



VIRGINIA

REGISTER OF REGULATIONS

VOL. 28 ISS. 7

PUBLISHED EVERY OTHER WEEK BY THE VIRGINIA CODE COMMISSION

DECEMBER 5, 2011

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THE VIRGINIA REGISTER INFORMATION PAGE

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

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.

A 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. **28:2 VA.R. 47-141 September 26, 2011**, refers to Volume 28, Issue 2, pages 47 through 141 of the *Virginia Register* issued on September 26, 2011.

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**, Chairman; **Bill Janis**, Vice Chairman; **James M. LeMunyon**; **Ryan T. McDougle**; **Robert L. Calhoun**; **Frank S. Ferguson**; **E.M. Miller, Jr.**; **Thomas M. Moncure, Jr.**; **Wesley G. Russell, Jr.**; **Charles S. Sharp**; **Robert L. Tavenner**; **Patricia L. West**; **J. Jasen Eige** or **Jeffrey S. Palmore**.

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.dls.virginia.gov>).

December 2011 through January 2013

<u>Volume: Issue</u>	<u>Material Submitted By Noon*</u>	<u>Will Be Published On</u>
28:7	November 15, 2011 (Tuesday)	December 5, 2011
28:8	November 30, 2011	December 19, 2011
28:9	December 13, 2011 (Tuesday)	January 2, 2012
28:10	December 27, 2011 (Tuesday)	January 16, 2012
28:11	January 11, 2012	January 30, 2012
28:12	January 25, 2012	February 13, 2012
28:13	February 8, 2012	February 27, 2012
28:14	February 22, 2012	March 12, 2012
28:15	March 7, 2012	March 26, 2012
28:16	March 21, 2012	April 9, 2012
28:17	April 4, 2012	April 23, 2012
28:18	April 18, 2012	May 7, 2012
28:19	May 2, 2012	May 21, 2012
28:20	May 16, 2012	June 4, 2012
28:21	May 30, 2012	June 18, 2012
28:22	June 13, 2012	July 2, 2012
28:23	June 27, 2012	July 16, 2012
28:24	July 11, 2012	July 30, 2012
28:25	July 25, 2012	August 13, 2012
28:26	August 8, 2012	August 27, 2012
29:1	August 22, 2012	September 10, 2012
29:2	September 5, 2012	September 24, 2012
29:3	September 19, 2012	October 8, 2012
29:4	October 3, 2012	October 22, 2012
29:5	October 17, 2012	November 5, 2012
29:6	October 31, 2012	November 19, 2012
29:7	November 13, 2012	December 3, 2012
29:8	November 28, 2012	December 17, 2012
29:9	December 11, 2012	December 31, 2012
29:10	December 26, 2012	January 14, 2013
29:11	January 9, 2013	January 28, 2013

*Filing deadlines are Wednesdays unless otherwise specified.

NOTICES OF INTENDED REGULATORY ACTION

TITLE 3. ALCOHOLIC BEVERAGES

ALCOHOLIC BEVERAGE CONTROL BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the Alcoholic Beverage Control Board intends to consider amending **3VAC5-50, Retail Operations**. The purpose of the proposed action is to establish the guidelines under which restaurants licensed to sell mixed beverages may infuse, store, and sell flavored distilled spirits.

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

Statutory Authority: §§ 4.1-103 and 4.1-111 of the Code of Virginia.

Public Comment Deadline: January 4, 2012.

Agency Contact: W. Curtis Coleburn III, Chief Operating Officer, Department of Alcoholic Beverage Control, 2901 Hermitage Road, Richmond, VA 23220, telephone (804) 213-4409, FAX (804) 213-4411, TTY (804) 213-4687, or email curtis.coleburn@abc.virginia.gov.

VA.R. Doc. No. R12-2426; Filed November 4, 2011, 3:54 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the Alcoholic Beverage Control Board intends to consider amending **3VAC5-50, Retail Operations**. The purpose of the proposed action is to set the minimum sales of oysters and other fresh seafood that must be sold to qualify for a gourmet oyster house license.

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

Statutory Authority: §§ 4.1-103 and 4.1-111 of the Code of Virginia.

Public Comment Deadline: January 4, 2012.

Agency Contact: W. Curtis Coleburn III, Chief Operating Officer, Department of Alcoholic Beverage Control, 2901 Hermitage Road, Richmond, VA 23220, telephone (804) 213-4409, FAX (804) 213-4411, TTY (804) 213-4687, or email curtis.coleburn@abc.virginia.gov.

VA.R. Doc. No. R12-3012; Filed November 4, 2011, 3:55 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the Alcoholic Beverage Control Board intends to consider amending **3VAC5-70, Other Provisions**. The purpose of the proposed action is to add a new section allowing for the proration of a license fee when a business licensed by the Department of Alcoholic Beverage

Control is destroyed by an act of God, including but not limited to fire, earthquake, hurricane, storm, or similar natural disaster or phenomenon.

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

Statutory Authority: §§ 4.1-103 and 4.1-111 of the Code of Virginia.

Public Comment Deadline: January 4, 2012.

Agency Contact: W. Curtis Coleburn III, Chief Operating Officer, Department of Alcoholic Beverage Control, 2901 Hermitage Road, Richmond, VA 23220, telephone (804) 213-4409, FAX (804) 213-4411, TTY (804) 213-4687, or email curtis.coleburn@abc.virginia.gov.

VA.R. Doc. No. R12-3013; Filed November 4, 2011, 3:55 p.m.

TITLE 11. GAMING

STATE LOTTERY DEPARTMENT

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the State Lottery Department intends to consider amending **11VAC5-20, Administration Regulations**. The purpose of the proposed action is to amend the regulation regarding new technology, including social media, and update definitions.

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

Statutory Authority: § 58.1-4007 of the Code of Virginia.

Public Comment Deadline: January 4, 2012.

Agency Contact: Mitch Belton, Contract and Project Coordinator, State Lottery Department, 900 East Main Street, 9th Floor, Richmond, VA 23219, telephone (804) 692-7136, FAX (804) 692-7325, or email mbelton@valottery.com.

VA.R. Doc. No. R12-3001; Filed November 10, 2011, 9:34 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the State Lottery Department intends to consider amending **11VAC5-31, Licensing Regulations**. The purpose of the proposed action is to (i) further define the process for submission of applications for licensing, (ii) clarify minimum requirements to become or maintain status as an approved retailer, and (iii) allow options for becoming a "bonded" retailer.

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

Notices of Intended Regulatory Action

Statutory Authority: § 58.1-4007 of the Code of Virginia.

Public Comment Deadline: January 4, 2012.

Agency Contact: Mitch Belton, Contract and Project Coordinator, State Lottery Department, 900 East Main Street, 9th Floor, Richmond, VA 23219, telephone (804) 692-7136, FAX (804) 692-7325, or email mbelton@valottery.com.

VA.R. Doc. No. R12-3032; Filed November 10, 2011, 9:35 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the State Lottery Department intends to consider amending **11VAC5-41, Lottery Game Regulations**. The purpose of the proposed action is to (i) update various definitions, (ii) increase communication through the use of technology to expand the venues available to the public for gathering information pertaining to lottery games, and (iii) clarify where lottery consumers can receive customer assistance and general guidelines for prize redemption.

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

Statutory Authority: § 58.1-4007 of the Code of Virginia.

Public Comment Deadline: January 4, 2012.

Agency Contact: Mitch Belton, Contract and Project Coordinator, State Lottery Department, 900 East Main Street, 9th Floor, Richmond, VA 23219, telephone (804) 692-7136, FAX (804) 692-7325, or email mbelton@valottery.com.

VA.R. Doc. No. R12-3033; Filed November 10, 2011, 9:36 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 1. ADMINISTRATION

STATE BOARD OF ELECTIONS

Forms

NOTICE: The following forms used in administering the regulation were filed by the agency. The forms are not being published; however, online users of this issue of the Virginia Register of Regulations may click on the name to access a form. The forms are also available from the agency contact or may be viewed at the Office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia 23219.

Titles of Regulations: **1VAC20-40. Voter Registration.**

1VAC20-70. Absentee Voting.

Contact Information: Martha B. Brissette, Esq., Policy Analyst, State Board of Elections, 1100 Bank Street, Richmond, VA 23219, telephone (804) 864-8925, toll free (800) 552-9745, or email martha.brissette@sbe.virginia.gov.

