



Virginia Register of Regulations

VOL. 26 ISS. 20

PUBLISHED EVERY OTHER WEEK BY THE VIRGINIA CODE COMMISSION

JUNE 7, 2010

TABLE OF CONTENTS

Register Information Page	2503
Publication Schedule and Deadlines	2504
Petitions for Rulemaking	2505
Regulations	2506
2VAC5-210. Rules and Regulations Pertaining to Meat and Poultry Inspection Under the Virginia Meat and Poultry Products Inspection Act (Final)	2506
4VAC20-752. Pertaining to Blue Crab Sanctuaries (Emergency)	2506
5VAC5-40. Administration of the Office of the Clerk of the Commission (Proposed)	2508
10VAC5-120. Security Required of Money Order Sellers and Money Transmitters (Proposed)	2509
11VAC10-60. Participants (Final)	2510
11VAC10-110. Entries (Final).....	2515
11VAC10-140. Flat Racing (Final).....	2516
Governor	2517
General Notices/Errata	2520

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 on 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

Pursuant to § 2.2-4011 of the Code of Virginia, an agency, upon consultation with the Attorney General, and at the discretion of the Governor, may adopt emergency regulations that are necessitated by an emergency situation. An agency may also adopt an emergency regulation when Virginia statutory law or the appropriation act or federal law or federal regulation requires that a regulation be effective in 280 days or less from its enactment. 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 no more than 12 months in duration; however, may be extended for six months under certain circumstances as provided for in § 2.2-4011 D. 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: **John S. Edwards**, Vice Chairman; **James M. LeMunyon**; **Ryan T. McDougle**; **William R. Janis**; **Robert L. Calhoun**; **Frank S. Ferguson**; **E.M. Miller, Jr.**; **Thomas M. Moncure, Jr.**; **James F. Almand**; **Jane M. Roush**.

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 2010 through June 2011

<u>Volume: Issue</u>	<u>Material Submitted By Noon*</u>	<u>Will Be Published On</u>
26:20	May 18, 2010 (Tuesday)	June 7, 2010
26:21	June 2, 2010	June 21, 2010
26:22	June 16, 2010	July 5, 2010
26:23	June 30, 2010	July 19, 2010
26:24	July 14, 2010	August 2, 2010
26:25	July 28, 2010	August 16, 2010
26:26	August 11, 2010	August 30, 2010
27:1	August 25, 2010	September 13, 2010
27:2	September 8, 2010	September 27, 2010
27:3	September 22, 2010	October 11, 2010
27:4	October 6, 2010	October 25, 2010
27:5	October 20, 2010	November 8, 2010
27:6	November 3, 2010	November 22, 2010
27:7	November 16, 2010 (Tuesday)	December 6, 2010
27:8	December 1, 2010	December 20, 2010
27:9	December 14, 2010 (Tuesday)	January 3, 2011
27:10	December 29, 2010	January 17, 2011
27:11	January 12, 2011	January 31, 2011
27:12	January 26, 2011	February 14, 2011
27:13	February 9, 2011	February 28, 2011
27:14	February 23, 2011	March 14, 2011
27:15	March 9, 2011	March 28, 2011
27:16	March 23, 2011	April 11, 2011
27:17	April 6, 2011	April 25, 2011
27:18	April 20, 2011	May 9, 2011
27:19	May 4, 2011	May 23, 2011
27:20	May 18, 2011	June 6, 2011
27:21	June 1, 2011	June 20, 2011

*Filing deadlines are Wednesdays unless otherwise specified.

PETITIONS FOR RULEMAKING

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF PHARMACY

Initial Agency Notice

Title of Regulation: **18VAC110-20. Regulations Governing the Practice of Pharmacy.**

Statutory Authority: §§ 54.1-2400 and 54.1-3307 of the Code of Virginia.

Name of Petitioner: Eric Haas.

Nature of Petitioner's Request: Amend requirement for filing prescriptions to allow filing by date of initial dispensing or date of initial entry into pharmacy electronic recordkeeping system if such a system is employed by the pharmacy. The rationale for the request is that prescriptions are often placed into electronic systems for later dispensing, and retrieval and reassignment of the date is cumbersome and unnecessary and may promote errors in a patient's record.

Agency's Plan for Disposition of the Request: The board will receive public comment on the petition for rulemaking and will review the petition and any comment at its meeting on September 8, 2010, to make a decision on whether to initiate rulemaking.

Public Comment Deadline: July 21, 2010.

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

VA.R. Doc. No. R10-61; Filed May 19, 2010, 9:37 a.m.

REGULATIONS

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

Symbol Key

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

TITLE 2. AGRICULTURE

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Final Regulation

REGISTRAR'S NOTICE: The following regulatory action is exempt from the Administrative Process Act in accordance with § 2.2-4002 A 13 of the Code of Virginia, which excludes the Commissioner of Agriculture and Consumer Services and the Board of Agriculture and Consumer Services in promulgating regulations pursuant to § 3.2-5406 A, which includes adopting (i) by reference any regulation under the federal acts as it pertains to Chapter 54 (§ 3.2-5400 et seq.) of Title 3.2 of the Code of Virginia, amending it as necessary for intrastate applicability and (ii) any regulation containing provisions no less stringent than those contained in federal regulation. The Department of Agriculture and Consumer Services will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: **2VAC5-210. Rules and Regulations Pertaining to Meat and Poultry Inspection Under the Virginia Meat and Poultry Products Inspection Act (amending 2VAC5-210-41).**

Statutory Authority: § 3.2-5406 of the Code of Virginia.

Effective Date: May 21, 2010.

Agency Contact: Richard. C. Hackenbracht, Program Manager, Department of Agriculture and Consumer Services, P. O. Box 1163, Richmond, VA 23218, telephone (804) 786-4569, FAX (804) 786-1003, TTY (800) 828-1120, or email richard.hackenbracht@vdacs.virginia.gov.

Summary:

This amendment adopts Title 9, Chapter III, Subchapter E, Part 442 of the Code of Federal Regulations (rev. October 9, 2008) regarding quantity of contents labeling and procedures and requirements for accurate weights. The USDA Food Safety Inspection Service has consolidated the separate net weight regulations for meat and poultry products in a new CFR part, applicable to both meat and poultry products. By adopting 9 CFR Part 442, the regulations will reference the most recent version of the National Institute of Standards and Technology Handbook 133 that contains standards for determining the reasonable variations allowed for the declared net weight on labels of immediate containers of meat and poultry products; the

procedures to be used to determine the net weight and net weight compliance of meat and poultry products; and related definitions. The addition of this part does not change the net weight requirements.

2VAC5-210-41. Regulatory requirements.

The Commissioner of the Department of Agriculture and Consumer Services hereby adopts the following provisions of Chapter III of Title 9, Subchapter E of the Code of Federal Regulations (rev. ~~January 1, 2007~~ October 9, 2008):

Subchapter E. Regulatory requirements under the federal Meat Inspection Act and the Poultry Products Inspection Act.

Part 424. Preparation and processing operations.

Part 430. Requirements for specific classes of product.

Part 441. Consumer protection standards: raw products.

Part 442. Quantity of contents labeling and procedures and requirements for accurate weights.

Part 500. Rules of practice.

V.A.R. Doc. No. R10-2352; Filed May 21, 2010, 12:05 p.m.



TITLE 4. CONSERVATION AND NATURAL RESOURCES

MARINE RESOURCES COMMISSION

Emergency Regulation

Title of Regulation: **4VAC20-752. Pertaining to Blue Crab Sanctuaries (amending 4VAC20-752-10, 4VAC20-752-20, 4VAC20-752-40).**

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

Effective Dates: May 25, 2010, through June 24, 2010.

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

Preamble:

This emergency chapter establishes the Virginia Blue Crab Sanctuary and provisions to control the harvest of crabs from these areas. This emergency chapter is promulgated pursuant to the authority contained in §§ 28.2-201, 28.2-

203, 28.2-203.1, and 28.2-210 of the Code of Virginia. This emergency chapter amends and readopts, as amended, 4VAC20-752, which was promulgated April 22, 2008, and made effective on April 30, 2008. The effective date of this emergency chapter, as amended, is May 25, 2010, through June 24, 2010.

The amendment removes the latitude-longitude coordinates associated with physical markers such as lights and buoys that already define the blue crab sanctuaries.

4VAC20-752-10. Purpose.

The provisions of this emergency chapter are in response to reduced abundance in the blue crab stock and over-exploitation of this resource. This emergency chapter promotes conservation of the blue crab resource within the below designated areas of the Chesapeake Bay system.

4VAC20-752-20. Definitions.

"COLREGS Line" means the COLREGS Demarcation lines, as specified in Coastal Pilot, 35th and 36th editions by Lighthouse Press.

"Three Nautical Mile Limit Line" means the outer limit of the area extending three miles out to sea from the coast as depicted on NOAA nautical charts.

