408.2 of the Code of Virginia shall be \$2,000.
6. The fee for a duplicate renewal license shall be \$5, and the fee for a duplicate wall certificate shall be \$15.
7. The fee for a returned check shall be \$35.
8. The fee for a letter of verification to another jurisdiction shall be \$10.
9. The fee for an inactive license shall be \$70, and the fee for a late renewal shall be \$25.

VA.R. Doc. No. R08-875; Filed May 21, 2008, 8:49 a.m.

**BOARD OF LONG-TERM CARE ADMINISTRATORS****Fast-Track Regulation**

**Title of Regulation:** 18VAC95-20. Regulations Governing the Practice of Nursing Home Administrators (amending 18VAC95-20-175, 18VAC95-20-220, 18VAC95-20-230).

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

**Public Hearing Information:**

June 16, 2008 - 10:45 a.m. - Department of Health Professions, Perimeter Center, 9960 Mayland Drive, 2nd Floor, Conference Room #4, Richmond, VA

**Public Comments:** Public comments may be submitted until 5 p.m. on July 9, 2008.

**Effective Date:** July 24, 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](mailto:lisa.hahn@dhp.virginia.gov).

---

# Regulations

---

**Basis:** Chapter 24 (§54.1-2400 et seq.) of Title 54.1 of the Code of Virginia establishes the general powers and duties of health regulatory boards, including the Board of Long-Term Care Administrators, the responsibility to promulgate regulations, and establish renewal schedules. In addition, §54.1-103 of the Code of Virginia gives the board the general authority to require additional training for persons seeking licensure or renewal of a license.

**Purpose:** Proposed amendments modifying the requirements for licensure as nursing home administrators are consistent with those recently adopted for licensure of assisted living administrators. The additional flexibility in obtaining CE hours online or by the Internet may enable some administrators to spend those additional hours in their facilities where their job is to serve a vulnerable population. The substitution of an attestation of having read and understood the laws and regulations governing nursing homes in Virginia for a requirement to pass a jurisprudence examination should provide adequate assurance that an applicant for licensure has familiarized himself with his legal obligations. Since laws and regulations regularly change, it is more important that an applicant or a licensee be aware of the necessity for maintaining current knowledge and for compliance with law and regulation as necessary to protect the health, safety and welfare of residents in a nursing home.

**Rationale for Using Fast-Track Process:** The board has determined that a fast-track process is appropriate because there is no controversy with this action. It will eliminate a costly examination that the board does not believe is essential to ensure minimal competency and will expand the opportunities available to current licensees for compliance with continuing education requirements. Elimination of the state examination is consistent with recently adopted regulations for the licensure of assisted living administrators under the same board.

**Substance:** The board has acted to (i) increase the number of continuing education hours that may be obtained through Internet or self-study courses from five of the required 20 hours to 10 of the required hours; and (ii) eliminate the requirement for an applicant for licensure as a nursing home administrator to take an examination on Virginia law and regulations and substitute a requirement that the applicant attest to having an understanding and maintaining current knowledge of the law and regulation.

**Issues:** The advantage to the public of the amendment may be that it will facilitate the ability of a licensee to obtain continuing education hours without taking time from the nursing home in which he is employed. There are no disadvantages to the public. There are no advantages or disadvantages to the agency or the Commonwealth. The board does not administer the state examination, but it will provide a very modest reduction in the amount of phone calls

and paper work necessary to process an applicant for licensure.

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

**Summary of the Proposed Amendments to Regulation.** The Board of Long-Term Care Administrators (Board) proposes to amend its regulations so that licensees can complete up to 10 hours of required continuing education on the internet or through self-study courses. The Board also proposes to eliminate the test on state law that applicants for licensure currently have to complete and instead require that applicants attest (with their applications) that they have read, and understand, applicable Virginia laws and regulations.

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

**Estimated Economic Impact.** Currently, licensed nursing home administrators must complete 20 hours of continuing education annually; five hours of this may be through the internet or self-study classes. The Board proposes to allow licensees to complete up to 10 of their 20 hours of required yearly education through the internet or self-study courses. This change will likely benefit licensees by allowing them to choose educational opportunities that are less expensive and/or more convenient for them.

**Board regulations currently require applicants for licensure to complete both a national examination and a state examination; the latter tests applicants' knowledge of relevant state law. The Board proposes to eliminate the state specific exam and, instead, require applicants to attest that they have read and understand "applicable Virginia laws and regulations relating to the administration of nursing homes". This regulatory change will benefit applicants for licensure because they will no longer incur the \$150 fee for taking this exam and will be able to use the time they formerly would have spent studying and taking this exam in other ways.**

**Businesses and Entities Affected.** The Department of Health Professions (DHP) reports that the Board currently licenses 708 nursing home administrators. All of these licensees, as well as future applicants for licensure, will be affected by these proposed regulatory changes.