FORMS (1VAC20-40)

[Virginia Voter Registration Application Form, VA-NVRA-1 \(rev. 02/10\).](#)

[National Voter Registration Application Form, Register to Vote in Your State by Using this Postcard Form and Guide \(rev. 3/06\).](#)

~~[Federal Post Card Application, Standard Form 76A \(rev. 10/05\).](#)~~

~~[Federal Write In Absentee Ballot, Standard Form 186A \(rev. 10/05\).](#)~~

[Federal Post Card Application \(FPCA\), Voter Registration and Absentee Ballot Request, Standard Form 76 \(rev. 08/11\).](#)

[Federal Write-In Absentee Ballot \(FWAB\), Voter's Declaration/Affirmation, Standard Form 186 \(rev. 08/11\).](#)

FORMS (1VAC20-70)

[Federal Post Card Application \(FPCA\), Voter Registration and Absentee Ballot Request, Standard Form 76 \(rev. 08/11\).](#)

[Federal Write-in Absentee Ballot \(FWAB\), Voter's Declaration/Affirmation, Standard Form 186 \(rev. 08/11\).](#)

VA.R. Doc. No. R12-3043; Filed November 3, 2011, 2:33 p.m.



TITLE 3. ALCOHOLIC BEVERAGES

ALCOHOLIC BEVERAGE CONTROL BOARD

Fast-Track Regulation

Title of Regulation: **3VAC5-70. Other Provisions (amending 3VAC5-70-90).**

Statutory Authority: § 4.1-111 of the Code of Virginia.

Public Hearing Information: No public hearings are scheduled.

Public Comment Deadline: January 4, 2012.

Effective Date: January 19, 2012.

Agency Contact: W. Curtis Coleburn III, Chief Operating Officer, Department of Alcoholic Beverage Control, 2901 Hermitage Road, Richmond, VA 23220, telephone (804) 213-4409, FAX (804) 213-4411, TTY (804) 213-4687, or email curtis.coleburn@abc.virginia.gov.

Basis: Section 4.1-111 of the Code of Virginia authorizes the board to promulgate regulations that establish requirements for the form, content, and retention of all records. The general recordkeeping requirement for various varieties of license holders and the duty to allow agents of the board to inspect such records are included in § 4.1-204 of the Code of Virginia.

Purpose: Chapter 513 of the 2008 Acts of Assembly added to § 4.1-204 of the Code of Virginia a definition of the reasonable hours within which an alcoholic beverage licensee must make its records immediately available for inspection by agents of the Alcoholic Beverage Control Board. The proposed amendment merely adds the statutory definition of reasonable hours to the board's recordkeeping regulation for consistency and clarity. This action protects the health, safety, and welfare of the citizens of the Commonwealth by facilitating the control of the distribution and sale of alcoholic beverages. It ensures that agents of the Department of Alcoholic Beverage Control will have access to the information necessary to enforce the laws regulating alcohol sales, while giving licensees flexibility in storage and production requirements.

Rationale for Using Fast Track: This rulemaking is expected to be noncontroversial because there are no substantive changes proposed to the regulation. The amendment is merely an attempt to clarify the current recordkeeping and inspection requirement for the guidance of the licensees and the board's special agents.

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The board intends to engage representatives of the regulated community in future discussions of possible revisions of the recordkeeping requirements, but this action is only intended to more clearly state the current law.

Substance: This action amends 3VAC5-70-90 to specify that licensees must make required records available for inspection by special agents of the board between the hours of 9 a.m. and 5 p.m. At any other time of day, if the licensees' records are not available, the records must be provided within 24 hours of the request.

Issues: The primary advantage associated with the proposed regulatory action, to affected businesses and the agency, is that the amendment to the regulation will give clear guidance to the licensees and the board's special agents as to when records must be made available for inspection. There are no disadvantages to the public or the Commonwealth.

Department of Planning and Budget's Economic Impact Analysis:

Summary of the Proposed Amendments to Regulation. The Alcoholic Beverage Control Board (ABC) proposes to amend its Other Provisions regulations so that the Board or its agent may ask licensees to produce records immediately only between the hours of 9 a.m. and 5 p.m. During any other hours, this proposed regulatory change will allow licensees 24 hours to provide any requested records.

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

Estimated Economic Impact. Current regulations require licensees to keep specified records for two years and to have them readily available for inspection by ABC or its agents during reasonable hours. ABC now proposes to amend these regulations so that licensees will have 24 hours to respond to any requests for records if that request is not made between the hours of 9 a.m. and 5 p.m. No licensee or other entity is likely to incur any costs on account of this regulatory change. This change will benefit licensees by allowing them time to respond to requests made when records may be locked in office space that is not staffed except during business hours.

Businesses and Entities Affected. ABC estimates that approximately 16,000 licensees are subject to the requirements of these regulations. ABC further estimates that approximately 90% of these licensees meet the legislative definition for small businesses.

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

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

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

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

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

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

Legal Mandate. The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the Administrative Process Act and Executive Order Number 14 (10). Section 2.2-4007.04 requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. Further, if the proposed regulation has adverse effect on small businesses, § 2.2-4007.04 requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.

Agency's Response to Economic Impact Analysis: The Alcoholic Beverage Control Board concurs with the economic impact analysis of the Department of Planning and Budget.

Summary:

The proposed amendment specifies that licensees make required records available for inspection by special agents of the board between the hours of 9 a.m. and 5 p.m. At any other time of day, if the records are not available, the records must be provided within 24 hours of the request.

3VAC5-70-90. Records to be kept by licensees generally; additional requirements for certain retailers; "sale" and "sell" defined; gross receipts; reports.

A. All licensees shall keep complete, accurate and separate records at the licensee's place of business for a period of two

years. The records shall be available for inspection and copying by any member of the board or its special agents during reasonable hours. Licensees may use microfilm, microfiche, disks or other available technologies for the storage of their records, provided the records so stored are readily subject to retrieval and made available for viewing on a screen or in hard copy by the board or its special agents at the licensed premises between the hours of 9 a.m. and 5 p.m. At any other time of day, if the licensee's records are not available for inspection, the licensee shall provide the records to a special agent of the board within 24 hours after a request is made to inspect the records.

The board and its special agents shall be allowed free access during reasonable hours to every place in the Commonwealth where alcoholic beverages are manufactured, bottled, stored, offered for sale or sold, for the purpose of examining and inspecting all records, invoices and accounts therein.

"Reasonable hours" shall be deemed to include all business hours of operation and any other time at which there exists any indication of activity upon the licensed premises.

B. All licensed manufacturers, bottlers or wholesalers of alcoholic beverages shall keep a complete, accurate and separate record of all alcoholic beverages manufactured, bottled, purchased, sold or shipped by him. Such records shall show the quantities of all such alcoholic beverages manufactured, bottled, purchased, sold or shipped by him; the dates of all sales, purchases, deliveries or shipments; the names and addresses of all persons to or from whom such sales, purchases, deliveries or shipments are made; the quantities and kinds of alcoholic beverages sold and delivered or shipped and the prices charged therefor and the taxes applicable thereto, if any. Every manufacturer and wholesaler, at the time of delivering alcoholic beverages to any person, shall also prepare a duplicate invoice showing the date of delivery, the quantity and value of each delivery and the name of the purchaser to whom the delivery is made.

C. Every retail licensee shall keep complete, accurate and separate records, including invoices, of the purchases and sales of alcoholic beverages, food and other merchandise. The records of alcoholic beverages shall be kept separate and apart from other records and shall include all purchases thereof, the dates of such purchases, the kinds and quantities of alcoholic beverages purchased, the prices charged therefor and the names and addresses of the persons from whom purchased.

Additionally, each retail licensee shall keep accurate accounts of daily sales, showing quantities of alcoholic beverages, food, and other merchandising sold and the prices charged therefor.

D. In addition to the requirements of subsections A and C of this section, mixed beverage restaurant licensees shall keep records of all alcoholic beverages purchased for sale as mixed

beverages and records of all mixed beverage sales. The following actions shall also be taken:

1. On delivery of a mixed beverage restaurant license by the board, the licensee shall furnish to the board or its special agents a complete and accurate inventory of all alcoholic beverages currently held in inventory on the premises by the licensee; and

2. Once a year, each licensee shall submit on prescribed forms to the board an annual review report. The report is due within 30 days after the end of the mixed beverage license year and shall include:

a. A complete and accurate inventory of all alcoholic beverages purchased for sale as mixed beverages and held in inventory at the close of business at the end of the annual review period;

b. An accounting of the annual purchases of food, nonalcoholic beverages and alcoholic beverages, including alcoholic beverages purchased for sale as mixed beverages, and miscellaneous items; and

c. An accounting of the monthly and annual sales of all merchandise specified in subdivision 2 b of this subsection.