"Virginia Blue Crab Sanctuary" means two distinct sanctuary areas, Area 1 and Area 2, with Area 1 consisting of all tidal waters that are bounded by a line beginning at a point, near the western shore of Fisherman's Island, being on a line from the Cape Charles Lighthouse to the Thimble Shoal Light, ~~having NAD83 geographic coordinates of 37° 05' 58.00" N, 75° 58' 45.95" W~~; thence southwesterly to Thimble Shoal Light, ~~37° 00' 52.19" N, 76° 14' 24.63" W~~; thence southwesterly to the offshore end of Harrison's Fishing Pier, ~~36° 57' 44.98" N, 76° 15' 31.76" W~~; thence north to Flashing Green Buoy "9" on the York River Entrance Channel, ~~37° 11' 30.99" N, 76° 15' 16.85" W~~; thence northeasterly to Wolf Trap Light, ~~37° 23' 27.15" N, 76° 11' 46.01" W~~; thence northwesterly to a point, northeast of Windmill Point, 37° 38' 23.13" N, 76° 15' 59.54" W; thence northerly to a point due east of Great Wicomico Light at 37° 48' 15.72" N, 76° 14' 33.15" W; thence northeasterly to a point, 37° 49' 18.10" N, 76° 13' 06.00" W; thence northerly to a point on the Virginia-Maryland state line, 37° 54' 04.00" N, 76° 11' 49.15" W; thence northeasterly to a point on the Virginia-Maryland state line, 37° 55' 44.82" N, 76° 07' 13.41" W; thence southeasterly to a point, southwest of Tangier Island, 37° 44' 59.85" N, 76° 01' 34.31" W; thence southeasterly to a point, southeast of Tangier Island, 37° 43' 41.05" N, 75° 57' 51.84" W; thence northeasterly to a point, south of Watts Island, 37° 45' 36.95" N, 75° 52' 53.87" W; thence southeasterly to a point, 37° 44' 56.15" N, 75° 51' 33.18" W; thence southwesterly to a point, west of Parkers Marsh, 37° 42' 41.49" N, 75° 55' 06.31" W; thence southwesterly to a point, west of Cape Charles Harbor, 37° 15' 37.23" N, 76° 04' 13.79" W; thence southeasterly to a

point near the western shore of Fisherman's Island, on the line from Cape Charles Lighthouse to Thimble Shoal Light, said point being the point of beginning, and a continuation of Area 1, consisting of all tidal waters that are bounded by a line beginning at Cape Charles Lighthouse, ~~having NAD83 geographic coordinates of 37° 07' 31.63" N, 75° 53' 58.36" W~~; thence southwesterly to Cape Henry Lighthouse, ~~36° 55' 42.02" N, 76° 00' 18.44" W~~; thence southeasterly to a point, 36° 54' 42.39" N, 75° 56' 44.23" W; thence northeasterly to a point, east of Cape Charles Lighthouse 37° 06' 45" N, 75° 52' 05" W; thence westerly to the Cape Charles Lighthouse, said point being the point of beginning and a second area, Area 2, beginning at a point, 37° 06' 45.00" N, 75° 52' 05.00" W; thence southwesterly to a point, 37° 03' 11.49" N, 75° 53' 27.02" W, said point being a point on the Three Nautical Mile Limit Line; thence southerly following the Three Nautical Mile Limit Line to a point on the Virginia – North Carolina state boundary, 36° 33' 02.59" N, 75° 48' 16.21" W; thence westerly to a point, along the Virginia – North Carolina state boundary to its intersection with the mean low water line, 36° 33' 01.34" N, 75° 52' 03.06" W; thence northerly, following the mean low water line to the Rudee Inlet weir; thence easterly along the weir to the stone breakwater; thence following the stone breakwater to its northernmost point; thence northerly to the mean low water line at the easternmost point of the stone jetty; thence northerly following the mean low water line to its intersection with the COLREG Line, 36° 55' 38.50" N, 76° 00' 20.32" W; thence southeasterly to a point, 36° 54' 42.39" N, 75° 56' 44.23" W, thence northeasterly to a point, 37° 06' 45.00" N, 75° 52' 05.00" W, said point being the point of beginning of this second area.

4VAC20-752-40. Penalty.

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

VA.R. Doc. No. R10-2451; Filed May 25, 2010, 3:38 p.m.



TITLE 5. CORPORATIONS

STATE CORPORATION COMMISSION

Proposed Regulation

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

Regulations

Title of Regulation: **5VAC5-40. Administration of the Office of the Clerk of the Commission (adding 5VAC5-40-10).**

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

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

Public Comment Deadline: June 18, 2010.

Agency Contact: Joel Peck, Clerk of the Commission, State Corporation Commission, 1300 East Main Street, P.O. Box 1197, Richmond, VA 23218, telephone (804) 371-9733, FAX (804) 692-0681, or email joel.peck@scc.virginia.gov.

Summary:

The proposed new chapter implements the provisions of Chapter 669 of the 2010 Acts of Assembly relating to certain fees charged by the State Corporation Commission. The proposed regulation specifies the fees for providing a certificate of fact and for copying, certifying, and affixing the seal of the commission to a document. The proposed fee amounts are identical to those currently in statute but that will be repealed effective July 1, 2010, by Chapter 669 of the Acts of Assembly.

AT RICHMOND, MAY 18, 2010

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. CLK-2010-00007

Ex Parte: In re: fees charged by the Office of the Clerk of the Commission

ORDER TO TAKE NOTICE

Chapter 669 of the 2010 Virginia Acts of Assembly ("Chapter 669 of the Acts") amends §§ 12.1-20, 12.1-21.1, and 12.1-21.2 of the Code of Virginia to permit the State Corporation Commission ("Commission") to charge and collect reasonable fees for furnishing and certifying a copy of any document or any information from its records. Chapter 669 of the Acts eliminates these fee amounts from statute, giving the Commission the discretion to charge an amount that it deems reasonable.

NOW THE COMMISSION, based on information supplied by the Clerk of the Commission, proposes to adopt a regulation establishing certain fees to be charged and collected by the Office of the Clerk of the Commission, with a proposed effective date of July 1, 2010.

Accordingly, IT IS ORDERED THAT:

(1) The proposed regulation, entitled "Fees to be Charged by the Office of the Clerk," is appended hereto and made a part of the record herein.

(2) Comments or requests for a hearing on the proposed regulation 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 18, 2010. Requests for hearing shall state why a hearing is necessary and why the issues cannot be adequately addressed in written comments. All correspondence shall contain a reference to Case No. CLK-2010-00007. Interested persons desiring to submit comments or request a hearing electronically may do so by following the instructions available at the Commission's website: <http://www.scc.virginia.gov/case>.

(3) This Order and the attached proposed regulation shall be posted on the Commission's website at <http://www.scc.virginia.gov/case>.

(4) The Commission's Division of Information Resources shall send a copy of this Order, including a copy of the attached proposed regulation, to the Virginia Registrar of Regulations for publication in the Virginia Register of Regulations.

AN ATTESTED COPY hereof shall be sent to the Clerk of the Commission, who shall forthwith mail a copy of this Order, including a copy of the proposed regulation, to interested parties as he may designate.

CHAPTER 40

ADMINISTRATION OF THE OFFICE OF THE CLERK OF THE COMMISSION

5VAC5-40-10. Fees to be charged by the Office of the Clerk.

A. The Office of the Clerk shall charge and collect a fee of \$6.00 for each certificate of fact provided pursuant to § 12.1-20 of the Code of Virginia.

B. The commission shall charge and collect for furnishing a copy of any document, instrument, or paper \$.50 per page and \$3.00 for the certificate and affixing the seal thereto.

V.A.R. Doc. No. R10-2430; Filed May 18, 2010, 11:46 a.m.



TITLE 10. FINANCE AND FINANCIAL INSTITUTIONS

STATE CORPORATION COMMISSION

Proposed Regulation

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

Title of Regulation: 10VAC5-120. Security Required of Money Order Sellers and Money Transmitters (adding 10VAC5-120-50).

Statutory Authority: §§ 6.1-378.1 and 12.1-13 of the Code of Virginia.

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

Public Comment Deadline: June 18, 2010.

Agency Contact: Gerald Fallen, Deputy Commissioner, Bureau of Financial Institutions, State Corporation Commission, P.O. Box 640, Richmond, VA 23218, telephone (804) 371-9699, FAX (804) 371-9416, or email gerald.fallen@scc.virginia.gov.

Summary:

The State Corporation Commission is proposing a regulation that establishes the schedule for the annual assessment to be paid by money order sellers and money transmitters licensed under Chapter 12 (§ 6.1-370 et seq.) of Title 6.1 of the Code of Virginia. The assessment will defray the costs of examining and supervising licensees by the Bureau of Financial Institutions.

AT RICHMOND, MAY 17, 2010

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. BFI-2010-00144

Ex Parte: In re: annual assessment of licensed money order sellers and money transmitters

ORDER TO TAKE NOTICE

In order to defray the costs of examining and supervising money order sellers and money transmitters licensed under Chapter 12 of Title 6.1 of the Code of Virginia ("licensees"), § 6.1-373 B of the Code of Virginia requires licensees to pay an annual assessment calculated in accordance with a schedule set by the State Corporation Commission ("Commission"). The schedule is required to bear a reasonable relationship to the dollar volume of money orders sold and money transmission business conducted by licensees, either directly or through their authorized delegates, the costs of their examinations, and to other factors relating to their supervision and regulation.

NOW THE COMMISSION, based on information supplied by the Staff of the Bureau of Financial Institutions ("Bureau"), proposes to adopt a regulation setting an assessment schedule that will promote the efficient and effective examination and supervision of licensees. Based on annual reports filed with the Bureau by licensees for the calendar year ending 2009, the schedule set forth in the

proposed regulation is projected to generate a total annual assessment of \$471,176.

Accordingly, IT IS ORDERED THAT:

(1) The proposed regulation, entitled "Assessment Schedule for the Examination and Supervision of Money Order Sellers and Money Transmitters," is appended hereto and made a part of the record herein.

(2) Comments or requests for a hearing on the proposed regulation 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 18, 2010. Requests for a hearing shall state why a hearing is necessary and why the issues cannot be adequately addressed in written comments. All correspondence shall contain a reference to Case No. BFI-2010-00144. Interested persons desiring to submit comments or request a hearing electronically may do so by following the instructions available at the Commission's website: <http://www.scc.virginia.gov/case>.

(3) This Order and the proposed regulation shall be posted on the Commission's website at <http://www.scc.virginia.gov/case>.

(4) The Commission's Division of Information Resources shall send a copy of this Order, including a copy of the proposed regulation, to the Virginia Registrar of Regulations for publication in the Virginia Register of Regulations.

AN ATTESTED COPY hereof shall be sent to the Commissioner of Financial Institutions, who shall forthwith mail a copy of this Order, including a copy of the proposed regulation, to all licensed money order sellers and money transmitters and such other interested parties as he may designate.

CHAPTER 120

~~SECURITY REQUIRED OF MONEY ORDER SELLERS AND MONEY TRANSMITTERS~~

10VAC5-120-50. Assessment schedule for the examination and supervision of money order sellers and money transmitters.

Pursuant to subsection B of § 6.1-373 of the Code of Virginia, the commission sets the following schedule for the annual assessment to be paid by persons licensed under Chapter 12 (§ 6.1-370 et seq.) of Title 6.1 of the Code of Virginia. The assessment defrays the costs of the examination and supervision of licensees by the Bureau of Financial Institutions.

The annual assessment shall be \$0.000047 per dollar of money orders sold and money transmitted by a licensee pursuant to Chapter 12 (§ 6.1-370 et seq.) of Title 6.1 of the Code of Virginia. The assessment shall be based on the dollar volume of business conducted by a licensee, either directly or

Regulations

through its authorized delegates, during the calendar year preceding the year of the assessment.