**Localities Particularly Affected.** No locality will be disproportionately affected by this proposed regulatory action.

**Projected Impact on Employment.** To the extent these proposed regulatory changes lower the cost of getting, and maintaining, a nursing home administrator license, the number of individuals who choose to pursue such licensure may increase. Employment opportunities for these licensees, however, are likely to remain unchanged since whether or not nursing homes open is likely largely governed by factors other than the availability administrators.

Effects on the Use and Value of Private Property. This regulatory action will likely have little or affect on the use or value of private property in the Commonwealth.

Small Businesses: Costs and Other Effects. Small businesses in the Commonwealth are unlikely to incur any costs on account of this regulatory action.

Small Businesses: Alternative Method that Minimizes Adverse Impact. Small businesses in the Commonwealth are unlikely to incur any costs on account of this regulatory action.

Real Estate Development Costs. This regulatory action will likely have no affect on real estate development costs in the Commonwealth.

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 Board of Long Term Care Administrators concurs with the analysis of the Department of Planning and Budget for amendments to 18VAC95-20 relating to completion of continuing education hours and elimination of the test on state laws and regulations.

Summary:

*The amendments (i) increase the number of continuing education hours that may be obtained through Internet or self-study courses from five of the required 20 hours to 10 of the required hours and (ii) eliminate the requirement for an applicant for licensure as a nursing home administrator*

*to take an examination on Virginia law and regulations and substitute a requirement that the applicant attest to having an understanding of the law and regulation.*

**18VAC95-20-175. Continuing education requirements.**

A. In order to renew a nursing home administrator license, an applicant shall attest on his renewal application to completion of 20 hours of approved continuing education for each renewal year.

1. Up to ~~five~~ 10 of the 20 hours may be obtained through Internet or self-study courses and up to 10 continuing education hours in excess of the number required may be transferred or credited to the next renewal year.

2. A licensee is exempt from completing continuing education requirements and considered in compliance on the first renewal date following initial licensure.

B. In order for continuing education to be approved by the board, it shall be related to health care administration and shall be approved by the National Association of Boards of Examiners for Long Term Care Administrators or by an accredited institution.

C. Documentation of continuing education.

1. The licensee shall retain in his personal files for a period of three renewal years complete documentation of continuing education including evidence of attendance or participation as provided by the approved sponsor for each course taken.

2. Evidence of attendance shall be an original document provided by the approved sponsor and shall include:

- a. Date or dates the course was taken;
- b. Hours of attendance or participation;
- c. Participant's name; and
- d. Signature of an authorized representative of the approved sponsor.

3. If contacted for an audit, the licensee shall forward to the board by the date requested a signed affidavit of completion on forms provided by the board and evidence of attendance or participation as provided by the approved sponsor.

D. The board may grant an extension of up to one year or an exemption for all or part of the continuing education requirements due to circumstances beyond the control of the administrator, such as a certified illness, a temporary disability, mandatory military service, or officially declared disasters.

---

# Regulations

---

## Part III Requirements for Licensure

### 18VAC95-20-220. Qualifications for initial licensure.

One of the following sets of qualifications is required for licensure as a nursing home administrator:

1. Degree and practical experience. The applicant shall (i) hold a baccalaureate or higher degree in a health care - related field that meets the requirements of 18VAC95-20-221 from an accredited college or university; (ii) have completed not less than a 320-hour internship that addresses the Domains of Practice as specified in 18VAC95-20-390 in a licensed nursing home as part of the degree program under the supervision of a preceptor; and (iii) have received a passing grade on the ~~state examination and the~~ national examination;
2. Certificate program. The applicant shall (i) hold a baccalaureate or higher degree from an accredited college or university; (ii) successfully complete a program with a minimum of 21 semester hours study in a health care-related field that meets the requirements of 18VAC95-20-221 from an accredited college or university; (iii) successfully complete not less than a 400-hour internship that addresses the Domains of Practice as specified in 18VAC95-20-390 in a licensed nursing home as part of the certificate program under the supervision of a preceptor; and (iv) have received a passing grade on the ~~state examination and the~~ national examination; or
3. Administrator-in-training program. The applicant shall have (i) successfully completed an A.I.T. program which meets the requirements of Part IV (18VAC95-20-300 et seq.) of this chapter and (ii) received a passing grade on the ~~state examination and the~~ national examination.

### 18VAC95-20-230. Application package.

A. An application for licensure shall be submitted after the applicant completes the qualifications for licensure.

B. An individual seeking licensure as a nursing home administrator or registration as a preceptor shall submit simultaneously:

1. A completed application as provided by the board;
2. Additional documentation as may be required by the board to determine eligibility of the applicant; ~~and~~
3. The applicable fee; and
4. An attestation that he has read and understands and will remain current with the applicable Virginia laws and regulations relating to the administration of nursing homes.