E. The terms "sale" and "sell" shall include exchange, barter or traffic, or delivery made otherwise than gratuitously, by any means whatsoever, of mixed beverages and other alcoholic beverages, and of meals or food.

F. In determining "gross receipts from the sale of food" for the purposes of § 4.1-210 of the Code of Virginia, a licensee shall not include any receipts for food for which there was no sale, as defined in this section. Food which is available at an unwritten, non-separate charge to patrons or employees during Happy Hours, private social gatherings, promotional events, or at any other time, shall not be included in the gross receipts. Food shall include hors d'oeuvres.

If in conducting its review pursuant to § 4.1-114 of the Code of Virginia, the board determines that the licensee has failed or refused to keep complete and accurate records of the amounts of mixed beverages or other alcoholic beverages sold at regular prices, as well as at all various reduced and increased prices offered by the licensee, the board may calculate the number of mixed drinks and other alcoholic beverage drinks sold, as determined from purchase records, and presume that such sales were made at the highest posted menu prices for such merchandise.

G. Any changes in the officers, directors or shareholders owning 10% or more of the outstanding capital stock of a corporation shall be reported to the board within 30 days; provided, however, that corporations or their wholly owned subsidiaries whose corporate common stock is publicly traded and owned shall not be required to report changes in

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shareholders owning 10% or more of the outstanding capital stock.

H. All banquet and special event licensees in charge of public events shall report to the board the income and expenses associated with the public event on a form prescribed by the board when the licensee engages another person to organize, conduct or operate the event on behalf of the licensee. Reports shall be made within 30 days after the date of each event. "Public events" shall be deemed to include any event at which alcoholic beverages are sold to the general public and not only to personally invited guests.

All applicants for banquet or special event licenses shall indicate at the time of application whether the event is open to the public and whether another person has been or will be engaged to organize, conduct or operate the event on behalf of the licensee. If the applicant indicates that the event is open to the public and another person has been or will be engaged to organize, conduct or operate the event on behalf of the licensee, the applicant shall attach a copy of any contract between the applicant and such other person to the license application.

VA.R. Doc. No. R12-2428; Filed November 4, 2011, 3:59 p.m.

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TITLE 8. EDUCATION

UNIVERSITY OF VIRGINIA

Final Regulation

REGISTRAR'S NOTICE: The University of Virginia is exempt from the Administrative Process Act in accordance with § 2.2-4002 A 6 of the Code of Virginia, which exempts educational institutions operated by the Commonwealth.

Title of Regulation: 8VAC85-20. Regulation of Weapons, Fireworks, and Explosives (adding 8VAC85-20-10 through 8VAC85-20-40).

Statutory Authority: § 23-76 of the Code of Virginia.

Effective Date: December 5, 2011.

Agency Contact: Carol Wood, Associate Vice President for Public Affairs, University of Virginia, P.O. Box 400229, Charlottesville, VA 22904, telephone (434) 924-1400, FAX (434) 924-0938, or email uvaregulation@virginia.edu.

Summary:

The regulation establishes the weapons prohibitions at the University of Virginia, the University of Virginia Medical Center, and the University of Virginia College at Wise.

CHAPTER 20

REGULATION OF WEAPONS, FIREWORKS, AND EXPLOSIVES

8VAC85-20-10. Scope.

This chapter applies to all University of Virginia personnel, students, trainees, or volunteers and the general public while on university property or while attending a sporting, entertainment, or educational activity.

8VAC85-20-20. Definitions.

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

"Firework" means any combination of explosives and combustibles set off to generate colored lights, smoke, or noise.

"Law-enforcement officer" means any sworn law-enforcement officer who has the duty and obligation to enforce the penal or traffic laws of the Commonwealth of Virginia, or any portion thereof, as certified by his appointing authority and including, but not limited to, any person appointed pursuant to §§ 4.1-100, 9.1-101, 15.2-1609, 15.2-1700, 23-232, 29.1-200, 30-34.2:1, 52-1, 53.1-1, 53.1-143, and 66-25.3 of the Code of Virginia; any attorney for the Commonwealth as provided in § 18.2-308 B 9 of the Code of Virginia; any conservator of the peace exempt from § 18.2-308 A of the Code of Virginia pursuant to § 18.2-308 C 4 of the Code of Virginia; and any sworn federal law-enforcement officer or agent and any law-enforcement agent of the armed forces of the United States who is authorized to carry a weapon by federal law and who is within his territorial jurisdiction or who is contracted with the university to provide services within the university's territorial jurisdiction and who is on duty or providing services to the university.

"University" means the University of Virginia, including its College at Wise and its Medical Center.

"University Medical Center" or "Medical Center" means the hospital and all other buildings that make up the Medical Center such as facilities used for administrative, clinical, or lab activities.

"University property" means any land, buildings, or vehicles that the university owns or leases or that is under its control.

"Weapon" means (i) any firearm including any pistol, revolver, rifle, shotgun, air-pistol, paintball gun, or other instrument designed or intended to propel a bullet, cartridge, or other missile of any kind including a bow or cross-bow; (ii) any dirk, bowie knife, switchblade knife, ballistic knife, butterfly knife, sword, machete, or other bladed weapon with a blade longer than four inches in length; (iii) any razor slingshot, spring stick, metal or lexan knucks, or blackjack; (iv) any flailing instrument consisting of two or more rigid

parts connected in such manner as to allow them to swing freely, which may be known as nun chahka, nun chuck, nunchaku, shuriken, or fighting chain; or (v) any disc, of whatever configuration, having at least two points or pointed blades that is designed to be thrown or propelled and that may be known as throwing star or oriental dart.

8VAC85-20-30. Weapons, fireworks, and explosives prohibited.

A. The safety of the university community is promoted by the reasonable regulation of weapons, fireworks, and explosives.

B. Members of the university community. The possession, storage, or use of any weapon by any university student, faculty, employee, trainee, or volunteer, except a law-enforcement officer, on university property is prohibited.

C. General public and visitors. The possession, storage, or use of any weapon by the general public or visitors, except a law-enforcement officer, on university property in academic, administrative, athletic, entertainment, or student residence buildings, child care or dining facilities, or the University Medical Center, or while attending sporting, entertainment, or educational activities is prohibited.

D. Exceptions. In the following circumstances, the Chief of the University Police Department, or his designee, may authorize in writing a person to possess, store, or use a weapon: (i) educational or artistic display, parade, or ceremony in connection with a university-sponsored activity (unloaded or disabled only and with other specified safeguards, if appropriate); (ii) official military or Reserve Officer Training Corps (ROTC) activities; (iii) university contracted protection or security details; (iv) any university-approved training, course, or class; or (v) university personnel, other than law-enforcement officers, required to possess a weapon as part of their official duties. A request for permission pursuant to one of the exceptions in this subsection shall be addressed in advance to the Chief of the University Police Department where it will be evaluated on a case-by-case basis in accordance with state and federal law, university policy, and the safety of the university community.

E. Fireworks and other explosives. Except as approved by authorized university personnel or otherwise authorized by applicable university policies and procedures, the possession, storage, or use of any firework or other explosive or any lethal combustible chemical or combination of chemicals on university property or while attending sporting, entertainment, or educational activities is prohibited.

8VAC85-20-40. Persons lawfully in charge.

In addition to university personnel responsible for the management or supervision of university property and activities, university law-enforcement officers are lawfully in charge of university property for purposes of forbidding entry

upon or within, or prohibiting remaining upon or within university property while possessing weapons or other devices, instruments, fireworks, explosives, or combustible chemicals in violation of this chapter. University personnel or students who violate this chapter also may be subject to disciplinary action. The provisions of this chapter apply regardless of whether a person has a concealed weapon permit.

VA.R. Doc. No. R12-3052; Filed November 14, 2011, 2:50 p.m.

VIRGINIA STATE UNIVERSITY

Final Regulation

REGISTRAR'S NOTICE: Virginia State University is exempt from the Administrative Process Act in accordance with § 2.2-4002 A 6 of the Code of Virginia, which exempts educational institutions operated by the Commonwealth.

Title of Regulation: 8VAC110-10. Firearms and Weapons on Campus (adding 8VAC110-10-10 through 8VAC110-10-40).

Statutory Authority: § 23-165.6 of the Code of Virginia.

Effective Date: November 16, 2011.