The amount calculated using the above schedule shall be rounded down to the nearest whole dollar.

Fees shall be assessed on or before August 1 for the current calendar year. The assessment shall be paid by licensees on or before September 1.

The annual report, due April 15 each year, of each licensee provides the basis for its assessment. In cases where a license has been granted between January 1 and April 15 of the year of the assessment, the licensee's initial annual assessment shall be \$0.

Fees prescribed and assessed pursuant to this schedule are apart from, and do not include, the following: (i) the annual license renewal fee of \$750 authorized by subsection A of § 6.1-373 of the Code of Virginia and (ii) the reimbursement for expenses authorized by subsection C of § 6.1-373 of the Code of Virginia.

VA.R. Doc. No. R10-2418; Filed May 17, 2010, 4:26 p.m.



TITLE 11. GAMING

VIRGINIA RACING COMMISSION

REGISTRAR'S NOTICE: The following regulatory actions filed by the Virginia Racing Commission are exempt from the Administrative Process Act pursuant to § 2.2-4002 A 18 of the Code of Virginia when promulgating regulations regulating actual live horse racing at race meetings licensed by the commission.

Final Regulation

Title of Regulation: 11VAC10-60. Participants (amending 11VAC10-60-70, 11VAC10-60-120).

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

Effective Date: May 29, 2010.

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

Summary:

These amendments (i) clarify the consequences to a trainer who is suspended for more than 10 days in Virginia and (ii) reduce the amount of overweight a jockey may carry before a race from seven to five pounds. No changes have been made to the final text since publication of the proposed text.

11VAC10-60-70. Trainer.

A. Generally. No horse may be entered to race at a race meeting licensed by the commission unless the horse is under the care and supervision of a person holding a permit in good standing from the commission as a trainer. A trainer may represent the owner in entering of a horse, declaring the horse out of a race or retaining a jockey.

B. Qualifications. A permit may be issued to a person to participate in horse racing as a trainer if the person possesses a currently valid permit as a trainer in Virginia or another jurisdiction or if the person satisfactorily completes a trainer's test administered under the supervision of the stewards. A person shall not be issued a permit as a trainer unless he meets the following requirements:

1. The person must be 18 years old or older;
2. If the applicant for the permit is subject to the compensation provisions of the Virginia Workers' Compensation Act (§ 65.2-100 et seq. of the Code of Virginia), he must submit proof of his compliance with the insurance and self-insurance provisions of that Act with his application for the permit;
3. The person must be qualified by experience or competence to care for and train racehorses; and
4. The person must have in his charge a horse eligible to race.

C. Trainer's test. The stewards may require any person, whether or not he holds a currently valid permit in Virginia or another jurisdiction as a trainer, to satisfactorily complete a trainer's test to demonstrate that he is qualified by experience or competence to care for and train racehorses. The test shall consist of a written test administered by the stewards and a barn test administered by representatives of the horsemen, under the supervision of the stewards.

D. Prohibitions. A holder of a permit may not participate in horse racing as a trainer and as a jockey agent, veterinarian or veterinarian's assistant. In addition, a trainer:

1. Shall not train horses under an assumed name or stable name;
2. Shall not engage in any activity, directly or indirectly, involving the care, supervision or racing of horses other than those he has registered with the racing secretary as being in his charge; and
3. A holder of permits to participate in horse racing as a trainer and as a jockey shall only ride those horses trained by the permit holder.

E. Suspension. ~~All horses in the charge of a trainer whose permit is suspended for more than 10 days or revoked shall not be allowed to race. When a trainer's permit is suspended or revoked, it shall be the responsibility of the owners of the~~

~~horses to designate in writing to the stewards to whom the responsibilities for training the horses shall be transferred. This written notice shall be presented to the stewards for approval. The stewards, in their discretion, may withhold approval of a transfer of horses to another trainer, if they believe that the transfer of the horses to another trainer would in any way circumvent the intent of the ruling of the commission. All horses in the care of a trainer who is suspended for more than 10 days must be transferred to another trainer approved by the stewards. During the period of suspension the suspended trainer shall (i) have no communication with the new trainer, the new trainer's staff, or the horse owner; (ii) not benefit financially from transferred horses in his stable during the time of suspension; and (iii) not be permitted on the grounds except with the permission of the stewards.~~

F. Duties. A person holding a permit allowing him to participate in horse racing as a trainer shall be responsible for the proper care, health, training, safety and protection of horses under his care against administration of all substances foreign to the natural horse, except those specifically permitted by the regulations of the commission. In the exercise of his duties, a trainer shall:

1. Register with the stewards all persons in his employ and ensure that all of his employees have made application for the appropriate permits from the commission;
2. Promptly notify the stewards and the licensee's director of security of any employee he discharges;
3. Register all horses in his charge and present to the racing secretary the certificates of registration, certificates of eligibility or other registration documents;
4. Enter horses with the permission of the owner and bear primary responsibility as to the horse's eligibility, weight allowances, racing fitness, proper shoes, bandages, and other equipment;
5. Ensure that the horse is in the paddock at the time prescribed by the stewards;
6. Furnish the name of the jockey engaged to ride the horse at the time designated by the racing secretary;
7. Attend the horse in the paddock and supervise the saddling of the horse, and in his absence, provide an assistant trainer or other trainer to attend the saddling of horses and assume responsibility for the horses already entered;
8. Witness himself, or assign one of his employees to witness, the collection of samples of blood, urine, or other bodily substances in the test barn;
9. Maintain the stable area assigned to his horses in a neat, clean and sanitary condition at all times, and ensure that all fire prevention measures are taken; and

10. Report promptly to the commission veterinarian any serious illness or death of a horse in his charge.

G. Standardbred trainer. A permit may be issued to a person desiring to participate in horse racing as a trainer of Standardbreds if the person possesses a currently valid trainer's license from the United States Trotting Association or a permit in Virginia.

H. Steeplechase trainer. A permit may be issued to a person desiring to participate in horse racing as a trainer of horses utilized in steeplechase races if the person possesses a currently valid trainer's license issued by the stewards of the National Steeplechase Association or a currently valid permit as a trainer of horses utilized in steeplechase races in Virginia or another jurisdiction.

I. Substitute trainer. When a trainer is absent from his stable or the enclosure and a horse under his care is scheduled to race, he must provide a licensed trainer or assistant trainer to assume joint responsibility for the horses he is training. The substitute trainer or assistant trainer shall sign, in the presence of the stewards, a statement accepting responsibility for those horses.

J. Assistant trainer. A person holding a permit allowing him to participate in horse racing as a trainer may employ an assistant trainer with the approval of the stewards. Any assistant trainer shall be qualified to assume the duties and responsibilities imposed upon the holder of a trainer's permit, and the trainer shall be jointly responsible for the assistant trainer's acts and omissions involving racing matters and this chapter.

K. Trainer responsibility. The trainer shall be the absolute insurer of, and responsible for, the condition of each horse he enters in a race, regardless of the acts of third parties. A trainer shall not start a horse or permit a horse in his custody, care or control to be started if he knows, or through the exercise of reasonable care he might have known or has cause to believe, that the horse has received a substance foreign to the natural horse, except those specifically permitted by the regulations of the commission. The trainer shall guard, or caused to be guarded, each horse in his charge in a manner and for a period of time before racing so as to prevent any person from administering a substance foreign to the natural horse, except those specifically permitted by the regulations of the commission.

11VAC10-60-120. Jockey.

A. Generally. A person shall submit an application to participate in horse racing as a jockey. The applicant shall submit to the stewards sufficient evidence that he is either a journeyman or apprentice jockey in Virginia or another jurisdiction and demonstrates sufficient horsemanship to ride in a race without jeopardizing the safety of horses or other jockeys.

Regulations

B. Examinations. A jockey may be required to take a physical examination from a physician appointed by the stewards to establish that he possesses the physical ability to safely ride in races. A jockey may also be required to take an eye examination from a physician appointed by the stewards to establish he has eyesight sufficient to safely ride in races.

C. Apprentice jockey. If the person does not possess a currently valid permit in Virginia or another jurisdiction as an apprentice jockey, has not ridden satisfactorily in three races at a pari-mutuel meeting, or has never held a thoroughbred journeyman jockey permit, then the stewards may allow the person to ride probationary mounts in three races at a race meeting licensed by the commission under the following conditions:

1. That he is at least 16 years old;
2. That he has held a permit for at least one year as an exercise rider under the supervision of a person holding a permit as a trainer;
3. A trainer submits a notarized statement to the stewards that the person has been employed by him and has demonstrated sufficient horsemanship to be allowed to ride in three races at a race meeting licensed by the commission;
4. The starter has schooled the person from the starting gate with other horses and approves the person as capable of breaking a horse properly from the starting gate;
5. The stewards retain sole discretion of whether or not the person possesses the physical ability and has demonstrated sufficient horsemanship to ride in a race without jeopardizing the safety of horses or other jockeys; and
6. The stewards, in their discretion, may at any time deny the person the opportunity to ride in more races for cause.

If the person possesses a currently valid permit from another jurisdiction as an apprentice jockey or has ridden satisfactorily in three races at a pari-mutuel meeting, then the person must submit sufficient evidence to the stewards:

- a. That he is at least 16 years old;
- b. That he has ridden satisfactorily in at least three races at a pari-mutuel meeting; and
- c. That he has demonstrated to the stewards sufficient horsemanship to ride in a race without jeopardizing the safety of horses or other jockeys.

D. Amateur jockey. A permit may be issued to a person desiring to participate in horse racing as an amateur jockey. The person shall compete on even terms when riding against professional jockeys, but he shall not accept any fees or gratuities. The person must meet all of the requirements for an apprentice jockey, and his amateur status must be noted on the program.

E. Steeplechase jockey. A permit may be issued to a person desiring to participate in horse racing as a jockey riding horses in steeplechase races. A person shall submit an application for the appropriate permit, meet all of the requirements pertaining to holders of permits as jockeys, and hold a currently valid license issued by the stewards of the National Steeplechase Association.

F. Foreign jockey. Whenever a jockey from a foreign country, excluding Mexico and Canada, rides in the United States, he must submit an application for a permit and declare that he is a holder of a valid permit and currently not under suspension. To facilitate this process, the jockey shall present a declaration sheet stating:

1. That he is the holder of a valid permit to ride;
2. That he is not currently under suspension; and
3. That he agrees to be bound by the rules and regulations of the jurisdiction in which he is riding.