C. With the exception of school transcripts, examination scores, and verifications from other state boards, all parts of the application package shall be submitted at the same time. An incomplete package shall be retained by the board for one

year, after which time the application shall be destroyed and a new application and fee shall be required.

VA.R. Doc. No. R08-1082; Filed May 21, 2008, 8:48 a.m.

## BOARD OF SOCIAL WORK

### Fast-Track Regulation

Title of Regulation: **18VAC140-20. Regulations Governing the Practice of Social Work (amending 18VAC140-20-105).**

Statutory Authority: §§54.1-2400 and 54.1-3708 of the Code of Virginia.

Public Hearing Information:

June 11, 2008 - 9:45 a.m. - Department of Health Professions, Perimeter Center, 9960 Mayland Drive, 2nd Floor, Richmond, VA

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

Effective Date: July 24, 2008.

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

Basis: Regulations are promulgated under the general authority of Chapter 24 (§54.1-2400 et seq.) of Title 54.1 of the Code of Virginia. Section 54.1-2400 provides the Board of Social Work the authority to promulgate regulations to administer the regulatory system. Section 54.1-3708 of the Code of Virginia gives the Board of Social Work specific statutory mandate for continuing education for social workers.

Purpose: The board has adopted amendments to requirements for continuing education for those persons licensed as social workers. Both licensed social workers and licensed clinical social workers are required to complete a minimum of 30 contact hours of continuing education for each biennial licensure renewal. Licensed social workers do case work and licensed clinical social workers practice independently, so the work functions and skill levels are different. Therefore, the board has reduced the number of hours of continuing education required for licensed social workers by one-half.

Currently, the board's regulations require a minimum of 30 contact hours of continuing education for each biennial licensure renewal. A minimum of two of those hours must pertain to the standards of practice and laws governing the profession of social work in Virginia, or the Code of Ethics of one of the social work professional associations listed in the regulation. The hours may be obtained from a combination of board-approved activities in the two categories - Category I, Formally Organized Learning Activities with a minimum of

20 hours; and Category II, Individual Professional Activities with a maximum of 10 of the required 30 hours.

The majority of the courses and activities available in social work pertain primarily to the practice of a licensed clinical social worker (LCSW), defined in § 54.1-3700 of the Code of Virginia as a "social worker who, by education and experience, is professionally qualified at the autonomous practice level to provide direct diagnostic, preventive and treatment services where functioning is threatened or affected by social and psychological stress or health impairment." While the decisions and activities of a licensed social worker (LSW) are important to the client for whom services are being provided, the complexity of the cases and the client issues seen by a licensed clinical social worker require a higher level of education and training and demand a greater depth of knowledge, skills, and abilities. Therefore, it is necessary (and statutorily mandated) to retain continuing education regulations for LSW's, but the health, safety and welfare of the public may continue to be protected with a somewhat reduced CE requirement for a licensed social worker.

Rationale for Using Fast-Track Process: The fast-track process is being used to promulgate the amendments because there is general agreement with the change proposed. The action is not controversial, as it is reflected by the fact that there was no public comment on a Notice of Intended Regulatory Action filed by other boards within the Department of Health Professions. This action is the result of a request from the Virginia Chapter of the National Association of Social Workers to reduce the CE hours required of a licensed social worker.

Substance: The proposed action reduces the requirement for licensed social workers to complete from a minimum of 30 hours to 15 contact hours of continuing education for each biennial licensure renewal. For licensed clinical social workers, the requirement remains at 30 hours. Likewise, the minimum number of documented, category I hours is reduced from 20 to 10 hours for licensed social workers. The other five hours may be in individual professional activities as specified in the regulation.

Issues: There are no advantages or disadvantage to the public. A reduction in the regulatory burden may encourage some persons who are providing social work services but are not mandated to have a license to become licensed – thus placing them within the jurisdiction of the board and subject to the professional standards of practice. There is no concern that a reduction in continuing education hours will be detrimental to the practice of licensed social workers, since much of the continuing education available is not specific to their practice. There are no advantages or disadvantages to the agency or the Commonwealth.

Department of Planning and Budget's Economic Impact Analysis:

Summary of the Proposed Amendments to Regulation. The Board of Social Work (Board) proposes to amend its regulations so that licensed social workers will have to complete 15 hours of continuing education, rather than the 30 hours that are currently required, during each biennial renewal cycle.

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

Estimated Economic Impact. Currently, both licensed social workers and licensed clinical social workers are required to complete 30 hours of continuing education during each biennium; 20 of these 30 hours must currently be earned through "formally organized learning activities." The Board proposes to amend this requirement so that licensed social workers will only have to complete 15 hours of continuing education with 10 or those hours earned through "formally organized learning activities." The Department of Health Professions (DHP) reports that this change is being made to recognize the differing levels of required skills and independence that the jobs of licensed social workers and licensed clinical social workers demand. Licensed social workers do case work and are supervised while licensed clinical social workers practice independently.