Agency Contact: Bonnie Degen, Regulatory Coordinator, Virginia State University, 1 Hayden Drive, Virginia State University, VA 23806, telephone (804) 524-5326, FAX (804) 524-6760, or email bdegen@vsu.edu.

Summary:

The regulation establishes the firearms and weapons rules on the campus of Virginia State University.

**CHAPTER 10
FIREARMS AND WEAPONS ON CAMPUS**

8VAC110-10-10. Definitions.

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

"Firearms" means any gun, rifle, pistol, or handgun designed to fire any projectile including but not limited to bullets, BBs, pellets, or shots, including paint balls, regardless of the propellant used.

"Police officer" means law-enforcement officials appointed pursuant to Article 3 (§ 15.2-1609 et seq.) of Chapter 16 and Chapter 17 (§ 15.2-1700 et seq.) of Title 15.2, Chapter 17 (§ 23-232 et seq.) of Title 23, Chapter 2 (§ 29.1-200 et seq.) of Title 29.1, or Chapter 1 (§ 52-1 et seq.) of Title 52 of the Code of Virginia, currently sworn federal law-enforcement officers, or currently sworn and certified law-enforcement officers of all other jurisdictions of the United States of America.

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"University property" means any property owned, leased, or controlled by Virginia State University.

"Weapons" means any instrument of combat, or any object not designed as an instrument of combat but carried for the purpose of inflicting or threatening bodily injury. Examples include but are not limited to firearms, knives with fixed blades or pocket knives with blades longer than four inches, razors, metal knuckles, blackjacks, hatchets, bows and arrows, nun chahkas, foils, stun weapons, or any explosive or incendiary device. "Stun weapon" is defined as any device that emits a momentary or pulsed output that is electrical, audible, optical, or electromagnetic in nature and that is designed to temporarily incapacitate a person.

8VAC110-10-20. Possession of firearms and weapons prohibited.

The university's employees, students, and volunteers are prohibited from carrying, maintaining, or storing a firearm or weapon on any university property. Any visitor or other third party attending a sporting, entertainment, or educational event, or visiting an academic or administrative office building, dining facility, or residence hall is prohibited from carrying, maintaining, or storing a firearm or weapon on any university facility, even if the owner has a valid permit. This prohibition also applies to all events on campus where people congregate in any public or outdoor areas.

Any such individual who is reported or discovered to possess a firearm or weapon on university property will be asked to remove it immediately from university property. Failure to comply may result in a student conduct referral, an employee disciplinary action, or arrest.

8VAC110-10-30. Exceptions to prohibition.

The following groups are exempted from this chapter:

1. Employees may possess or carry a firearm or weapon only if the employee is:

- a. Required to possess the firearm or weapon as a part of the employee's job duties with Virginia State University;
- b. Using the firearm or weapon in conjunction with training received by the employee in order to perform the responsibilities of his job with the university; or
- c. Residing in university owned houses and is permitted to keep personal firearms on these premises; however, this exception does not extend to employees living in university residence halls.

2. A certified and sworn police officer employed by the Virginia State University Department of Police and Public Safety who is:

- a. Currently a sworn and certified state or federal law-enforcement officer who carries proper identification; or

b. Participating in a program sponsored by the Virginia State University Department of Police and Public Safety, wherein the firearms are provided by the department and utilized only during supervision by the department.

3. Students may possess and use appropriate tools, such as saws, knives, and other such implements, necessary for the performance of their job duties or school work, or for student recreational purposes approved under the University Policies for Student Life or while participating in a program sponsored by the Virginia State University Department of Police and Public Safety wherein the firearms are provided by the department and utilized only during supervision by the department.

4. Contractors and others on campus whose duties require possession and use of construction equipment, including but not limited to pneumatic nail guns, may possess and use such equipment only in performance of their job duties through a valid contractual or legal relationship with Virginia State University.

8VAC110-10-40. Person lawfully in charge.

In addition to individuals authorized by university policy, Virginia State University police officers and other police officers acting pursuant to a mutual aid agreement or by concurrent jurisdiction are lawfully in charge for the purposes of forbidding entry upon or remaining upon university property while possessing or carrying weapons in violation of this prohibition.

VA.R. Doc. No. R12-3044; Filed November 14, 2011, 1:44 p.m.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF DENTISTRY

Final Regulation

Title of Regulation: 18VAC60-20. Regulations Governing the Practice of Dentistry and Dental Hygiene (amending 18VAC60-20-10, 18VAC60-20-30; adding 18VAC60-20-332, 18VAC60-20-342, 18VAC60-20-352).

Statutory Authority: §§ 54.1-2400 and 54.1-2708.3 of the Code of Virginia.

Effective Date: January 4, 2012.

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

Summary:

Pursuant to Item 303 of the 2009 Appropriation Act (Chapter 781 of the 2009 Acts of Assembly) and Chapter 405 of the 2010 Acts of Assembly, the amendments establish requirements for registration of mobile dental clinics and other portable dental operations. The amendments require that mobile dental clinics and other portable dental operations (i) register with the Department of Health Professions; (ii) pay an initial \$250 application fee and an annual \$150 renewal fee; (iii) provide the department with the (a) locations of where services are provided and (b) identity and license numbers of staff; (iv) have a written agreement for emergency follow-up care for patients to include identification of and arrangements for treatment in a dental office that is permanently established within a reasonable geographic area; (v) certify that the facility or operation has access to communication facilities that enable the dental personnel to contact assistance in the event of a medical or dental emergency; (vi) certify that the facility has a water supply and all equipment necessary to provide the dental services to be rendered at the facility; (vii) certify that the facility or operation conforms to all applicable federal, state, and local laws, regulations, and ordinances; (viii) certify that the applicant possesses all applicable city or county licenses or permits to operate the facility; (ix) obtain written consent from the patient, parent, guardian, or authorized representative prior to treatment; (x) provide each patient with an information sheet that includes information such as description of the treatment rendered, names of staff providing treatment, billed service codes and fees, description of any additional dental needs diagnosed, referral recommendation to another dentist if the facility or operation is unable to provide follow-up treatment, and emergency contact information; and (xi) maintain secure records. Governmental agencies and periodic volunteer clinics providing free care are exempted from the registration requirements.

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

Part I

General Provisions

18VAC60-20-10. Definitions.

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

"ADA" means the American Dental Association.

"Advertising" means a representation or other notice given to the public or members thereof, directly or indirectly, by a dentist on behalf of himself, his facility, his partner or associate, or any dentist affiliated with the dentist or his facility by any means or method for the purpose of inducing

purchase, sale or use of dental methods, services, treatments, operations, procedures or products, or to promote continued or increased use of such dental methods, treatments, operations, procedures or products.

"Analgesia" means the diminution or elimination of pain in the conscious patient.

"Anxiolysis" means the diminution or elimination of anxiety through the use of pharmacological agents in a dosage that does not cause depression of consciousness.

"Conscious sedation" means a minimally depressed level of consciousness that retains the patient's ability to independently and continuously maintain an airway and respond appropriately to physical stimulation and verbal commands, produced by pharmacological or nonpharmacological methods, including inhalation, parenteral, transdermal or enteral, or a combination thereof.

"Deep sedation/general anesthesia" means an induced state of depressed consciousness or unconsciousness accompanied by a complete or partial loss of protective reflexes, including the inability to continually maintain an airway independently and/or respond purposefully to physical stimulation or verbal command and is produced by a pharmacological or nonpharmacological method or a combination thereof.

"Dental assistant I" means any unlicensed person under the direction of a dentist who renders assistance for services provided to the patient as authorized under this chapter but shall not include an individual serving in purely a secretarial or clerical capacity.

"Dental assistant II" means a person under the direction and direct supervision of a dentist who is registered to perform reversible, intraoral procedures as specified in this chapter.

"Direct supervision" means that the dentist examines the patient and records diagnostic findings prior to delegating restorative or prosthetic treatment and related services to a dental assistant II for completion the same day or at a later date. The dentist prepares the tooth or teeth to be restored and remains immediately available to the dental assistant II for guidance or assistance during the delivery of treatment and related services. The dentist examines the patient to evaluate the treatment and services before the patient is dismissed.

"Direction" means the level of supervision that a dentist is required to exercise with a dental hygienist, a dental assistant I, or a dental assistant II or that a dental hygienist is required to exercise with a dental assistant to direct and oversee the delivery of treatment and related services.

"Enteral" means any technique of administration in which the agent is absorbed through the gastrointestinal tract or oral mucosa (i.e., oral, rectal, sublingual).