This sheet shall be retained by the stewards and at the conclusion of the jockey's participation in racing, it shall be returned to the jockey, properly endorsed by the stewards, stating he has not incurred any penalty or had a fall. If a penalty has been assessed against the jockey, the stewards shall notify the racing authority issuing the original permit to extend the penalty for the same period of time.

G. Apprentice allowance. An apprentice jockey may claim the following weight allowances in all overnight races except stakes and handicaps:

1. A 10-pound allowance beginning with the first mount and continuing until the apprentice has ridden five winners.
2. A seven-pound allowance until the apprentice has ridden an additional 35 winners.
3. If an apprentice has ridden a total of 40 winners prior to the end of a period of one year from the date of riding his fifth winner, he shall have an allowance of five pounds for one year from the date of the fifth winning mount.
4. If, after a period of one year from the date of the fifth winning mount, the apprentice jockey has not ridden 40 winners, the applicable weight allowance shall continue for one more year or until the apprentice rides his 40th winning mount, whichever comes first. But in no event may a weight allowance be claimed for more than two years from the date of the fifth winning mount, unless an extension has been granted under the provisions of this regulation.
5. An apprentice who possesses a contractual agreement may claim an allowance of three pounds for an additional one year when riding horses owned or trained by the original contract employer.

H. Extension of apprentice allowance. The commission or its designee may extend the weight allowance of an apprentice jockey when an apprentice jockey is unable to continue riding due to (i) physical disablement or illness, (ii) military service, (iii) attendance in an institution of secondary or higher education, (iv) restriction on racing, or (v) other valid reasons.

1. In order to qualify for an extension, an apprentice jockey shall have been rendered unable to ride for a period of not less than seven consecutive days during the period in which the apprentice was entitled to an apprentice weight allowance. Under exceptional circumstances, the commission or its designee will give consideration to the total days lost collectively.

2. The commission or its designee shall have the authority to grant an extension to an eligible applicant, but only after the apprentice jockey has submitted documentation to them verifying the days lost as defined by this regulation.

3. An apprentice jockey may petition the commission or its designee for an extension of time for claiming apprentice weight allowances, and the apprentice jockey shall be bound by the decision of the commission or its designee. If the apprentice jockey has been denied an extension in another jurisdiction, the commission or its designee shall deny the application for an extension.

I. Jockey contracts. An apprentice jockey may enter into a contract with an owner or trainer, who holds an appropriate permit issued by the commission, for a period not less than three years nor more than five years. The following provisions shall apply to contracts for apprentice jockeys:

1. The original contract is to be submitted to the stewards with copies made available to the parties to the contract;

2. A written extension may be made to a contract, if the original was for less than five years;

3. The original contract shall be kept in full force and in effect throughout its contract period. Any and all amendments to the contract shall be made a part of and either added to or attached to copies in the possession of the parties and a copy of the amendments submitted to the stewards;

4. An owner or trainer may not enter into a contract with an apprentice jockey unless he has control or possession of a stable of horses as would, in the discretion of the stewards, warrant the employment of an apprentice;

5. An apprentice jockey may not acquire his own contract;

6. All apprentice jockey contracts must be submitted to the stewards within 30 days of their execution or upon filing an application for a permit;

7. The contract shall provide for fair remuneration, adequate medical attention, suitable board and lodging,

workers' compensation insurance coverage, and provision for conserving the savings out of the earnings of the apprentice; and

8. Any apprentice or contract rider shall be entitled to the regular jockey fees, except when riding a horse owned in part or solely by his contract holder. An interest in the winnings only, e.g., a trainer's commission, does not constitute ownership.

J. Apprentice certificate. An apprentice jockey may be granted an apprentice certificate issued by the commission or its designee, in lieu of a traditional apprentice contract. An apprentice jockey who loses his weight allowances shall obtain a jockey permit before being permitted to ride again.

K. Restrictions of jockeys under contract. Any apprentice or journeyman jockey who is under a contract to an owner or trainer shall not:

1. Ride any horse not owned or trained by his contract employer in a race against a horse owned or trained by his contract employer;

2. Ride or agree to ride any horse in a race without consent of his contract employer; and

3. Share any money earned from riding with his contract employer.

L. Calls and engagements. Any jockey who is not prohibited by a contract may agree to give first or second calls on his services to any owner or trainer. If the agreement is for more than 30 days, then the agreement must be in writing and a copy of the agreement submitted to the stewards for approval. Any jockey employed by an owner or trainer on a regular salaried basis may not ride against the stable. No owner or trainer shall employ or engage a jockey to prevent him from riding another horse.

M. Naming of jockeys. A jockey shall be named to ride a horse in a race at a time designated by the racing secretary, and a subsequent change of a jockey shall be approved by the stewards. The following provisions shall apply to the naming of a jockey:

1. After a jockey gives a call to ride a horse in a race, either personally or through his agent, and fails to fulfill the engagement, he shall not accept another engagement in that race or be assigned by the stewards to another horse in that race;

2. In races where a jockey has more than one engagement, the jockey agent shall specify a first and second call on the jockey's services; and

3. A jockey may be named on no more than two horses in a race. In turf course races, in which there is an also-eligible list for the dirt course, a jockey may be named on no more than three horses, one of which shall be a dirt course only entrant.

Regulations

N. Fee earned. A jockey's fee shall be considered earned when the jockey is weighed out by the clerk of scales. The fee shall not be considered earned if the jockey, of his own free will, takes himself off of his mount where injury to the horse or rider is not involved. Any conditions or considerations not covered by the above regulation shall be at the discretion of the stewards.

O. Multiple engagements. If any owner, or his trainer or authorized agent, engages two or more jockeys to ride the same horse in the same race after the time designated by the racing secretary to name jockeys, the owner shall pay the jockey taken off the horse a matching fee equal to that earned by the jockey who rode the horse. No owner shall be held liable for multiple engagements where such engagements are the results of actions taken by jockeys or their agents. An owner or trainer who elects to remove a jockey from his mount after the time designated by the racing secretary for naming jockeys may be subject to disciplinary action by the stewards.

P. Duty to fulfill engagements. A jockey shall fulfill his duly scheduled riding engagements, unless excused by the stewards. No jockey shall be forced to ride a horse he believes to be unsound or over a racing surface that he believes to be unsafe. If the stewards find that a jockey's refusal to fulfill a riding engagement is unwarranted, then the jockey may be subject to disciplinary action.

Q. Presence in jockey room. A jockey who has an engagement to ride in a race shall report his weight and be physically present in the jockeys' room at a time appointed by the stewards, unless excused by the stewards, and upon arrival shall report all of his engagements for the program to the clerk of scales. The following provisions shall apply:

1. In the event a jockey does not report to the clerk of scales at the appointed time, the clerk of scales shall advise the stewards who may name a substitute jockey and any substitution shall be publicly announced prior to the opening of wagering;
2. After reporting to the clerk of scales, a jockey shall remain in the jockeys' room until he has fulfilled all of his engagements for the program. A jockey may only leave to ride in a race or to view the races from a location approved by the stewards;
3. A jockey shall have no communication with any person outside the jockeys' room other than an owner or trainer for whom he is riding, a racing official, his jockey agent or a representative of the media; and
4. A jockey who intends to discontinue riding at a race meeting prior to its conclusion shall notify the stewards no later than upon fulfilling his final engagement of the day he intends to depart.

R. Attire. A jockey shall wear traditional attire and shall be neat and clean in appearance. A jockey shall wear the cap and jacket in the owner's racing colors, white breeches, top boots, protective helmet, safety vest which meets the minimum specifications as defined by the British Equestrian Trade Association, and a number on his right shoulder corresponding to the horse's number as shown on the saddle cloth and daily program.

S. Weighing out. A jockey shall report to the clerk of scales for weighing out, not more than one hour and not less than 15 minutes before post time for each race in which he is engaged to ride, and at the time of weighing out shall declare overweight, if any. The following provisions shall apply to weighing out:

1. A jockey shall not carry more than two pounds of overweight without the consent of the owner or trainer of the horse which he is engaged to ride; however, a jockey shall not carry more than ~~seven~~ five pounds of overweight;
2. Bit, blinkers, bridle, number cloth, reins, safety helmet, safety vest, whip, goggles, overgirth, chamois and breastplate shall not be included in a jockey's weight;
3. All overweights shall be promptly reported to the stewards; and
4. No horse shall be disqualified because of overweight carried.

T. Weighing in. Following the completion of the race, a jockey shall ride his horse to the designated area, salute the stewards, dismount, remove from the horse his equipment, without assistance, which is to be included in a jockey's weight, and move directly to the scales where he may be weighed in by the clerk of scales. No person shall throw any covering over any horse until a jockey has removed from the horse his equipment which is to be included in a jockey's weight. Due to injury to either horse or jockey, the stewards may excuse the jockey from weighing in. A jockey shall not weigh in at less weight than he weighed out and no jockey shall weigh in at more than four pounds over the weight at which he weighed out, unless affected by the weather and with the permission of the stewards.

U. Wagering. A jockey may only have a wager placed for him through an owner or trainer of the horse he is riding in the race, and the jockey's wager shall only be on his horse to win. The owner or trainer placing the wager shall keep precise records of all wagers placed for a jockey and the record shall be available to the stewards upon request.

V. Viewing films. The stewards shall attempt to notify all jockeys who are requested to attend the reviewing of the films, and their names shall be posted on the film list. A jockey whose name is on the film list shall be present at the designated time and place to view the films of the race, unless

excused by the stewards. A jockey may be accompanied by a representative of his choosing.

W. Designated races. A jockey who is serving a suspension of 10 days or less will be permitted to ride in a designated race during the suspension if:

1. The race has been specified as a designated race by the racing secretary before opening day of the race meeting.
2. The race has been approved as a designated race by the stewards.
3. The jockey is named not later than at the time designated by the racing secretary.
4. The jockey agrees to serve an additional day of suspension in place of the day on which the jockey rides in a designated race.

Reciprocity of this regulation will apply only to those jurisdictions which have adopted the designated race regulation.

V.A.R. Doc. No. R10-2347; Filed May 12, 2010, 8:59 a.m.