This proposed regulatory change will benefit licensed social workers who will likely be able to reduce their costs for continuing education (class fees, book fees, the value of their time spent on educational activities, etc) by approximately one half.

Businesses and Entities Affected. DHP reports that the Board currently licenses 379 social workers. These individuals, as well as any individuals who seek licensure as social workers in the future, will be affected by this proposed regulatory change.

Localities Particularly Affected. No locality will be disproportionately affected by this proposed regulatory action.

Projected Impact on Employment. This regulatory action will likely have no impact on employment in the Commonwealth.

Effects on the Use and Value of Private Property. This regulatory action will likely have no affect on the use or value of private property in the Commonwealth.

Small Businesses: Costs and Other Effects. Small businesses in the Commonwealth are unlikely to incur any costs on account of this regulatory action.

Small Businesses: Alternative Method that Minimizes Adverse Impact. Small businesses in the Commonwealth are unlikely to incur any costs on account of this regulatory action.

---

# Regulations

---

Real Estate Development Costs. This regulatory action will likely have no effect on real estate development costs in the Commonwealth.

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 Board of Social Work concurs with the analysis of the Department of Planning and Budget on proposed amended regulations for 18VAC140-20, Regulations Governing the Practice of Social Work, relating to a reduction in the number of continuing education for licensed social workers.

Summary:

*The amendments reduce the number of hours of continuing education required for biennial renewal by a licensed social worker from 30 to 15.*

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

A. ~~After April 25, 2003, licensed social workers and licensed~~ Licensed clinical social workers shall be required to have completed a minimum of 30 contact hours of continuing education and licensed social workers shall be required to have completed a minimum of 15 contact hours of continuing education for each biennial licensure renewal. A minimum of two of those hours must pertain to the standards of practice and laws governing the profession of social work in Virginia, or the Code of Ethics of one of the social work professional associations listed under subdivision B 1 d.

1. The board may grant an extension for good cause of up to one year for the completion of continuing education requirements upon written request from the licensee prior to the renewal date. Such extension shall not relieve the licensee of the continuing education requirement.

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

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

1. Category I. Formally Organized Learning Activities. A minimum of 20 hours for licensed clinical social workers or 10 hours for licensed social workers shall be documented in this category, which shall include one or more of the following:

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

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

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

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

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

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

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

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

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

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

2. Category II. Individual Professional Activities. A maximum of 10 of the required 30 hours for licensed clinical social workers or a maximum of five of the required 15 hours for licensed social workers may be

earned in this category, which shall include one or more of the following:

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

VA.R. Doc. No. R08-846; Filed May 21, 2008, 8:47 a.m.



---

# GOVERNOR

---

## EXECUTIVE ORDER NUMBER 66 (2008)

### **THE GOVERNOR'S ADVISORY BOARD ON NATIONAL AND COMMUNITY SERVICE**

Community and national service are vital to the fabric of American democracy. Volunteerism and service are critical aspects of our civic life. It is appropriate that the state and federal governments work together to develop a focal point for these efforts.

Mindful of the importance of community and national service, and by virtue of the authority vested in me as Governor under Article V of the Constitution of Virginia and under the laws of the Commonwealth, including but not limited to Section 2.2-134 of the Code of Virginia, and subject always to my continuing and ultimate authority and responsibility to act in such matters, I hereby establish the Governor's Advisory Board on National Service and Community Service.

The Board is classified as a gubernatorial advisory board in accordance with Section 2.2-2100 of the Code of Virginia.

The Board shall be established to comply with the provisions of the National and Community Services Trust Act of 1993 and to advise the Governor and Cabinet Secretaries on matters related to promotion and development of national service in the Commonwealth of Virginia. The Board shall have the following specific duties:

1. To advise the Governor, the Secretaries of Health and Human Resources, Education, Natural Resources, the Assistant to the Governor for Commonwealth Preparedness, the Commissioner of the Department of Social Services, and other appropriate officials, on national and community service programs in Virginia and on fulfilling the responsibilities and duties prescribed by the federal Corporation for National Service.
2. To advise the Governor, the Secretaries of Health and Human Resources, Education, Natural Resources, the Assistant to the Governor for Commonwealth Preparedness, the Commissioner of the Department of Social Services, and other appropriate officials, on the development, implementation, and evaluation of Virginia's Unified State Plan that outlines strategies for supporting and expanding national and community service throughout the Commonwealth.
3. To promote the expansion of AmeriCorps programs to meet Virginia's most pressing human, educational, environmental, and public safety needs.
4. To work collaboratively with Virginia Corps and the Citizen Corps initiative to promote volunteerism and public service throughout the Commonwealth.
5. To collaborate with the Virginia Department of Social Services and other public and private entities to recognize

and call attention to the significant community service contributions of Virginia citizens and organizations.