"General supervision" means that a dentist completes a periodic comprehensive examination of the patient and issues

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a written order for hygiene treatment that states the specific services to be provided by a dental hygienist during one or more subsequent appointments when the dentist may or may not be present. The order may authorize the dental hygienist to supervise a dental assistant performing duties delegable to dental assistants I.

"Indirect supervision" means the dentist examines the patient at some point during the appointment, and is continuously present in the office to advise and assist a dental hygienist or a dental assistant who is (i) delivering hygiene treatment, (ii) preparing the patient for examination or treatment by the dentist or dental hygienist, or (iii) preparing the patient for dismissal following treatment.

"Inhalation" means a technique of administration in which a gaseous or volatile agent, including nitrous oxide, is introduced into the pulmonary tree and whose primary effect is due to absorption through the pulmonary bed.

"Inhalation analgesia" means the inhalation of nitrous oxide and oxygen to produce a state of reduced sensibility to pain without the loss of consciousness.

"Local anesthesia" means the loss of sensation or pain in the oral cavity or the maxillofacial or adjacent and associated structures generally produced by a topically applied or injected agent without depressing the level of consciousness.

"Mobile dental facility" means a self-contained unit in which dentistry is practiced that is not confined to a single building and can be transported from one location to another.

"Parenteral" means a technique of administration in which the drug bypasses the gastrointestinal tract (i.e., intramuscular, intravenous, intranasal, submucosal, subcutaneous, or intraocular).

"Portable dental operation" means a nonfacility in which dental equipment used in the practice of dentistry is transported to and utilized on a temporary basis at an out-of-office location, including patients' homes, schools, nursing homes, or other institutions.

"Radiographs" means intraoral and extraoral x-rays of hard and soft tissues to be used for purposes of diagnosis.

18VAC60-20-30. Other fees.

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

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

C. Dental assistant II registration application fee. The application fee for registration as a dental assistant II shall be \$100.

D. Wall certificate. Licensees desiring a duplicate wall certificate or a dental assistant II desiring a wall certificate shall submit a request in writing stating the necessity for a wall certificate, accompanied by a fee of \$60.

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

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

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

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

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

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

K. Mobile dental clinic or portable dental operation. The application fee for registration of a mobile dental clinic or portable dental operation shall be \$250. The annual renewal fee shall be \$150 and shall be due by December 31. A late fee of \$50 shall be charged for renewal received after that date.

Part VIII

Mobile Dental Clinics and Portable Dental Operations

18VAC60-20-332. Registration of a mobile dental clinic or portable dental operation.

A. An applicant for registration of a mobile dental facility or portable dental operation shall provide:

1. The name and address of the owner of the facility or operation and an official address of record for the facility or operation, which shall not be a post office address. Notice shall be given to the board within 30 days if there is a change in the ownership or the address of record for a mobile dental facility or portable dental operation;

2. The name, address, and license number of each dentist and dental hygienist or the name, address, and registration number of each dental assistant II who will provide dental services in the facility or operation. The identity and

license or registration number of any additional dentists, dental hygienists, or dental assistants II providing dental services in a mobile dental facility or portable dental operation shall be provided to the board in writing prior to the provision of such services; and

3. The address or location of each place where the mobile dental facility or portable dental operation will provide dental services and the dates on which such services will be provided. Any additional locations or dates for the provision of dental services in a mobile dental facility or portable dental operation shall be provided to the board in writing prior to the provision of such services.

B. The information provided by an applicant to comply with subsection A of this section shall be made available to the public.

C. An application for registration of a mobile dental facility or portable dental operation shall include:

1. Certification that there is a written agreement for follow-up care for patients to include identification of and arrangements for treatment in a dental office that is permanently established within a reasonable geographic area;

2. Certification that the facility or operation has access to communication facilities that enable the dental personnel to contact assistance in the event of a medical or dental emergency;

3. Certification that the facility has a water supply and all equipment necessary to provide the dental services to be rendered therein;

4. Certification that the facility or operation conforms to all applicable federal, state, and local laws, regulations, and ordinances dealing with radiographic equipment, sanitation, zoning, flammability, and construction standards; and

5. Certification that the applicant possesses all applicable city or county licenses or permits to operate the facility or operation.

D. Registration may be denied or revoked for a violation of provisions of § 54.1-2706 of the Code of Virginia.

18VAC60-20-342. Requirements for a mobile dental clinic or portable dental operation.

A. The registration of the facility or operation and copies of the licenses of the dentists and dental hygienists or registrations of the dental assistants II shall be displayed in plain view of patients.

B. Prior to treatment, the facility or operation shall obtain written consent from the patient or, if the patient is a minor or incapable of consent, his parent, guardian, or authorized representative.

C. Each patient shall be provided with an information sheet, or if the patient, his parent, guardian, or authorized agent has given written consent to an institution or school to have access to the patient's dental health record, the institution or school may be provided a copy of the information. At a minimum, the information sheet shall include:

1. Patient name, date of service, and location where treatment was provided;

2. Name of dentist or dental hygienist who provided services;

3. Description of the treatment rendered and tooth numbers, when appropriate;

4. Billed service codes and fees associated with treatment;

5. Description of any additional dental needs observed or diagnosed;

6. Referral or recommendation to another dentist if the facility or operation is unable to provide follow-up treatment; and

7. Emergency contact information.

D. Patient records shall be maintained, as required by 18VAC60-20-15, in a secure manner within the facility or at the address of record listed on the registration application. Records shall be made available upon request by the patient, his parent, guardian, or authorized representative and shall be available to the board for inspection and copying.

E. The practice of dentistry and dental hygiene in a mobile dental clinic or portable dental operation shall be in accordance with the laws and regulations governing such practice.

18VAC60-20-352. Exemptions from requirement for registration.

The following shall be exempt from requirements for registration as a mobile dental clinic or portable dental operation:

1. All federal, state, or local governmental agencies; and

2. Dental treatment that is provided without charge to patients or to any third party payer.

NOTICE: The following forms used in administering the regulation were filed by the agency. The forms are not being published; however, online users of this issue of the Virginia Register of Regulations may click on the name to access a form. The forms are also available from the agency contact or may be viewed at the Office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia 23219.

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FORMS (18VAC60-20)

[Application Requirements for Dentists and Application for License to Practice Dentistry \(rev. 11/10\).](#)

[Application Requirements and Application for Restricted Dental Volunteer License/Restricted Dental Hygiene License \(rev. 11/10\).](#)

[Requirements and Instructions for a Temporary Resident's License to Persons Enrolled in Advanced Dental Education Programs and Application for Temporary Resident's License \(rev. 2/10\).](#)

[Application Requirements and Application for Teacher's License or Full-time Faculty License \(rev. 11/10\).](#)

[Application Requirements for Dental Hygienists and Application for Licensure to Practice Dental Hygiene \(rev. 11/10\).](#)

[Application Requirements for Registration as a Dental Assistant II \(rev. 3/11\).](#)

[Application for Registration to Practice as a Dental Assistant II \(eff. 3/11\).](#)

[Form A, Certification of Dental Assisting Education \(eff. 3/11\).](#)

[Form B, Certification of Employment \(eff. 3/11\).](#)

[Form C, Certification of Authorization to Perform Expanded Duties as a Dental Assistant II \(eff. 3/11\).](#)

[Instructions for Reinstatement of License and Reinstatement Application for Dental/Dental Hygiene Licensure \(rev. 2/10\).](#)

[Instructions for Application for Reactivation of License and Application for Reactivation of License \(rev. 2/10\).](#)

[Application for Certification to Perform Cosmetic Procedures \(rev. 2/10\).](#)

[Oral and Maxillofacial Surgeon Registration of Practice \(rev. 2/10\).](#)

[Oral and Maxillofacial Surgeon Reinstatement of Registration of Practice \(rev. 2/10\).](#)

[Application for Registration for Volunteer Practice \(rev. 8/08\).](#)

[Sponsor Certification for Volunteer Registration \(rev. 8/08\).](#)

[Application for Registration of a Mobile Dental Facility or Portable Dental Operation \(eff. 6/10\).](#)

VA.R. Doc. No. R10-1945; Filed November 15, 2011, 11:13 a.m.



TITLE 22. SOCIAL SERVICES

CHILD DAY-CARE COUNCIL

Final Regulation

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

Title of Regulation: **22VAC15-30. Standards for Licensed Child Day Centers (amending 22VAC15-30-10, 22VAC15-30-410, 22VAC15-30-500).**

Statutory Authority: §§ 63.2-1734 and 63.2-1735 of the Code of Virginia.