Final Regulation

Title of Regulation: 11VAC10-110. Entries (amending 11VAC10-110-100, 11VAC10-110-180, 11VAC10-110-190).

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

Effective Date: May 29, 2010.

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

Summary:

The amendments (i) clarify that the responsibility of claiming weight penalties and weight allowances as well as the eligibility of a horse rests solely with the trainer and (ii) simplify the rule for how long a horse must wait before racing again after being excused by the stewards or a veterinarian. No changes have been made to the final text since publication of the proposed text.

11VAC10-110-100. Penalties and allowances.

The ~~primary~~ responsibility for claiming the weight penalties and weight allowances for thoroughbreds and quarter horses shall rest with the ~~person filing the entry~~ trainer. ~~However, the racing secretary shall be secondarily responsible for verifying the correctness of the penalties and allowances claimed by the nominator.~~ The following provisions shall apply to penalties and allowances:

1. Penalties are obligatory;

2. Allowances are optional as to all of the allowance or any part thereof;

3. Allowances must be claimed at the time of entry and cannot be waived after the closing of entries, except by permission of the stewards;

4. A horse shall start with only the allowance of weight to which it is entitled at the time of starting, regardless of the allowance it was entitled to at the time of entry;

5. Horses incurring penalties for a race shall not be entitled to any allowances, with the exception of age, sex or apprentice, for that race;

6. An apprentice allowance may be claimed only in overnight races and cannot be claimed in a stakes or handicap race;

7. Horses not entitled to the first allowance in a race shall not be entitled to any subsequent allowance specified in the conditions;

8. Allowances are not cumulative, unless specified in the conditions of the race;

9. Failure to claim an allowance is not cause for disqualifying the horse;

10. A claim of an allowance to which a horse is not entitled shall not disqualify the horse unless the incorrect weight is carried by the horse in the race;

11. A protest that a claim of an allowance is incorrect must be made in writing and submitted to the stewards at least one hour before post time;

12. No horse shall incur a penalty or be barred from any race for having finished second or lower in any race;

13. No horse shall be given a weight allowance for failure to finish second or lower in any race;

14. No horse shall receive an allowance for not winning in one or more races, but maiden allowances and allowances to horses that have not won a race within a specified period or a race of a specified value are permissible;

15. Penalties incurred and allowances due in jump races shall not apply to races on the flat and vice versa;

16. No horse shall incur a penalty for a placing from which it was subsequently disqualified, but a horse earning a placing through the disqualification shall incur the penalty for that placement;

17. When a race is under appeal, the horse that finished first and any other horse, which may be moved into first place, shall be liable for all penalties attached to the winner until there has been a final determination;

18. Any error discovered in the assignment of any penalty or claim of any allowance may be corrected, with the

Regulations

permission of the stewards, until 45 minutes prior to post time;

19. In determining eligibility, allowances and penalties, the reports, records and statistics as published in the Daily Racing Form and its monthly chart books or any similar publication shall be considered official; and

20. In all races, except handicaps and races where the conditions expressly state otherwise, two-year-old fillies are allowed three pounds and fillies and mares three years old and upward are allowed five pounds before September 1 and three pounds thereafter.

11VAC10-110-180. Scratches.

For flat racing, a horse may be withdrawn from or "scratched out" of a race after the closing of entries under the following conditions:

1. Scratches shall be made in a manner prescribed by the racing secretary;
2. Scratches are subject to the approval of the stewards;
3. A horse may be scratched from a stakes race, futurity or other special event until 45 minutes before post time for the race for any reason;
4. No horse may be scratched from an overnight race without the approval of the stewards;
5. In making a determination on whether to permit a horse to be scratched from an overnight race, the stewards may require a report from a veterinarian, who possesses a permit issued by the commission, attesting to the physical condition of the horse;
6. Scratches, once approved by the stewards, are irrevocable; and
7. ~~Entry of any~~ Any horse that has been scratched or excused from starting by the stewards because of a physical disability or sickness shall not be ~~accepted~~ permitted to race again until the horse has been removed from the Veterinarian's List by the commission veterinarian and the expiration of three racing six calendar days after following the day on which such horse was scratched or excused and the horse has been removed from the Veterinarian's List by the commission veterinarian.

11VAC10-110-190. Responsibility for eligibility.

The ~~primary~~ responsibility for the eligibility of a horse for a race shall rest with the ~~person filing the entry~~ trainer. ~~In any event, a~~ No person shall ~~not~~ enter a horse ~~which that~~ is ineligible under the conditions specified in the condition book or condition sheet. ~~The racing secretary shall be secondarily responsible for verifying the eligibility of each horse as specified in the condition book or condition sheet as well as the penalties and allowances.~~

VA.R. Doc. No. R10-2348; Filed May 12, 2010, 9:00 a.m.

Final Regulation

Title of Regulation: **11VAC10-140. Flat Racing (amending 11VAC10-140-40, 11VAC10-140-60).**

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

Effective Date: May 29, 2010.

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

Summary:

The amendments (i) clarify that the commission veterinarian or his designee is permitted to touch a horse while in the paddock and (ii) require the permission of the stewards to add or discontinue the use of equipment that restricts vision or affects performance. No changes have been made to the final text since publication of the proposed text.

11VAC10-140-40. Prohibitions.

No person other than the horse's owner, trainer, employees of the owner or trainer, paddock judge, horse identifier, assigned valet, commission veterinarian or his designee, steward, farrier, pony rider, or outrider shall touch a horse while it is in the paddock. The material used as a tongue tie shall be supplied by the horse's trainer or his designee, who shall affix the tongue tie in the paddock.

11VAC10-140-60. Changing equipment.

Permission must be obtained from the stewards for the following changes of a horse's equipment from that which the horse used in its last previous start:

1. To add blinkers or any device that would restrict vision or could affect performance to a horse's equipment or to discontinue the use of blinkers or any such device that would restrict vision or could affect performance;
2. To use or discontinue use of a bar plate;
3. To race a horse without shoes or with a type of shoes not generally used for racing; and
4. To race a horse without the jockey carrying a whip.

Changes of equipment shall be noted in the daily program. In the absence of such notation, the change of equipment shall be announced to the public and noted on the closed-circuit television system. The stewards shall cause an appropriate public announcement or a display to be made in the paddock or elsewhere at the discretion of the stewards for the aforementioned changes of equipment.

VA.R. Doc. No. R10-2349; Filed May 12, 2010, 9:02 a.m.

GOVERNOR

EXECUTIVE ORDER NUMBER 10 (2010)

Housing Policy Framework of the Commonwealth of Virginia

Housing helps define communities and is a major component in determining the quality of life for individuals, families, and the Commonwealth's general prosperity. Along with a good job, affordable housing provides the building blocks for the American Dream. Housing has been a major force in the prosperity of the Commonwealth. A healthy economic environment for housing significantly contributes to the vitality of the overall economy.

Clear and consistent housing policy is an essential factor in economic development; the provision of human services; and the development of transportation systems. The location, arrangement and cost of housing also intersect with broad urban and rural policies. Because of these interactions, housing policy within the executive branch should be coordinated with and be an integral part of each of these parallel policy initiatives.

Within the legislative branch, the Virginia Housing Commission has recognized the importance of developing policy principles intended to aid the Commission in considering the effect of legislative proposals and issues brought before it. Similarly, the executive branch should develop a similar policy framework to help guide decision-making and promote coordination across programs. At a time when unprecedented budgetary issues require that the state use its resources in the most efficient and effective manner possible, the housing policy framework can serve as a means for identifying and implementing appropriate actions within the bounds of the core functions of government.

Housing Policy Framework of the Commonwealth of Virginia

By virtue of the authority vested in me under Article V of the Constitution of Virginia and under the laws of the Commonwealth, including but not limited to Chapter 1 of Title 2.2 of the Code of Virginia, I hereby establish the following housing policy framework for the executive branch. The purpose of the housing policy framework is to establish broad goals and policy direction related to housing policy and to coordinate a comprehensive and effective housing policy with other public policy areas and initiatives across multiple secretariats within the executive branch.

The housing policy framework for the Commonwealth should be consistent with the following housing principles.

1. Recognize the role of the housing industry as a critical economic development engine within the Commonwealth by streamlining regulations, ensuring robust finance and construction sectors, promoting the development of workforce housing, reducing commute times between home

and work, and increasing residential access to transportation systems, while furthering public understanding of housing finance and economic literacy.

2. Promote sustainable and vibrant communities through measures that promote mixed use development, increase energy efficiency and use of cost effective green building concepts, support the rehabilitation of substandard housing, clarify the role of community associations in common interest communities, and expand public-private cooperation in addressing affordable safe housing.

3. Ensure that a range of housing options can be provided to meet the housing needs of a dynamic and changing population, achieve proper balance between homeownership and rental options, promote a continuum of quality housing options for special needs populations, match existing subsidies with areas of housing need, and increase the emphasis on fair housing (eliminating barriers to housing).

4. Increase capacity to address the needs of homeless Virginians by focusing on the reduction of chronic homelessness, ensuring the continued viability of the safety net of shelters and services, and investing in transitional and permanent supportive housing.

The Governor's Senior Economic Advisor, the Secretary of Commerce and Trade, the Director of the Department of Housing and Community Development, and the Executive Director of the Virginia Housing Development Authority along with other Cabinet members and their agencies will be responsible for carrying out the provisions of this order.

This Executive Order shall be effective upon its signing and shall remain in full force and effect unless amended or rescinded by further executive order.

Given under my hand and under the Seal of the Commonwealth of Virginia this 30th day of April 2010.

/s/ Robert F. McDonnell
Governor

EXECUTIVE ORDER NUMBER 11 (2010)

The Virginia Prisoner and Juvenile Offender Re-entry Council

Section 2.2-221.1 of the Code of Virginia directs the Secretary of Public Safety to establish an integrated system for coordinating the planning and provision of offender transitional and re-entry services among state, local, and non-profit agencies in order to prepare offenders for successful transition into their communities upon release from incarceration. This code section also requires the Secretary to ensure that a system is in place for improving opportunities for treatment, employment and housing while individuals are on subsequent probation, parole or post-release supervision.