6. To develop a plan for sustaining and increasing the number of Virginia service programs supported by the Corporation for National Service.

7. To promote and coordinate State programs offering opportunities for community service within the Commonwealth.

8. To work with the Department of Social Services on promoting the involvement of faith based organizations in community and national service efforts.

The Board shall be comprised of no more than twenty voting members appointed by the Governor and serving at his pleasure. No more than 25 percent of voting members may be state employees.

The Governor may appoint additional persons at his discretion as ex-officio non-voting members. The voting members of the Board shall elect the Chairman. Board voting membership shall include representatives for the categories as outlined in federal regulations issued by the Corporation for National Service.

Such staff support as is necessary to support the Board's work during the term of its existence shall be furnished by the Virginia Department of Social Services, and any other executive branch agencies having definitely and closely related purposes, as the Governor may designate. An estimated 2000 hours of staff time will be required to support the work of the Board.

Funding necessary to support the Board shall be provided from federal funds, private contributions, and state funds appropriated for the same purposes of the Board, authorized by Section 2.2-135 of the Code of Virginia. Direct costs for this Board are estimated at \$20,000. Members of the Board shall serve without compensation and shall receive reimbursement for expenses incurred in the discharge of their official duties.

The Board shall meet at least quarterly upon the call of the Chairperson. The Board shall make an annual report to the Governor and shall issue such other reports and recommendations as it deems necessary or as requested by the Governor.

This Executive Order shall be effective on July 1, 2008 and shall remain in force and effect until June 30, 2009, unless amended or rescinded by further executive order.

Given under my hand and under the seal of the Commonwealth of Virginia this 13th day of May 2008.

/s/ Timothy M. Kaine  
Governor

---

# GENERAL NOTICES/ERRATA

---

## STATE BOARD OF EDUCATION

### History and Social Science Curriculum Framework

The Board of Education intends to review and revise the Curriculum Framework for the History and Social Science Standards of Learning. The proposed revisions may be viewed at

[http://www.doe.virginia.gov/boe/meetings/2008/05\\_may/agenda\\_items/item\\_f.pdf](http://www.doe.virginia.gov/boe/meetings/2008/05_may/agenda_items/item_f.pdf)

Public comment on the proposed revisions will be received until July 18, 2008. Comments may be sent by email to [beverly.thurston@doe.virginia.gov](mailto:beverly.thurston@doe.virginia.gov) or by mail to Dr. Beverly Thurston, Virginia Department of Education, P.O. Box 2120, Richmond, VA 23218.

Contact Information: Dr. Margaret N. Roberts, Office of Policy and Communications, P.O. Box 2120, 101 N. 14th St., 25th Floor, Richmond, VA 23219, telephone (804) 225-2540, FAX (804) 225-2524, or email [margaret.roberts@doe.virginia.gov](mailto:margaret.roberts@doe.virginia.gov).

## DEPARTMENT OF ENVIRONMENTAL QUALITY

### Environmental Cleanup Plan - Dumps Creek

Purpose of notice: The Department of Environmental Quality (DEQ), and the Department of Conservation and Recreation seek written and oral comments from interested persons on the draft implementation plan for the Dumps Creek total maximum daily load (TMDL) report for aquatic life (benthic). Dumps Creek is located in Russell County in Southwest Virginia. A public meeting for the purpose of reviewing the draft implementation plan for water quality improvements in the Dumps Creek watershed will be held on June 26, 2008, from 7 p.m. to 8:30 p.m.

Public comment period: June 26, 2008, to July 28, 2008.

Public meeting: Cleveland Recreation Ball Park Facility on June 26, 2008, from 7 p.m. to 8:30 p.m.

Meeting description: This is the final public meeting on development of a watershed cleanup plan.

Description of cleanup plan: DEQ has developed a total maximum daily load study, or a TMDL, for Dumps Creek, a contaminated stream in Russell County Virginia. A TMDL is the total amount of a pollutant a stream can contain and still meet water quality standards. The stream has a benthic impairment; contaminants have harmed the aquatic life in the stream. To restore water quality, contamination levels need to be reduced to the recommended TMDL amounts. The cleanup plan will define ways to reduce contamination.

The Dumps Creek "impaired" stream segment extends from the Hurricane Fork confluence to the mouth where Dumps Creek flows into the Clinch River in Carbo, VA. Dumps

Creek is impaired for failing to meet the aquatic life use based on violations of the general standard for aquatic organisms.

How to comment: DEQ accepts written comments by email, fax or postal mail. Written comments should include the name, address and telephone number of the person commenting and be received by DEQ during the comment period. DEQ also accepts written and oral comments at the public meeting announced in this notice. Information on implementation plans and how they are developed is available at [www.deq.virginia.gov/tmdl](http://www.deq.virginia.gov/tmdl).