Effective Date: January 5, 2012.

Agency Contact: Karen Cullen, Department of Social Services, Division of Licensing Programs, 801 East Main Street, Richmond, VA 23219, telephone (804) 726-7152, FAX (804) 726-7132, TTY (800) 828-1120, or email karen.cullen@dss.virginia.gov.

Summary:

The amendment provides an exemption for outdoor play areas and equipment that are to be used by school-age children in child day programs located in public and private schools when the outdoor play areas and equipment have been approved for use by students of the school during school hours.

Part I Introduction

22VAC15-30-10. Definitions.

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

"Adult" means any individual 18 years of age or older.

"Age and stage appropriate" means the curriculum, environment, equipment, and adult-child interactions are suitable for the ages of the children within a group and the individual needs of any child.

"Age groups":

1. "Infant" means children from birth to 16 months.
2. "Toddler" means children from 16 months up to two years.

3. "Preschool" means children from two years up to the age of eligibility to attend public school, five years by September 30.

4. "School age" means children eligible to attend public school, age five or older by September 30 of that same year. Four- or five-year-old children included in a group of school age children may be considered school age during the summer months if the children will be entering kindergarten that year.

"Attendance" means the actual presence of an enrolled child.

"Balanced mixed-age grouping" means a program using a curriculum designed to meet the needs and interests of children in the group and is planned for children who enter the program at three through five years of age. The enrollment in the balance mixed-age grouping comprises a relatively even allocation of children in each of three ages (three to six years) and is designed for children and staff to remain together with turnover planned only for the replacement of exiting students with children of ages that maintain the class balance.

"Body fluids" means urine, feces, saliva, blood, nasal discharge, eye discharge, and injury or tissue discharge.

"Camp" means a child day camp that is a child day center for school age children that operates during the summer vacation months only. Four-year-old children who will be five by September 30 of the same year may be included in a camp for school age children.

"Center" means a child day center.

"Child" means any individual under 18 years of age.

"Child day center" means a child day program offered to (i) two or more children under the age of 13 in a facility that is not the residence of the provider or of any of the children in care or (ii) 13 or more children at any location.

Exemptions (§ 63.2-1715 of the Code of Virginia):

1. A child day center that has obtained an exemption pursuant to § 63.2-1716 of the Code of Virginia;
2. A program where, by written policy given to and signed by a parent or guardian, children are free to enter and leave the premises without permission or supervision regardless of (i) such program's location or the number of days per week of its operation; (ii) the provision of transportation services, including drop-off and pick-up times; or (iii) the scheduling of breaks for snacks, homework, or other activities. A program that would qualify for this exemption except that it assumes responsibility for the supervision, protection and well-being of several children with disabilities who are mainstreamed shall not be subject to licensure;

3. A program of instructional experience in a single focus, such as, but not limited to, computer science, archaeology, sport clinics, or music, if children under the age of six do not attend at all and if no child is allowed to attend for more than 25 days in any three-month period commencing with enrollment. This exemption does not apply if children merely change their enrollment to a different focus area at a site offering a variety of activities and such children's attendance exceeds 25 days in a three-month period;

4. Programs of instructional or recreational activities wherein no child under age six attends for more than six hours weekly with no class or activity period to exceed 1-1/2 hours, and no child six years of age or above attends for more than six hours weekly when school is in session or 12 hours weekly when school is not in session. Competition, performances and exhibitions related to the instructional or recreational activity shall be excluded when determining the hours of program operation;

5. A program that operates no more than a total of 20 program days in the course of a calendar year provided that programs serving children under age six operate no more than two consecutive weeks without a break of at least a week;

6. Instructional programs offered by public and private schools that satisfy compulsory attendance laws or the Individuals with Disabilities Education Act, as amended (20 USC § 1400 et seq.), and programs of school-sponsored extracurricular activities that are focused on single interests such as, but not limited to, music, sports, drama, civic service, or foreign language;

7. Education and care programs provided by public schools that are not exempt pursuant to subdivision 6 of this definition shall be regulated by the State Board of Education using regulations that incorporate, but may exceed, the regulations for child day centers licensed by the commissioner;

8. Early intervention programs for children eligible under Part C of the Individuals with Disabilities Education Act, as amended (20 USC § 1400 et seq.), wherein no child attends for more than a total of six hours per week;

9. Practice or competition in organized competitive sports leagues;

10. Programs of religious instruction, such as Sunday schools, vacation Bible schools, and Bar Mitzvah or Bat Mitzvah classes, and child-minding services provided to allow parents or guardians who are on site to attend religious worship or instructional services;

11. Child-minding services which are not available for more than three hours per day for any individual child offered on site in commercial or recreational establishments if the parent or guardian (i) is not an on-

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duty employee, except for part-time employees working less than two hours per day; (ii) can be contacted and can resume responsibility for the child's supervision within 30 minutes; and (iii) is receiving or providing services or participating in activities offered by the establishment;

12. A certified preschool or nursery school program operated by a private school that is accredited by a statewide accrediting organization recognized by the State Board of Education or accredited by the National Association for the Education of Young Children's National Academy of Early Childhood Programs; the Association of Christian Schools International; the American Association of Christian Schools; the National Early Childhood Program Accreditation; the National Accreditation Council for Early Childhood Professional Personnel and Programs; the International Academy for Private Education; the American Montessori Society; the International Accreditation and Certification of Childhood Educators, Programs, and Trainers; or the National Accreditation Commission that complies with the provisions of § 63.2-1717 of the Code of Virginia;

13. A program of recreational activities offered by local governments, staffed by local government employees, and attended by school-age children. Such programs shall be subject to safety and supervisory standards established by local governments; or

14. By policy, a child day center that is required to be programmatically licensed by another state agency for that service.

"Child day program" means a regularly operating service arrangement for children where, during the absence of a parent or guardian, a person or organization has agreed to assume responsibility for the supervision, protection, and well-being of a child under the age of 13 for less than a 24-hour period.

Note: This does not include programs such as drop-in playgrounds or clubs for children when there is no service arrangement with the child's parent.

"Children with special needs" means children with developmental disabilities, mental retardation, emotional disturbance, sensory or motor impairment, or significant chronic illness who require special health surveillance or specialized programs, interventions, technologies, or facilities.

"Cleaned" means treated in such a way to reduce the amount of filth through the use of water with soap or detergent or the use of an abrasive cleaner on inanimate surfaces.

"Commissioner" means the Commissioner of the Virginia Department of Social Services.

"Communicable disease" means a disease caused by a microorganism (bacterium, virus, fungus, or parasite) that can

be transmitted from person to person via an infected body fluid or respiratory spray, with or without an intermediary agent (such as a louse, mosquito) or environmental object (such as a table surface). Some communicable diseases are reportable to the local health authority.

"Department" means the Virginia Department of Social Services.

"Department's representative" means an employee or designee of the Virginia Department of Social Services, acting as the authorized agent of the commissioner.

"Evening care" means care provided after 7 p.m. but not through the night.

"Good character and reputation" means knowledgeable and objective people agree that the individual (i) maintains business, professional, family, and community relationships which are characterized by honesty, fairness, and truthfulness and (ii) demonstrates a concern for the well-being of others to the extent that the individual is considered suitable to be entrusted with the care, guidance, and protection of children. Relatives by blood or marriage and people who are not knowledgeable of the individual, such as recent acquaintances, shall not be considered objective references.

"Group of children" means the children assigned to a staff member or team of staff members.

"High school program completion or the equivalent" means an individual has earned a high school diploma or General Education Development (G.E.D.) certificate, or has completed a program of home instruction equivalent to high school completion.

"Independent contractor" means an entity that enters into an agreement to provide specialized services or staff for a specified period of time.

"Individual service, education or treatment plan" means a plan identifying the child's strengths, needs, general functioning and plan for providing services to the child. The service plan includes specific goals and objectives for services, accommodations and intervention strategies. The service, education or treatment plan clearly shows documentation and reassessment/evaluation strategies.

"Intervention strategies" means a plan for staff action that outlines methods, techniques, cues, programs, or tasks that enable the child to successfully complete a specific goal.

"Licensee" means any individual, partnership, association, public agency, or corporation to whom the license is issued.

"Minor injury" means a wound or other specific damage to the body such as, but not limited to, abrasions, splinters, bites that do not break the skin, and bruises.

"Overnight care" means care provided after 7 p.m. and through the night.

"Parent" means the biological or adoptive parent or parents or legal guardian or guardians of a child enrolled in or in the process of being admitted to a center.