Governor

Each year, approximately 13,500 adult and 500 juvenile offenders are projected to be released from incarceration. The Commonwealth of Virginia seeks to improve public safety by fostering a successful transition of these offenders into their communities; and by reducing the rates at which they returned to prison. In order to reduce recidivism, improve public safety, and reduce the number of crime victims, consistent with § 53.1-32.2 of the Code of Virginia, we must ensure that offenders released from incarceration have been adequately prepared to return to their communities. This preparation includes equipping offenders to find employment; providing educational opportunities; ensuring treatment for mental health and substance abuse issues; and assisting offenders to re-integrate into a stable home environment. Successful integration of offenders requires collaboration, coordination, and partnership among state and local agencies, community supervision agencies, service providers, faith-based organizations, law enforcement agencies, courts, communities, and family members. Accordingly, I am taking the following measures:

Amending and Renaming the Virginia Prisoner Re-entry Policy Academy

By virtue of authority vested in me as Governor under Article V, Section 1 of the Constitution of Virginia, and Sections 2.2-103 and 2.2-104 of the Code of Virginia, I hereby direct the Office of the Secretary of Public Safety to amend and alter the Virginia Prisoner Re-entry Policy Academy, originally established pursuant to Executive Order 97 (October 2009) which is set to expire December 31, 2010. The Virginia Prisoner Re-entry Policy Academy shall be renamed the Virginia Prisoner and Juvenile Offender Re-entry Council with the aim of promoting re-entry strategies for adult and juvenile offenders.

The Virginia Prisoner and Juvenile Offender Re-entry Council (the Council) shall be chaired by the Secretary of Public Safety or her designee and comprised of the following Executive Branch representatives or their designees:

- Secretary of Commerce and Trade
- Secretary of Education
- Secretary of Health and Human Resources
- Secretary of Transportation
- Senior Economic Advisor to the Governor
- Commonwealth's Attorneys' Services Council
- Department of Behavioral Health and Developmental Services
- Department of Corrections
- Department of Correctional Education
- Department of Criminal Justice Services
- Department of Education
- Department of Health
- Department of Housing and Community Development
- Department of Juvenile Justice

- Department of Medical Assistance Services
- Department of Planning and Budget
- Department of Professional and Occupational Regulation
- Department of Rehabilitative Services
- Department of Social Services
- Department of Veterans Services
- Virginia Employment Commission
- Virginia Indigent Defense Commission
- Virginia Parole Board

The Governor may appoint additional members as he deems appropriate. The Secretary of Public Safety shall invite additional participation by the Attorney General of Virginia, General Assembly, Supreme Court, Virginia Sheriffs Association, Virginia Association of Chiefs of Police, faith-based organizations, and Community Advocacy Groups. All Executive Branch agencies of the Commonwealth shall participate in activities of the Council upon request. Support staff will be provided by the Office of the Secretary of Public Safety, Office of the Secretary of Health and Human Resources, Office of the Secretary of Education, and other agencies as the Secretary of Public Safety may designate.

The Council shall have the following functions:

1. Identify barriers that exist in each member's department or agency that may impede successful transition of offenders returning to their communities; and develop and implement procedures to overcome such barriers, to include job training, education, housing, and substance abuse treatment.
2. Improve collaboration and coordination of transitional services, including providing cross-training; sharing information among state agencies; and developing policies, procedures, and programs with well-defined, performance-based outcomes that enhance re-entry management.
3. Establish partnerships between community colleges and the business sector to promote employment and transitional jobs for released offenders.
4. Engage local agencies, community-based social service providers, community organizations, faith-based organizations, as well as other stakeholders, in promoting successful re-entry policies and programs.
5. Submit a status report of actions taken to improve offender transitional and re-entry services to the Governor and the Chairmen of the House Appropriations and Senate Finance Committees no later than December 15 of each year.
6. Meet at the call of the Secretary of Public Safety or her designee and as provided in procedures adopted by the Council.

The Prisoner Re-entry Coordinator, in working with the Council, shall develop a long-term strategic plan for achieving the goal of reducing offender recidivism for those released from incarceration. The plan shall set out comprehensive strategies to be employed while offenders are incarcerated and to continue following their release. It shall have measurable objectives and establish specific outcome performance measures. The plan shall identify methods of improving communication, sharing of information, and collaborating between state and local agencies. Such a plan shall be submitted to the Governor for approval no later than December 31, 2010, and shall be updated by December 31 of each succeeding year.

The Council shall establish work groups and subcommittees to implement the provisions of the strategic plan and other re-entry reforms of the Commonwealth to assist offenders with jobs, housing, substance abuse treatment, medical care, and mental health services, with specific inclusion of women, juveniles, and veterans. Additionally, the Governor's Re-entry Council and the appropriate work group shall work collaboratively with the Juvenile Re-entry Advisory Group established by the Virginia Commission on Youth on improving the success and safety of juveniles returning to their community.

Effective Date of the Executive Order

This Executive Order shall be effective upon its signing and shall remain in full force and effect unless amended or rescinded by further executive order.

Given under my hand and under the Seal of the Commonwealth of Virginia this 11th day of May 2010.

/s/ Robert F. McDonnell
Governor

GENERAL NOTICES/ERRATA

DEPARTMENT OF CONSERVATION AND RECREATION

Proposed Consent Decree - Fluor-Lane, L.L.C.

Purpose of notice: To seek public comment on the terms of a proposed consent decree (decree) to be entered by the Circuit Court of the City of Richmond and issued to Fluor-Lane, L.L.C., regarding the I-495/Capital Beltway high occupancy toll (HOT) lanes construction project.

Public comment period: June 7, 2010, through July 7, 2010.

Summary of proposal: The proposed decree describes a settlement between the Virginia Soil and Water Conservation Board and Fluor-Lane to ensure compliance with the Virginia stormwater management program General Permit for Discharges of Stormwater from Construction Activities. In addition, the decree requires that Fluor-Lane pay a civil penalty of \$66,450 for alleged past violations of the Virginia Stormwater Management Act, regulations, and general permit.

How to comment: Department of Conservation and Recreation accepts written comments from the public by mail, email, or facsimile. All comments must include the name, address, and telephone number of the person commenting. Comments must be received during the comment period beginning June 7, 2010, and ending July 7, 2010. A copy of the proposed decree is available upon request.

Contact for documents and additional information: Elizabeth Anne Crosier, Department of Conservation and Recreation, 203 Governor Street, Suite 206, Richmond, VA 23219, telephone (804) 225-2549, FAX (804) 786-1798, or email anne.crosier@dcr.virginia.gov.

Contact Information: 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.

STATE CORPORATION COMMISSION

Bureau of Insurance

May 24, 2010

Administrative Letter 2010-04

TO: All Insurers Licensed to Write Accident and Sickness Insurance in Virginia, all Health Services Plans and Health Maintenance Organizations Licensed in Virginia

RE: Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA) Virginia Chapter 693 (Senate Bill 706)

The purpose of this Administrative Letter is to provide guidance to insurers, health services plans and health

maintenance organizations with the filing of forms to comply with the provisions of Chapter 693 (Senate Bill 706), enacted by the Virginia General Assembly during its 2010 legislative session.

Chapter 693 (Senate Bill 706), effective July 1, 2010, amends and reenacts §§ 38.2-3412.1 and 38.2-3412.1:01 of the Code of Virginia, and requires that group health insurance coverage issued to a large employer (an employer who employs on average at least 51 employees in a calendar year) shall provide coverage for mental health and substance abuse services on parity with the coverage for medical and surgical benefits in accordance with the Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA) (Public Law 110-343). The MHPAEA prohibits a group health plan or group health insurance coverage ("group plan") from applying financial requirements (e.g. copayments, coinsurance, deductibles, out-of-pocket maximums) or treatment limitations (e.g. number of visits, number of days of coverage) to the group plan's mental health and substance use disorder benefits that are more restrictive than those applied to its medical and surgical benefits.

In order to expedite and facilitate the review and approval of forms submitted for compliance with the above requirements, the Bureau of Insurance will require the following information in all submissions of group accident and sickness forms providing coverage on an expense incurred basis to large employer groups:

- 1) A clear identification of the submission as a "MHPAEA" submission;
- 2) Identification of any and all contracts or policies to which the submission applies, if applicable, along with their associated approval dates in Virginia;
- 3) Specification of all revisions made to comply with state and federal laws along with a clear explanation of the effect of such revisions; and
- 4) Inclusion of any and all revised rates affected by the revisions. If there is no change in rates, that should be specified as well.

Carriers are encouraged to complete and return the attached checklist with each form filing submitted for compliance with the requirements of Virginia Code §§ 38.2-3412.1 and 38.2-3412.1:01, as amended by Chapter 693 (Senate Bill 706), and the MHPAEA. While not all-inclusive, the checklist highlights important requirements in the MHPAEA that should be identified and addressed in each submission to the fullest extent possible, as per item # 3, above. Where applicable and appropriate, carriers should identify the provision in each form that conforms to the requirement identified in the checklist. Where compliance cannot be specifically identified in a particular provision, the

"comment" field should be completed to verify compliance with a particular requirement.

While the completion and return of the completed checklist is not mandatory, it is strongly encouraged to facilitate the review process and avoid unnecessary delays in the review and approval of the submissions. Continued use of this checklist in conjunction with the applicable product filing checklists is also strongly encouraged. You may view the checklist at: <http://www.scc.virginia.gov/division/boi/webpages/boinaicprductreviewchecklisth.htm>

Carriers are also reminded to review the Rules Governing the Submission for Approval of Life, Accident and Sickness, Annuity, Credit Life and Credit Accident and Sickness Policy Forms, Chapter 100, Title 14 of the Virginia Administrative Code for general filing requirements.

Finally, carriers are strongly encouraged to submit their forms as soon as possible in order to be reasonably assured of sufficient review and approval time.

Questions regarding this letter may be directed to: Robert Grissom, Supervisor, Forms and Rates Section, Life and Health Division, Bureau of Insurance, State Corporation Commission, telephone (804) 371-9152, or email bob.grissom@scc.virginia.gov.

/s/ Alfred W. Gross
Commissioner of Insurance

DEPARTMENT OF CRIMINAL JUSTICE SERVICES

Edward Byrne Memorial Justice Assistance Grant (JAG) Program

The Department of Criminal Justice Services intends to submit an application to the Bureau of Justice Assistance of the U.S. Department of Justice to obtain federal fiscal year 2010 funding available through the Edward Byrne Memorial Justice Assistance Grant (JAG) Program. The application, in the amount of \$5,934,822 will be submitted no later than June 16, 2010.