Contact for additional information: Shelley D. Williams, Virginia Department of Environmental Quality, Southwest Regional Office, P.O. Box 1688, Abingdon, VA 24212-1688, telephone (276) 676-4845, FAX (276) 676-4899, or email [sdwilliams@deq.virginia.gov](mailto:sdwilliams@deq.virginia.gov).

### Restore Water Quality - Lower Machodoc Creek

Public meeting: June 18, 2008, at the Blake T. Newton Memorial Branch Library, 22 Coles Point Road, Hague, VA 22469. Technical advisory committee (TAC) meeting will be held from 2 p.m. to 4 p.m. and the public meeting from 7 p.m. to 9 p.m. Both meetings are open to the public.

Purpose of notice: The Virginia Department of Environmental Quality (DEQ) and the Department of Conservation and Recreation are announcing the finalizing of a study to restore water quality for a shellfish growing area, a public comment opportunity, a technical advisory committee meeting, and public meeting.

Meeting description: Final technical advisory committee and public meetings on a study to restore water quality for shellfish growing areas along Lower Machodoc Creek impaired due to bacterial violations.

Description of study: Virginia agencies are working to identify sources of the bacterial contamination in the shellfish growing waters of the (tidal) Lower Machodoc Creek and its tributaries, totalling 0.88 square river miles in Westmoreland County. These streams are impaired for failure to meet the designated use of shellfish consumption because of bacterial standard violations.

Stream	County	Length (miles <sup>2</sup> )	Impairment
Lower Machodoc Creek	Westmoreland	0.54	Aquatic Life Use; Shellfish
Branson Cove	Westmoreland	0.02	Aquatic Life Use; Shellfish
Ames Creek	Westmoreland	0.13	Aquatic Life Use; Shellfish
Weatherall Creek	Westmoreland	0.06	Aquatic Life Use; Shellfish
Cabin Point Creek	Westmoreland	0.13	Aquatic Life Use; Shellfish

---

## General Notices/Errata

---

The study reports the current status of the creek via sampling performed by the Virginia Department of Health; Division of Shellfish Sanitation, shellfish area condemnations and the sources of bacterial contamination. The study recommends total maximum daily loads, or TMDLs, for the impaired waters. A TMDL is the total amount of a pollutant a water body can contain and still meet water quality standards. To restore water quality, bacterial levels have to be reduced to the TMDL amount.

How a decision is made: The development of a TMDL includes a public comment period, including public meetings. After public comments have been considered and addressed, DEQ will submit the TMDL report to the U.S. Environmental Protection Agency for approval.

How to comment: DEQ accepts written comments by email, fax or postal mail. Written comments should include the name, address and telephone number of the person commenting and be received by DEQ during the comment period, which will expire on July 18, 2008. DEQ also accepts written and oral comments at the public meeting announced in this notice.

Contact for additional information: Margaret Smigo, TMDL Coordinator, Virginia Department of Environmental Quality, Piedmont Regional Office, 4949A Cox Road, Glen Allen, VA 23060, telephone (804) 527-5124, FAX (804) 527-5106, or email [mjsmigo@deq.virginia.gov](mailto:mjsmigo@deq.virginia.gov).

### 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 May 14, 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 Seventeen (08)

Virginia's Instant Game Lottery 1041; "Monopoly" (effective 4/17/08 nunc pro tunc)

### DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

#### Elimination of Depreciation Recapture

##### NOTICE OF INTENT TO AMEND

(pursuant to §1902(a)(13) of the Act (USC 1396a(a)(13))  
THE VIRGINIA STATE PLAN FOR MEDICAL ASSISTANCE

The Virginia Department of Medical Assistance Services (DMAS) hereby affords the public notice of its intention to

amend the Virginia State Plan for Medical Assistance to provide for changes to the Methods and Standards for Establishing Payment Rates—Inpatient Hospital Services and Methods and Standards for Establishing Payment Rates—Long Term Care Facilities. The department intends to accomplish several reimbursement methodology changes designed to simplify provider reimbursement. The first is to simplify hospital reimbursement by eliminating recapture of hospital depreciation when a hospital is sold by eliminating the hospital outlier illustration, which is outdated.

The regulation also simplifies reimbursement for specialized care nursing facilities by (i) eliminating the case mix adjustment and (ii) using the same inflation method and capital rate calculation used in the regular nursing facility reimbursement methodology. After recent changes to the covered groups, there is no longer a justification for the case mix adjustment and the associated reporting.