"Physician" means an individual licensed to practice medicine in any of the 50 states or the District of Columbia.

"Physician's designee" means a physician, licensed nurse practitioner, licensed physician assistant, licensed nurse (R.N. or L.P.N.), or health assistant acting under the supervision of a physician.

"Primitive camp" means a camp where places of abode, water supply system, or permanent toilet and cooking facilities are not usually provided.

"Programmatic experience" means time spent working directly with children in a group that is located away from the child's home. Work time shall be computed on the basis of full-time work experience during the period prescribed or equivalent work time over a longer period. Experience settings may include but not be limited to a child day program, family day home, child day center, boys and girls club, field placement, elementary school, or a faith-based organization.

"Resilient surfacing" means:

1. For indoor and outdoor use underneath and surrounding equipment, impact absorbing surfacing materials that comply with minimum safety standards when tested in accordance with the procedures described in the American Society for Testing and Materials' standard F1292-99 as shown in Figures 2 (Compressed Loose Fill Synthetic Materials Depth Chart) and 3 (Use Zones for Equipment) on pages 6-7 of the National Program for Playground Safety's "Selecting Playground Surface Materials: Selecting the Best Surface Material for Your Playground," February 2004.
2. Hard surfaces such as asphalt, concrete, dirt, grass or flooring covered by carpet or gym mats do not qualify as resilient surfacing.

"Sanitized" means treated in such a way to remove bacteria and viruses from inanimate surfaces through using a disinfectant solution (i.e., bleach solution or commercial chemical disinfectant) or physical agent (e.g., heat). The surface of item is sprayed or dipped into the disinfectant solution and allowed to air dry after use of the disinfectant solution.

"Serious injury" means a wound or other specific damage to the body such as, but not limited to, unconsciousness; broken bones; dislocation; deep cut requiring stitches; concussion; foreign object lodged in eye, nose, ear, or other body orifice.

"Shelter-in-place" means the facility or building in which a child day center is located.

"Short-term program" means a child day center that operates less than 12 weeks a year.

"Special needs child day program" means a program exclusively serving children with special needs.

"Specialty camps" means those centers that have an educational or recreational focus on one subject such as dance, drama, music, or sports.

"Sponsor" means an individual, partnership, association, public agency, corporation or other legal entity in whom the ultimate authority and legal responsibility is vested for the administration and operation of a center subject to licensure.

"Staff" means administrative, activity, and service personnel including the licensee when the licensee is an individual who works in the center, and any persons counted in the staff-to-children ratios or any persons working with a child without sight and sound supervision of a staff member.

"Staff positions" are defined as follows:

1. "Aide" means the individual designated to be responsible for helping the program leader in supervising children and in implementing the activities and services for children. Aides may also be referred to as assistant teachers or child care assistants.
2. "Program leader" means the individual designated to be responsible for the direct supervision of children and for implementation of the activities and services for a group of children. Program leaders may also be referred to as child care supervisors or teachers.
3. "Program director" means the primary, on-site director or coordinator designated to be responsible for developing and implementing the activities and services offered to children, including the supervision, orientation, training, and scheduling of staff who work directly with children, whether or not personally performing these functions.
4. "Administrator" means a manager or coordinator designated to be in charge of the total operation and management of one or more centers. The administrator may be responsible for supervising the program director or, if appropriately qualified, may concurrently serve as the program director. The administrator may perform staff orientation or training or program development functions if the administrator meets the qualifications of 22VAC15-30-230 and a written delegation of responsibility specifies the duties of the program director.

"Therapeutic child day program" means a specialized program, including but not limited to therapeutic recreation programs, exclusively serving children with special needs when an individual service, education or treatment plan is developed and implemented with the goal of improving the functional abilities of the children in care.

Regulations

"Universal precautions" means an approach to infection control. According to the concept of universal precautions, all human blood and certain human body fluids are treated as if known to be infectious for human immunodeficiency virus (HIV), hepatitis B virus (HBV), and other bloodborne pathogens.

"Volunteer" means a person who works at the center and:

1. Is not paid;
2. Is not counted in the staff-to-children ratios; and
3. Is in sight and sound supervision of a staff member when working with a child.

Any unpaid person not meeting this definition shall be considered "staff" and shall meet staff requirements.

22VAC15-30-410. Play areas.

A. Playgrounds shall be located and designed to protect children from hazards.

B. Where playground equipment is provided, resilient surfacing shall comply with minimum safety standards when tested in accordance with the procedures described in the American Society for Testing and Materials standard F1292-99 as shown in Figures 2 (Compressed Loose Fill Synthetic Materials Depth Chart) and 3 (Use Zones for Equipment) on pages 6-7 of the National Program for Playground Safety's "Selecting Playground Surface Materials: Selecting the Best Surface Material for Your Playground," February 2004, and shall be under equipment with moving parts or climbing apparatus to create a fall zone free of hazardous obstacles. Fall zones are defined as the area underneath and surrounding equipment that requires a resilient surface. A fall zone shall encompass sufficient area to include the child's trajectory in the event of a fall while the equipment is in use. Falls zones shall not include barriers for resilient surfacing. Where steps are used for accessibility, resilient surfacing is not required.

C. Ground supports shall be covered with materials that protect children from injury.

D. Swing seats shall be constructed with flexible material.

1. Exceptions: Nonflexible molded swing seats may be used only in a separate infant or toddler play area.
2. Swings made specifically for a child with a special need shall be permitted in any area as long as a staff member is positioned to see and protect other children who might walk into the path of the swing.

E. Sandboxes with bottoms which prevent drainage shall be covered when not in use.

F. A shady area shall be provided on playgrounds during the months of June, July, and August.

EXCEPTION: The requirements of this section shall not prohibit child day programs providing care for school-age

children at a location that is currently approved by the Department of Education or recognized as a private school by the State Board of Education for school occupancy and that houses a public or private school during the school year from permitting school-age children to use outdoor play equipment and areas approved for use by students of the school during school hours.

22VAC15-30-500. Equipment and materials.

A. Furnishings, equipment, and materials shall be of an appropriate size for the child using it.

B. Materials and equipment available shall be age and stage appropriate for the children and shall include an adequate supply as appropriate for each age group of arts and crafts materials, texture materials, construction materials, music and sound materials, books, social living equipment, and manipulative equipment.

C. Play equipment used by children shall meet the following requirements:

1. Openings above the ground or floor which allow a 3-1/2 inch by 6-1/4 inch rectangle to fit through shall also allow a nine-inch circle to fit through;
2. S-hooks where provided may not be open more than the thickness of a penny; and
3. Have no protrusions, sharp points, shearing points, or pinch points.

D. The unenclosed climbing portion of slides and climbing equipment used by toddlers and preschool children shall not be more than seven feet high and must be located over resilient surfacing where outdoors, and shall not be more than five feet high where indoors.

E. Centers may not install after June 1, 2005, any slide or climbing equipment to be used by preschoolers or toddlers when the climbing portion of the equipment is more than six feet in height.

F. The climbing portions of indoor slides and climbing equipment over 18 inches shall not be over bare flooring.

G. The climbing portions of indoor slides and climbing equipment 36 inches or more shall be located over a resilient surface.

H. Trampolines may not be used.

EXCEPTION: The requirements of subsections A through H of this section shall not prohibit child day programs providing care for school-age children at a location that is currently approved by the Department of Education or recognized as a private school by the State Board of Education for school occupancy and that houses a public or private school during the school year from permitting school-age children to use outdoor play equipment and areas approved for use by students of the school during school hours.

I. If combs, toothbrushes, or other personal articles are used, they shall be individually assigned.

J. Disposable products shall be used once and discarded.

K. Provision shall be made for an individual place for each child's personal belongings.

L. Infant walkers shall not be used.

M. Play yards where used shall:

1. Meet the Juvenile Products Manufacturers Association (JPMA) and the American Society for Testing and Materials (ASTM) requirements and shall retain the manufacturer's label documenting product compliance with current safety standards at the time they were manufactured;
2. Not be used after recalled;
3. Not use any pillows or filled comforters;
4. Not be used for the designated sleeping areas;
5. Not be occupied by more than one child; and
6. Be sanitized each day of use or more often as needed.

N. Upon being informed that a product has been recalled, center staff shall remove the item from the center.

O. Where portable water coolers are used, they shall be of cleanable construction, maintained in a cleaned condition, kept securely closed and so designed that water may be withdrawn from the container only by water tap or faucet.