The department will use these funds to make grants to support local and state agency law enforcement, prosecution and judicial programs; crime prevention and education programs; corrections and community corrections programs; drug treatment programs; and planning, evaluation and technology improvement programs.

The application to the Bureau of Justice Assistance is available for public review at the department's offices at 1100 Bank Street, Richmond, Virginia 23219. Comments from the public are welcome. Inquiries should be directed to Joe Marshall at (804) 786-1577 or by email to joe.marshall@dcjs.virginia.gov.

DEPARTMENT OF ENVIRONMENTAL QUALITY

Total Maximum Daily Load for Little Dark Run

The Department of Environmental Quality and the Department of Conservation and Recreation seek written and oral comments from interested persons on the development of an implementation plan (IP) for bacteria total maximum daily loads (TMDLs) on a 4.26 miles stream segment of Little Dark Run and 8.86 miles segment of the Robinson River in Madison County. The TMDLs for these stream impairments were completed in January 2008 and can be found in the Upper Rappahannock River Basin Report on DEQ's website at <http://www.deq.virginia.gov/tmdl/apptmdls/rappvr/urappaec.pdf>.

Section 62.1-44.19:7 C of the Code of Virginia requires the development of an IP for approved TMDLs. The IP should provide measurable goals and the date of expected achievement of water quality objectives. The IP should also include the corrective actions needed and their associated costs, benefits, and environmental impacts.

The first public meeting on the development of the IP for the bacteria TMDLs will be held on Tuesday, June 15, 2010, at 7 p.m. at the Madison County Volunteer Fire Company, 1223 North Main Street, Madison, Virginia. After a one hour public meeting, stakeholders will break into two working groups (agricultural and residential) to begin the public participation input process for the implementation plan.

The 30-day public comment period on the information presenting at this meeting will end on July 15, 2010. A fact sheet on the development of an IP for the Little Dark Run and Robinson River is available upon request. Questions or information requests should be addressed to Bob Slusser with the Virginia Department of Conservation and Recreation. Written comments and inquiries should include the name, address, and telephone number of the person submitting the comments and should be sent to Bob Slusser, Department of Conservation and Recreation, email address bob.slusser@dcr.virginia.gov, telephone (540) 351-1590.

Total Maximum Daily Load for Twittys Creek

Purpose of notice: The Department of Environmental Quality (DEQ) seeks public comment on an amendment of a total maximum daily load (TMDL) of a water body in Charlotte County, Virginia.

First Public Notice Issue Date: June 7, 2010.

Public comment period: 30 days following first public notice issue date.

Amendment to Twittys Creek TMDL: TMDLs have been developed for sediment to address aquatic life (benthic impairment) use in Twittys Creek. This TMDL was approved

General Notices/Errata

by the Environmental Protection Agency on September 30, 2004, and can be found at the following website: <http://www.deq.virginia.gov/tmdl/apptmdls/roankrvr/twittycb.pdf>. DEQ proposes to amend the TMDL to accommodate a facility which is requesting an expanded permit allocation and which was in the original Twittys Creek TMDL. DEQ has received a request to expand the design flow for Drakes Branch WWTP (VA0084433) from 80,000 GPD to 400,000 GPD. VA0084433 discharges into Twittys Creek. The existing wasteload allocation would accommodate 400,000 GPD at a permitted TSS concentration of 30 mg/L. The total wasteload allocation (WLA) for this facility would be 18.3 ton/yr, or an increase of 14.7 ton/yr. The addition of this increased WLA will be from the terminated Westpoint Stevens wasteload allocation, 16.8 ton/yr, which has been transferred to future growth. The distribution of future growth will result in no change to the original TMDL equation.

Additionally, DEQ has received registration statements from Douglas Auto Parts and Service (VAR051752), Tucker Timber Products, Inc. (VAR051513), and Smurfit-Stone Container Corporation (VAR050592) to renew their general permits for stormwater. These industrial stormwater facilities predate the TMDL development and were not included in the original TMDL development. VAR051752, VAR051513, and VAR050592 are located in the Twittys Creek watershed and discharge respectively into an unnamed tributary (UT) to Twittys Creek, an UT to Bentleys Branch which drains into Twittys Creek, and an UT to Bentleys Branch which drains into Twittys Creek. The facilities have a previously permitted benchmark for TSS concentration of 100 mg/l. The wasteload allocations would be 3.6 ton/year for VAR051752, 16.2 ton/yr for VAR051513, and 10.5 ton/yr for VAR050592. The addition of the WLA for these three facilities will be taken from the LA portion of the TMDL, due to the fact that these facilities predate the original TMDL development and would have otherwise been incorporated that way initially.

A construction wasteload allocation was not incorporated in the original TMDL and one percent of the TMDL will be used as a baseline for the transient construction load category. This level of WLA equates to 8.9 tons/yr, will remain aggregated, and will be taken from the LA portion of the TMDL, due to the fact that original incorporation of transient construction WLA would have otherwise been incorporated that way initially. The corrections result in a change to the original TMDL equation of 4.4%.

Changes to the WLA value would be 4.4% of the TMDL (39.2 ton/yr WLA increase as a percent of 890.1 ton/yr), resulting in the need for an amendment to the original TMDL.

Updating the WLA table in the Twittys Creek benthic TMDL in accordance with this amendment will not cause a water quality violation. Following public participation guidance for an amendment to a TMDL, a public notice will be made for

the changes, followed by a 30 day public comment period, during which requests for public meeting will be considered.

How to comment and/or request a public meeting: DEQ accepts comments and requests for public meeting by email, fax, or postal mail. All comments and requests must be in writing and be received by DEQ during the comment period. Submittals must include the names, mailing addresses, and telephone numbers of the commentator/requestor and of all persons represented by the commentator/requestor. A request for public meeting must also include: (i) the reason why a public meeting is requested; (ii) a brief, informal statement regarding the nature and extent of the interest of the requestor or of those represented by the requestor, including how and to what extent such interest would be directly and adversely affected by the TMDL; and (iii) specific references, where possible, to terms and conditions of the permit with suggested revisions. DEQ may hold a public meeting, including another comment period, if public response is significant and there are substantial, disputed issues relevant to the permit. This public comment period will conclude on July 7, 2010.

Contact for public comments, document requests, and additional information: Paula Nash, Department of Environmental Quality, Blue Ridge Regional Office, 7705 Timberlake Road, Lynchburg, VA 24502, telephone (434) 582-6216, or email paula.nash@deq.virginia.gov.

DEPARTMENT OF ENVIRONMENTAL QUALITY AND DEPARTMENT OF CONSERVATION AND RECREATION

Total Maximum Daily Load for Hays Creek

The Department of Conservation and Recreation (DCR) and the Department of Environmental Quality (DEQ) seek written and oral comments from interested persons on the development of a total maximum daily load (TMDL) implementation plan for Hays Creek and its tributaries. Hays Creek was listed on the 1998 § 303(d) TMDL Priority List and Report as impaired due to violations of the state's water quality standard for bacteria. This impairment extends for 11.99 miles from Moffatts Creek to the confluence with the Maury River. Tributaries of Hays Creek, including Moffatts Creek, Walker Creek, and Otts Creek are also listed on the 2006 § 303(d) TMDL Priority List and Report for violations of the state's water quality standard for bacteria. These TMDLs were approved by EPA on May 19, 2008, and are available on DEQ's website at http://gisweb.deq.virginia.gov/tmdlapp/tmdl_report_search.cfm.

Section 62.1-44.19:7 C of the Code of Virginia requires the development of an implementation plan (IP) for approved TMDLs. The IP should provide measurable goals and the date of expected achievement of water quality objectives. The IP should also include the corrective actions needed and their associated costs, benefits, and environmental impacts.

Public participation is critical to the implementation planning process. DCR and DEQ will hold a first public meeting on June 24, 2010, at 7 p.m. to inform the public of the IP development and to solicit participation. The meeting will be held at the Rockbridge Baths Volunteer Fire Department, 5024 Maury River Rd., Rockbridge Baths, VA. Following this first informational meeting, DCR and DEQ will hold meetings for interested stakeholders to join working groups, which will direct the process and provide input to the agencies.

The public comment period for this first public meeting will end on July 26, 2010. Questions or information requests should be addressed to Nesha McRae, Department of Conservation and Recreation, telephone (540) 332-9238.

Written comments should include the name, address, and telephone number of the person submitting the comments and should be sent to Nesha McRae, 44 Sangers Lane, Suite 102, Staunton, VA 24401, telephone (540) 332-9238, or email nesha.mcrae@dcr.virginia.gov.

COMMISSION ON LOCAL GOVERNMENT

Schedule for the Assessment of State and Federal Mandates on Local Governments

Pursuant to the provisions of §§ 2.2-613 and 15.2-2903(6) of the Code of Virginia, the following schedule, established by the Commission on Local Government and approved by the Secretary of Commerce and Trade and Governor McDonnell, represents the timetable that the listed executive agencies will follow in conducting their assessments of certain state and federal mandates that they administer on local governments. Such mandates are either new (in effect for at least 24 months) or newly identified. In conducting these assessments, agencies will follow the process established by Executive Order 58 which became effective October 11, 2007. These mandates are abstracted in the Catalog of State and Federal Mandates on Local Governments published by the Commission on Local Government.

For further information contact Zachary Robbins, Senior Policy Analyst, Commission on Local Government, email zachary.robbs@dchd.virginia.gov, or telephone (804) 371-8010 or visit the commission's website at www.dhcd.virginia.gov.

STATE AND FEDERAL MANDATES ON LOCAL GOVERNMENTS

Approved Schedule of Assessment Periods – July 2010 through June 2011
For Executive Agency Assessment of Cataloged Mandates

AGENCY Mandate Short Title	CATALOG NUMBER	ASSESSMENT PERIOD
CRIMINAL JUSTICE SERVICES, DEPARTMENT OF Law Enforcement Terrorism Prevention Grant	SPS.DCJS029	8/1/10 to 10/31/10
EDUCATION, DEPARTMENT OF Supplemental Pay for Employees in Military Service	SOE.DOE129	7/1/10 to 9/30/10
JUVENILE JUSTICE, DEPARTMENT OF Mental Health Transition Plans for Incarcerated Juveniles	SPS.DJJ009	7/1/10 to 9/30/10
PROFESSIONAL AND OCCUPATIONAL REGULATION, DEPARTMENT OF Waste Management Facility Operator's License	SCT.DPOR003	7/1/10 to 9/30/10
RAIL AND PUBLIC TRANSPORTATION, DEPARTMENT OF Rail Enhancement Program	STO.DRPT020	3/1/11 to 5/31/11
TRANSPORTATION, DEPARTMENT OF Land Use Permits	STO.VDOT037	2/1/11 to 4/30/11

General Notices/Errata

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 10, 2010, May 19, 2010, and May 24, 2010. The orders may be viewed at the State Lottery Department, 900 East Main Street, Richmond, VA, or at the office of the Registrar of Regulations, 910 Capitol Street, 2nd Floor, Richmond, VA.