These changes are being made 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). A copy of this notice is available for public review from William Lessard, Director, Provider Reimbursement Division, DMAS, 600 Broad Street, Suite 1300, Richmond, VA 23219, and this notice is available for public review on the Regulatory Town Hall ([www.townhall.com](http://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: William J. Lessard, Jr., Director of Provider Reimbursement, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 225-4593, FAX (804) 371-8892, or email [william.lessard@dmass.virginia.gov](mailto:william.lessard@dmass.virginia.gov).

#### Recalibration of Physician Fees and Implement Site of Service Methodology

##### NOTICE OF INTENT TO AMEND

(pursuant to §1902(a)(13) of the Act (USC 1396a(a)(13))  
THE VIRGINIA STATE PLAN FOR MEDICAL ASSISTANCE

The Virginia Department of Medical Assistance Services (DMAS) hereby affords the public notice of its intention to amend the Virginia State Plan for Medical Assistance to provide for changes to the Methods and Standards for Establishing Payment Rates—Other Types of Care. The department intends to implement a site of service differential for RBRVS physician rates. Payment for physician services in some cases will be recalibrated to implement different rates for services depending on the site of service, based on the relative value units (RVUs) for a procedure code published by

the Centers for Medicare and Medicaid Services (CMS). For procedure codes that can be performed in either a facility or nonfacility, CMS has been publishing separate RVUs for several years and Medicare rates are based on site of service.

Currently, DMAS uses only the nonfacility RVU in calculating rates. Different Medicaid rates by site of service will be phased-in over a four-year period. After the phase-in, DMAS will use the Medicare facility RVU. Different rates based on site of service will be implemented in a budget neutral manner. Any savings in total reimbursement to physicians as a result of the implementation of site of service rates will be reallocated proportionately to all physician categories of service as a percentage increase.

These changes are being made 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). A copy of this notice is available for public review from William Lessard, Director, Provider Reimbursement Division, DMAS, 600 Broad Street, Suite 1300, Richmond, VA 23219, and this notice is available for public review on the Regulatory Town Hall ([www.townhall.com](http://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: William J. Lessard, Jr., Director of Provider Reimbursement, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 225-4593, FAX (804) 371-8892, or email [william.lessard@dmas.virginia.gov](mailto:william.lessard@dmas.virginia.gov).

## DEPARTMENT OF SOCIAL SERVICES

### Notice of Periodic Review

22VAC40-90, Regulation for Criminal Record Checks for Assisted Living Facilities and Adult Day Care Centers

Public comment period: June 9, 2008, to June 30, 2008.

Pursuant to Executive Order Number 36 (2006), the Department of Social Services is currently reviewing 22VAC40-90, Regulation for Background Checks for Assisted Living Facilities and Adult Day Care Centers, 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 regulations, less burdensome and intrusive alternatives to the regulations, 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 June 30, 2008, in care of Karen Cullen, Program Consultant, Division of Licensing Programs, Department of Social Services, 7 North 8th Street, Richmond, VA 23219, by facsimile to (804) 726-7132, or by email to [karen.cullen@dss.virginia.gov](mailto:karen.cullen@dss.virginia.gov).

## STATE WATER CONTROL BOARD

### Potential Amendment of Nutrient Waste Load Allocations for Culpeper County - Mountain Run STP

Notice of action: The Department of Environmental Quality (DEQ) may ask for State Water Control Board consideration of an amendment of a regulation on water quality. A regulation is a general rule governing people's rights or conduct that is upheld by a state agency.

9VAC25-720, Water Quality Management Planning Regulation

Purpose of notice: DEQ is seeking comments on what, if any, regulatory action should be taken, including but not limited to, (i) the pros and cons of the amendment and (ii) public support or opposition.

Public comment period: May 22, 2008, to June 20, 2008.

Subject matter and intent of amendment: DEQ has received information on the possible consolidation of the Town of Culpeper and Culpeper County. Under the provisions of Article 2 (§15.2-3520 et seq.), of Title 15.2 of the Code of Virginia, the consolidation process has been set in motion due to a petition that 15% of the registered voters in the town signed. The process includes drafting an approvable consolidation plan and holding a referendum for the voters of both localities. If the referendum passes, it is possible that the nutrient waste load allocation for the county's Mountain Run wastewater plant could be reduced, resulting in less annual nitrogen and phosphorus discharge in the Rappahannock River basin, a tributary of Chesapeake Bay. The town has nutrient waste load allocations based on a design flow of six million gallons per day (MGD) and is now constructing that capacity. The county's Mountain Run plant (not yet constructed) has allocations based on a design flow of 2.5 MGD and must secure a certificate to operate (CTO) for this capacity by December 31, 2010, or the allocations are reduced based on a design flow of 1.5 MGD. Consolidating the town's and county's wastewater treatment plants under one authority may result in economical and effective use of treatment capacity, which could ultimately benefit water quality due to reduced nutrient discharges. If the referendum passes, the county intends to build the Mountain Run STP with a design flow not to exceed 1.5 MGD; a 1 MGD

---

## General Notices/Errata

---

reduction from the size of the plant currently planned. However, the time needed to complete the consolidation process necessitates an extension of the deadline for the county to secure the CTO. The county estimates it would take, at the maximum, an additional 34 months after the date of the referendum to design and construct the 1.5 MGD facility.