P. Drinking water which is transported to camp sites shall be in closed containers.

Q. Therapeutic child day programs and special needs child day programs serving children who use wheelchairs shall provide cushioned vinyl-covered floormats for use when activities require children to be out of their wheelchairs.

VA.R. Doc. No. R12-2906; Filed November 10, 2011, 3:26 p.m.

GENERAL NOTICES/ERRATA

DEPARTMENT OF ENVIRONMENTAL QUALITY

Notice of Intent from Poseidon Atlantic LLC for a Small Wind Energy Project

On October 31, 2011, Poseidon Atlantic LLC (Poseidon Atlantic) submitted a notice of intent (NOI) to the Department of Environmental Quality (DEQ) for a small wind energy project. In accordance with 9VAC15-40-30 A 1 of the Small Renewable Energy Projects (Wind) Permit by Rule Regulations, an NOI is to be furnished, as early in the project development process as practicable, to the DEQ and is to be published in the Virginia Register as notification that Poseidon Atlantic intends to submit the necessary documentation for a permit by rule for a small renewable wind energy project in accordance with 9VAC15-40.

Proposed project: Poseidon Atlantic is proposing to develop and construct a wind turbine electric energy generation and testing facility in Northampton County, Virginia. This will be an on-land development but mainly meant for energy generation by new offshore wind turbines, including measurement and certification services for those turbines.

Proposed site location: Near Eastville, Virginia, in Northampton County. Boundary coordinates of the proposed site are:

- 37d 24m 50s N, 75d 53m 00s W
- 37d 24m 50s N, 75d 55m 50s W
- 37d 20m 14s N, 75d 54m 20s W
- 37d 20m 14s N, 75d 56m 10s W

Proposed turbine size: In detailed field studies, there are three possible turbine lines of up to 4-6 turbines per line positioned in the polygon area limited by the above coordinates. The final goal is develop up to 10 turbine positions; therefore, not all of the identified lines will be fully used. The turbines will have tip heights of up to 750 feet and range in size from 2MW to 10MW per turbine. When fully populated, the site is expected to generate up to 50MW of wind energy production power.

Current project status: Poseidon Atlantic is in the initial stage of discussions with land owners and has signed letters of intent with some owners. The letter of intent stipulates the company's intentions to negotiate a land lease agreement for the project. The Northampton County Board of Supervisors and a Special Planning Commission have prepared and adopted a Wind Ordinance. Poseidon Atlantic has worked constructively with Northampton County over the last months and expects that its plans will comply with the county ordinance. Additionally, the company has announced its plans to the Department of Defense, the National Oceanic and Atmospheric Administration, the Department of Energy, and the Federal Aviation Administration.

Company information: Poseidon Atlantic has strong partners with Ecofys, which owns and operates a European wind test lab, and Fugro, which is contracted on 80% of all global offshore wind projects, and is sponsored by the Virginia Economic Development Partnership and the Virginia Port Authority. For more information, please visit www.poseidon-atlantic.com.

Contact information: Carol Wampler, Renewable Energy Policy Manager, Department of Environmental Quality, 629 East Main Street, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4579, FAX (804) 698-4346, TDD (804) 698-4021, or email carol.wampler@deq.virginia.gov.

Total Maximum Daily Load for Sugarland Run, Mine Run, and Pimmit Run

Announcement of a total maximum daily load (TMDL) study to restore water quality in the bacteria impaired waters of Sugarland Run, Mine Run, and Pimmit Run.

Purpose of notice: The Virginia Department of Environmental Quality (DEQ) and the Virginia Department of Conservation and Recreation (DCR) announce a public meeting to present the results of TMDL studies on Sugarland Run, Mine Run, and Pimmit Run.

Public meetings: Wednesday, December 14, 2011, 7 p.m. to 9 p.m., Great Falls Library, Meeting Room, 9830 Georgetown Pike, Great Falls, VA 22066.

Meeting description: This is the final public meeting for this project. The purpose of this meeting is to discuss the study with community members and present the project results.

Description of study: Portions of the following streams have been identified as impaired on the Clean Water Act § 303(d) list for not supporting Virginia's water quality recreational use standard due to exceedances of the bacteria criterion:

Waterbody Name	Watershed Location	Segment Size	Cause	Segment Description
Sugarland Run	Fairfax County Loudoun County Town of Herndon	0.95 miles	Escherichia coli	Segment begins at the confluence with Folly Lick Branch, at approximately rivermile 5.75, and continues downstream until the boundary of the PWS designation area, at rivermile 4.82.

Sugarland Run	Fairfax County Loudoun County Town of Herndon	4.77 miles	Escherichia coli	Segment begins at the boundary of the PWS designation area, at rivermile 4.82, and continues downstream until the confluence with the Potomac River.	Pimmit Run	Arlington County Fairfax County	2.46 miles	Escherichia coli	Segment begins at the Route 309 bridge crossing, at rivermile 4.16, and continues downstream until the confluence with Little Pimmit Run, approximately 0.1 rivermile downstream from Route 695.
Mine Run	Fairfax County	0.93 miles	Escherichia coli	Segment begins at the confluence with an unnamed tributary to Mine Run, approximately 0.5 rivermile upstream from River Bend Road, and continues downstream until the confluence with the Potomac River.	Pimmit Run	Arlington County Fairfax County	3.29 miles	Escherichia coli	Segment begins at the headwaters of Pimmit Run, approximately 0.12 rivermile upstream from Route 7, and continues downstream until the Route 309 bridge crossing, at rivermile 4.16.
Pimmit Run	Arlington County Fairfax County	1.62 miles	Escherichia coli	Segment begins at the confluence with Little Pimmit Run, approximately 0.1 rivermile downstream from Route 695, and continues downstream until the confluence with the Potomac River.					

Virginia agencies are working to identify the sources of bacteria contamination in these stream segments. During this study, DEQ developed a total maximum daily load (TMDL) for each of the impaired stream segments. A TMDL is the total amount of a pollutant a water body can receive and still meet water quality standards. To restore water quality, pollutant levels have to be reduced to the TMDL allocated amount.

How to comment: The public comment period on materials presented at the public meeting will extend from December 14, 2011, to January 13, 2012. DEQ accepts written comments by email, fax, or postal mail. Written comments should include the name, address, and telephone number of the person commenting, and be received by DEQ during the comment period. Please send all comments to the contact listed below.

Contact for additional information: Katie Conaway, Department of Environmental Quality, 13901 Crown Court, Woodbridge, VA 22193, telephone (703) 583-3804, or email katie.conaway@deq.virginia.gov.

General Notices/Errata

STATE LOTTERY DEPARTMENT

Director's Order

The following Director's Order of the State Lottery Department was filed with the Virginia Registrar of Regulations on November 15, 2011. The order 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 Ninety-Nine (11)

Virginia's Instant Game Lottery 1286; "Ol' Man Winner" Final Rules for Game Operation (effective on November 15, 2011)

STATE WATER CONTROL BOARD

Proposed Consent Order for Mr. Kenneth Dotson and Mrs. Lora Dotson

An enforcement action has been proposed for Mr. Kenneth Dotson and Mrs. Lora Dotson for violations of the State Water Control Law and Regulations at the Locust Grove Town Center Sewage Treatment Plant (STP) in Orange County. The State Water Control Board proposes to issue a consent order to Mr. Kenneth Dotson and Mrs. Lora Dotson to resolve permit effluent violations at the STP. A description of the proposed action is available at the Department of Environmental Quality office named below or online at www.deq.virginia.gov. Daniel Burstein will accept comments by email at daniel.burstein@deq.virginia.gov, FAX at (703) 583-3821, or postal mail at Department of Environmental Quality, Northern Regional Office, 13901 Crown Court, Woodbridge, VA 22193, from December 6, 2011, through January 5, 2012.

VIRGINIA CODE COMMISSION

Notice to State Agencies

Contact Information: *Mailing Address:* Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219; *Telephone:* Voice (804) 786-3591; FAX (804) 692-0625; *Email:* varegs@dls.virginia.gov.

Meeting Notices: Section 2.2-3707 C of the Code of Virginia requires state agencies to post meeting notices on their websites and on the Commonwealth Calendar at <http://www.virginia.gov/cmsportal3/cgi-bin/calendar.cgi>.

Cumulative Table of Virginia Administrative Code Sections Adopted, Amended, or Repealed: A table listing regulation sections that have been amended, added, or repealed in the *Virginia Register of Regulations* since the

regulations were originally published or last supplemented in the print version of the Virginia Administrative Code is available 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.