Director's Order Number Thirty-Eight (10)

Virginia's Instant Game Lottery 1179; "Winner's Circle" Final Rules for Game Operation (effective May 7, 2010)

Director's Order Number Forty (10)

Virginia's Instant Game Lottery 1183; "Deluxe Winner Take All" Final Rules for Game Operation (effective May 7, 2010)

Director's Order Number Forty-One (10)

Virginia's Instant Game Lottery 1187; "\$250 Grand" Final Rules for Game Operation (effective May 7, 2010)

Director's Order Number Forty-Two (10)

Virginia's Instant Game Lottery 1191; "Gimme 5!" Final Rules for Game Operation (effective May 7, 2010)

Director's Order Number Forty-Three (10)

Virginia's Instant Game Lottery 1190; "7 11 21" Final Rules for Game Operation (effective May 7, 2010)

Director's Order Number Forty-Four (10)

Virginia's Instant Game Lottery 1195; "Cash To Go" Final Rules for Game Operation (effective May 7, 2010)

Director's Order Number Forty-Six (10)"

"Angel Vision Video Retailer Recruitment" Virginia Lottery Retailer Incentive Program Rules (effective May 7, 2010)

Director's Order Number Forty-Seven (10)

Virginia Lottery's "Powerball Powerplay 10X Sweepstakes" Final Rules for Game Operation (effective May 7, 2010) (effective nunc pro tunc to May 1, 2010)

Director's Order Number Forty-Eight (10)

Virginia Lottery's "Muscle Car Money Summer Fun Sweepstakes" Final Rules for Game Operation (effective May 11, 2010)

Director's Order Number Fifty (10)

Virginia Lottery's "Winner's Circle Sweepstakes" Final Rules for Game Operation (effective May 20, 2010)

The following Director's Order of the State Lottery Department was filed with the Virginia Registrar of Regulations on May 20, 2010.

Director's Order Number Fifty-Five (10)

Certain Virginia Instant Game Lotteries; End of Games.

In accordance with the authority granted by §§ 2.2-4002 B 15 and 58.1-4006 A of the Code of Virginia, I hereby give notice that the following Virginia Lottery instant games will officially end at midnight on May 28, 2010:

Game 1140	Mega Money
Game 1144	\$50,000,000 Redskins Mania
Game 1151	100X The Money

The last day for lottery retailers to return for credit unsold tickets from any of these games will be July 2, 2010. The last day to redeem winning tickets for any of these games will be November 24, 2010, 180 days from the declared official end of the game. Claims for winning tickets from any of these games will not be accepted after that date. Claims that are mailed and received in an envelope bearing a postmark of the United States Postal Service or another sovereign nation of November 24, 2010, or earlier, will be deemed to have been received on time. This notice amplifies and conforms to the duly adopted State Lottery Board regulations for the conduct of lottery games.

This order is available for inspection and copying during normal business hours at the Virginia Lottery headquarters, 900 East Main Street, Richmond, Virginia; and at any Virginia Lottery regional office. A copy may be requested by mail by writing to Director's Office, Virginia Lottery, 900 East Main Street, Richmond, Virginia 23219.

This Director's Order becomes effective on the date of its signing and shall remain in full force and effect unless amended or rescinded by further Director's Order.

/s/ Paula I. Otto
Executive Director
May 19, 2010

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Durable Medical Equipment (DME) Services Updates

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 (pursuant to § 1902(a)(13) of the Social Security Act (42 USC § 1396a(a)(13)) to provide for changes to the Durable Medical Equipment (DME) Services Updates.

Pursuant to Chapter 874 of the 2010 Acts of Assembly, Items 297 UUU and WWW, the reimbursement for durable medical equipment is modified as follows:

a. Reduce reimbursement for DME that has a Durable Medical Equipment Regional Carrier (DMERC) rate from 100% of Medicare reimbursement to 90% of the Medicare level.

b. Reduce fee schedule rates for DME and supplies by category-specific amounts as recommended in the November 1, 2009, Report on Durable Medical Equipment Reimbursement to the Senate Finance and House Appropriations Committees. The DMAS shall also modify the pricing of incontinence supplies from case to item, which is the industry standard.

c. Establish rates for additional procedure codes where benchmark rates are available.

d. Reimburse at cost plus 30% for any item not on the fee schedule. Cost shall be no more than the net manufacturer's charge to the provider, less shipping and handling.

e. Determine alternate pricing for any code that does not have a rate.

f. Limit service day reimbursement to intravenous and oxygen therapy equipment.

g. Modify the limit on incontinence supplies prior to requiring prior authorization.

DMAS is making these changes in response to specific directives received from the Virginia General Assembly. The annual aggregate decrease in expenditures for FY 2011 is expected to be \$6,679,509 (\$3,832,075 for the proposed rate changes; \$2,847,434 for the diaper limit proposed change). The specific regulatory changes will be published in the Virginia Register of Regulations (<http://register.dls.virginia.gov/issfiles.htm>), and posted on the Virginia Regulatory Town Hall (www.townhall.virginia.gov) under the Secretary of Health and Human Resources' list for DMAS.

Comments may be directed to Elizabeth Flaherty, R.N., Healthcare Compliance Specialist, Division of Long Term Care, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

DMAS is submitting an emergency regulation, pursuant to § 2.2-4011 of the Code of Virginia, to the Governor for approval. Pending the Governor's approval of the emergency regulation, DMAS will provide copies of said emergency regulations to all requesters, along with proposed provider-specific reimbursement rates. Please forward your written request to the Regulatory Coordinator, DMAS, 600 East Broad Street, Richmond, VA, 23219. Further information is also available at www.townhall.virginia.gov.

Contact Information: Brian McCormick, Regulatory Supervisor, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone

(804) 371-8856, FAX (804) 786-1680, TDD (800) 343-0634, or email brian.mccormick@dmass.virginia.gov.

SAFETY AND HEALTH CODES BOARD

Notice of Periodic Review

16VAC25-145, Safety Standards for Fall Protection in Steel Erection, Construction Industry.

Pursuant to Executive Order 107 (2009), the Virginia Department of Labor and Industry (DOLI) and the Safety and Health Codes Board (board) will review the regulation entitled Safety Standards for Fall Protection in Steel Erection, Construction Industry (16VAC25-145). The purpose of the review is to determine whether this regulation should be amended or retained in its current form. The review of this regulation will be guided by the principles listed in Executive Order 107 (2009). The purpose of this regulation is to provide protection for steel erection workers from falls at or above 10 feet. (See § 40.1-22 of the Code of Virginia.) DOLI and the board seek public comment on the review of issues related to this regulation, especially the following:

1. Does the regulation meet the following goals? (a) Reduce the incidence of material impairment of the health of Virginians due to workplace exposure to known hazards. (b) Provide protection to workers in the construction industry equal to that provided to workers in other industries. (c) Protect the public's health, safety, and welfare with the least possible cost and intrusiveness to the citizens and businesses of the Commonwealth.
2. Is the regulation clearly written and easy to understand?

Comments on this regulation are welcome and will be accepted until June 29, 2010. Comments may be posted online on the Virginia Regulatory Townhall website: <http://townhall.virginia.gov>.

Comments may also be mailed to Reba O'Connor, Regulatory Coordinator, Virginia Department of Labor and Industry, Powers-Taylor Building, 13 South 13th Street, Richmond, VA 23219 or email to reba.oconnor@doli.virginia.gov.

Each commentator should include his or her full name and mailing address.

Notice of Periodic Review

16VAC25-155, Virginia Construction Industry General Requirements for Clearances, Construction of Electric Transmission and Distribution Lines and Equipment.

Pursuant to Executive Order 107 (2009), the Virginia Department of Labor and Industry (DOLI) and the Safety and Health Codes Board (board) will review the regulation entitled Virginia Construction Industry General Requirements for Clearances, Construction of Electric Transmission and Distribution Lines and Equipment (16VAC25-155). The

General Notices/Errata

purpose of the review is to determine whether this regulation should be amended, or retained in its current form. The review of this regulation will be guided by the principles listed in Executive Order 107 (2009). The purpose of this regulation is to provide safety protections for construction electrical transmission workers equivalent to those already afforded general industry electrical transmission workers. (See § 40.1-22 of the Code of Virginia.) DOLI and the board seek public comment on the review of issues related to this regulation, especially the following:

1. Does the regulation meet the following goals? (a) Reduce the incidence of material impairment of the health of Virginians due to workplace exposure to known hazards. (b) Provide protection to workers in this industry equal to that provided to workers in other industries. (c) Protect the public's health, safety, and welfare with the least possible cost and intrusiveness to the citizens and businesses of the Commonwealth.
2. Is the regulation clearly written and easy to understand?

Comments on this regulation are welcome and will be accepted until June 29, 2010. Comments may be posted online on the Virginia Regulatory Townhall website: <http://townhall.virginia.gov>. Each commentator should include his or her full name and mailing address.

Comments may also be mailed to Reba O'Connor, Regulatory Coordinator, Virginia Department of Labor and Industry, Powers-Taylor Building, 13 South 13th Street, Richmond, VA 23219 or email to reba.oconnor@doli.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.

Cumulative Table of Virginia Administrative Code Sections Adopted, Amended, or Repealed

Beginning with Volume 26, Issue 1 of the Virginia Register of Regulations dated September 14, 2009, the Cumulative Table of Virginia Administrative Code Sections Adopted, Amended, or Repealed will no longer be published in the Virginia Register of Regulations. The cumulative table may be accessed on the Virginia Register Online webpage at <http://register.dls.virginia.gov/cumultab.htm>.

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.