It is this time extension and the possible reduction in nutrient waste load allocations for the Culpeper County-Mountain Run STP that would be the subject of the potential amendment to 9VAC25-720.

It is also important to note that the deadline to comply with nutrient waste load allocations (January 1, 2011) under the Chesapeake Bay Watershed General Permit for Nutrient Discharges is unaffected by this potential amendment.

How to comment: DEQ accepts written comments by email, fax and postal mail. All written comments must include the full name, address and telephone number of the person commenting and be received by DEQ by 5 p.m. on the last day of the comment period. Written comments should also include a copy of any supporting documents or exhibits. All comments, exhibits and documents received are part of the public record.

How a decision is made: Final approval or denial of any regulatory action will be made by the State Water Control Board.

To receive additional information: The information about potential consolidation and its affect on plans for the Mountain Run STP was provided by Culpeper County in a letter, which is available by contacting the DEQ representative named below.

Contact Information: John Kennedy, Department of Environmental Quality, 629 East Main Street, P.O. 1105, Richmond, VA 23218, telephone (804) 698-4312, FAX (804) 698-4116, or email [jmkennedy@deq.virginia.gov](mailto:jmkennedy@deq.virginia.gov).

### **Proposed Consent Order - Ellis Land, LLC**

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

Public comment period: June 4, 2008, to July 9, 2008.

Consent order description: The Virginia State Water Control Board proposes to issue a consent order to Ellis Land, LLC to address alleged violations of the Virginia State Water Control Law and the Virginia Water Protection Permit Regulations. The alleged violations occurred at the future Westmoreland County Athletic Complex site, located on the south side of Route 3 across from Westmoreland State Park. The consent order describes a settlement to resolve the alleged violations through the payment of a civil charge and the restoration of impacted wetlands and streams.

How to comment: DEQ accepts comments from the public by email, fax or postal mail. All comments must include the name, address and telephone number of the person commenting and be received by DEQ within the comment period. The public may review the proposed consent order at the DEQ office named below or on the DEQ website at [www.deq.virginia.gov](http://www.deq.virginia.gov).

Contact for public comments, document requests and additional information: Allison C. Dunaway, Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, VA 23060, telephone (804) 527-5086, FAX (804) 527-5106, or email [acdunaway@deq.virginia.gov](mailto:acdunaway@deq.virginia.gov).

### **Bacteria TMDL for Tuckahoe Creek, Little Tuckahoe Creek, Anderson, Broad, Georges and Readers Branches, and Deep Run in Henrico, Goochland and Hanover Counties, Virginia**

Notice is hereby given that the State Water Control Board seeks comment on proposed modifications to the bacteria total maximum daily load (TMDL) developed for Tuckahoe Creek, Little Tuckahoe Creek, Anderson, Broad, Georges and Readers Branches, and Deep Run located in Henrico, Goochland and Hanover counties, Virginia.

Public comment period: June 9, 2008, to July 9, 2008.

A total maximum daily load of E. coli was developed to address the bacterial impairments in Tuckahoe Creek, Little Tuckahoe Creek, Anderson, Broad, Georges and Readers Branches, and Deep Run located in Henrico, Goochland and Hanover counties. This TMDL was approved by the Environmental Protection Agency on September 20, 2004, and can be found at <http://www.deq.virginia.gov/tmdl/apptmdls/jamesrvr/tuckcr.pdf>.

The Virginia Department of Environmental Quality (VDEQ) seeks written comments from interested persons on the minor modification of this TMDL. Table 7 (page 20) of the report contains the Henrico County Water Treatment Plant, permit number VA0091197. The report identifies this facility as a municipal minor plant with a design flow of 0.70 mgd and provides a bacteria waste load allocation of 1.22 x 10<sup>12</sup> cfu /yr. This facility is a potable water treatment plant rather than a STP and is correctly classified as an industrial minor. Therefore, DEQ's proposes the following changes to the report:

- Remove the potable water treatment facility (VA0091197) and associated wording from the TMDL report;
- Re-assign the WLA of 1.22 x 10<sup>12</sup> cfu /yr as a WLA growth factor in Table 7.

The public comment period for these modifications will end on July 9, 2008. Questions or information requests should be addressed to Margaret Smigo. Written comments should

include the name, address, and telephone number of the person submitting the comments and should be sent to Margaret Smigo, Department of Environmental Quality, Piedmont Regional Office, 4969-A Cox Road, Glen Allen, VA 23060, telephone (804) 527-5124 or email [mjsmigo@deq.virginia.gov](mailto:mjsmigo@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.

